

STATE OF ALABAMA )

SHELBY COUNTY )

MORTGAGE AND SECURITY AGREEMENT

THIS INDENTURE, made and entered into this the 0 day of April, 1981, by and between ELI T. STEVENS and wife, PATRICIA M. STEVENS, (hereinafter referred to as "Mortgagor"); and METROBANK, an Alabama corporation (hereinafter referred to as Mortgagee);

W I T N E S S E T H:

WHEREAS, the Mortgagor, said ELI T. STEVENS and PATRICIA M. STEVENS, has become justly indebted to the Mortgagee in the sum of Five Hundred Forty Thousand and no/100 Dollars (\$540,000.00) evidenced by a certain Promissory Note of even date herewith, hereinafter called the "Note"; the terms of which are incorporated herein by reference, with interest and principal payable as stipulated and provided therein; and

WHEREAS, the Mortgagor desires to secure the prompt payment of said Note with interest thereon and any renewals, extensions, or modifications thereof, and any additional indebtedness accruing to Mortgagee on account of any future payments, advances or expenditures made by Mortgagee as hereinafter provided, and further to secure performance of the covenants, conditions and agreements hereinafter set forth.

This is a FUTURE ADVANCE MORTGAGE and the said \$540,000.00 indebtedness shall be advanced by the Mortgagee to the Mortgagor in accordance with the terms of said Note. In addition to the said \$540,000.00 principal amount with interest, this Mortgage and Security Agreement will also secure any and all additional indebtedness now or hereafter owing by Mortgagor to Mortgagee.

NOW, THEREFORE, in consideration of the premises and the sum of One Dollar to the undersigned Mortgagor, ELI T. STEVENS and PATRICIA M. STEVENS, in hand paid by the Mortgagee, the receipt and sufficiency whereof is hereby acknowledged, and for the purpose of securing the prompt payment of said indebtedness as it becomes due, does hereby grant, bargain, sell, assign and convey unto said Mortgagee the following described real property situated in Shelby County, Alabama, to-wit:

19810424000045730 Pg 1/20 .00  
Shelby Cnty Judge of Probate, AL  
04/24/1981 00:00:00 FILED/CERTIFIED

BARNETT, TINGLE, NOBLE & SEXTON  
ATTORNEYS AT LAW  
1600 CITY FEDERAL BUILDING  
2026 SECOND AVENUE NORTH  
BIRMINGHAM, ALABAMA 35202

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PARCEL I:

Commence at the northeast corner of the Northeast 1/4 of the Southeast 1/4 of Section 31, Township 18 South, Range 1 West, Shelby County, Alabama; thence run West along the north line of said 1/4-1/4 section for a distance of 1064.0 feet to a point; thence turn an angle left of 90 degrees 42' and run in a southerly direction for a distance of 1080.0 feet to the point of beginning; thence continue on last described course for a distance of 194.60 feet to a point on the northerly right of way line of U.S. Highway No. 280; thence turn an angle right of 83 degrees 13' and run southwesterly along said right of way line for a distance of 145.63 feet; thence turn an angle right of 54 degrees 47' 30" and run along right of way line for a distance of 141.71 feet to a point; thence turn an angle right of 42 degrees 36' 30" and run in a northerly direction for a distance of 50.0 feet; thence turn an angle left of 90 degrees 00' and run west for a distance of 10.0 feet; thence turn an angle right of 90 degrees 00' and run in a Northerly direction for a distance of 59.41 feet to a point; thence turn an angle right of 90 degrees 05' and run east for a distance of 248.28 feet to the point of beginning.

PARCEL II:

Commence at the Northeast corner of the Northeast 1/4 of the Southeast 1/4 of Section 31, Township 18 South, Range 1 West, Shelby County, Alabama; thence run West along the North line of said 1/4-1/4 section for a distance of 1064.0 feet to a point; thence turn an angle left of 90 degrees 42' and run in a southerly direction for a distance of 820.0 feet to the point of beginning; thence continue on last described course for a distance of 260.0 feet to a point; thence turn an angle right of 90 degrees 42' and run West for a distance of 248.28 feet to a point; thence turn an angle right of 89 degrees 55' and run in a northerly direction for a distance of 40.59 feet to a point; thence turn an angle left of 90 degrees 00' and run West for a distance of 18.16 feet; thence turn an angle right of 89 degrees 23' and run in a northerly direction for a distance of 219.43 feet to a point; thence turn an angle right of 90 degrees 42' and run East for a distance of 266 feet to the point of beginning.

Subject to:

1. Ad valorem taxes for current year 1981.
2. Right of way to Alabama Power Company as recorded in Volume 314, page 929, in the Probate Office of Shelby County, Alabama.

TOGETHER with all building materials, equipment, fixtures and fittings of every kind or character now owned or hereafter acquired by the Mortgagor for the purpose of or used or useful in connection with the improvements located, or to be located, on the hereinabove described real estate, whether such materials, equipment, fixtures and fittings are actually located on or adjacent to said real estate or

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not, and whether in storage or otherwise, wheresoever the same may be located. The personal property herein conveyed and mortgaged shall include, without limitation, all lumber and lumber products, bricks, building stones and building blocks, sand and cement, roofing material, paint, doors, windows, hardware, nails, wires and wiring, plumbing and plumbing fixtures, air-conditioning and heating equipment and appliances, electrical and gas equipment and appliances, pipes and piping, ornamental and decorative fixtures, and in general, all building material and equipment of every kind and character used or useful in connection with said improvements, and together with all the rights, privileges, tenements and appurtenances thereunto belonging or in anywise appertaining, including screen windows and doors, gas, steam, electric and other heating, lighting and cooking apparatus, elevators, ice boxes, plumbing and other fixtures appertaining to said premises, all of which shall be deemed realty and conveyed by this Mortgage and Security Agreement. Also, together with all and singular the buildings, improvements, ways, streets, alleys, passages, waters, water courses, rights, liberties, privileges, easements, tenements, hereditaments and appurtenances thereunto appertaining, and the reversions and remainders, rents, issues and profits thereof, all of the said property, whether real or personal.

TO HAVE AND TO HOLD all of the aforesaid property, rights, and privileges (hereinafter collectively referred to as the "Property" or the "Premises"), to the use and benefit and behoof of Mortgagee, its successors and assigns, in fee simple forever; and Mortgagor hereby covenants that Mortgagor is lawfully seized and possessed of an indefeasible estate in fee simple in the Premises and a fee simple estate in the improvements thereon; that Mortgagor has a good right to convey the same; that the same are free and discharged from all taxes, assessments, judgments, liens, encumbrances, claims or demands of every kind whatsoever, and that Mortgagor will and shall warrant and defend the title thereto against the claims of all persons whomsoever.

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This Mortgage and Security Agreement is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the goods specified above as part of the Premises, which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and Mortgagor hereby grants Mortgagee a security interest in said goods. Mortgagor shall pay all costs of filing such statements and renewals and releases thereof. Upon Mortgagor's breach of any covenant or agreement of Mortgagor contained in this Mortgage and Security Agreement, including covenants to pay when due all sums secured by this Mortgage, Mortgagee shall have the remedies of a secured party under the Uniform Commercial Code and at Mortgagee's option, may also invoke the remedies provided for herein as to such goods.

This conveyance is intended to operate and is to be construed as a Mortgage and Security Agreement and is made under those provisions of existing laws of the State of Alabama and is given to secure (a) the debt evidenced by the aforementioned Note; (b) any additional sums and advances as may be advanced or readvanced to or for Mortgagor's account for taxes, insurance premiums, public assessments, repairs, advances necessary to complete or restore improvements or for any other purpose, said additional sums and advances to be treated as disbursements under the Note and to bear interest from disbursement as called for in said Note. (The Note and other obligations secured hereby are sometimes collectively referred to as "Secured Indebtedness").

PROVIDED THAT, it is the intent of the parties hereto that if all of the Secured Indebtedness is paid when due and Mortgagor keeps and performs all of the covenants, provisions and agreements of this Mortgage and Security Agreement and any other instrument securing this loan, then this instrument will be void and release or satisfaction thereof will be made at the expense of Mortgagor.

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IT IS UNDERSTOOD AND AGREED THAT this conveyance is made subject to and that the parties hereto have agreed on and are bound by and will observe and fulfill the following covenants, stipulations and conditions as obligatory upon the respective parties and a failure to perform or observe any such covenant, stipulation or condition shall, at the option of the Mortgagee, be deemed a default hereunder:

1. Mortgagor will perform, observe and comply with all the provisions hereof, and will pay the Secured Indebtedness with interest thereon as in the Note and this Mortgage and Security Agreement provided.

2. Subject to the provisions of Article 4 herein, Mortgagor shall pay, when due and payable, (a) all taxes, assessments, general or special, and other charges levied on, or assessed, placed or made against the Premises, this Mortgage and Security Agreement, or the Secured Indebtedness or any interest of the Mortgagee in the Premises or the obligations secured hereby; and (b) premiums on policies of fire and other hazard insurance covering the Premises, as required in Article 3 herein. Mortgagor shall promptly deliver to Mortgagee receipts showing payment in full of all of the above items.

In the event of the passage after the date of this Mortgage and Security Agreement of any law of the State of Alabama, deducting from the land for the purpose of taxation any lien thereon, or changing in any way the laws now enforced for the taxation of mortgages, deeds of trust, or debts secured thereby, for state or local purposes, or the manner of the operation of any such taxes so as to affect the interest of Mortgagee, then and in such event, Mortgagor shall pay and bear the full amount of such taxes, provided that if for any reason payment by Mortgagor of any such new or additional taxes would be unlawful, or if the payment thereof would

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constitute usury or render the loan or indebtedness secured hereby wholly or partially usurious under any of the terms or provisions of the Note, or the within Mortgage and Security Agreement, or otherwise, Mortgagee may, at its option, pay that amount or portion of such taxes as renders the loan or indebtedness secured hereby unlawful or usurious, in which event Mortgagor shall concurrently therewith pay the remaining lawful and non-usurious portion or the entire indebtedness secured hereby and all interest accrued thereon shall, without notice, immediately become due and payable.

3. Mortgagor will keep the buildings, fixtures and property conveyed hereby, whether now standing on the Premises or hereafter erected, continuously insured in such amounts as Mortgagee may require against loss or damage by fire and against such other hazards including windstorm, hail, explosion, smoke damage, riot, riot attending a strike, civil commotion, aircraft and vehicles and malicious mischief, together with loss of rents and business interruption, as Mortgagee from time to time may require, for the benefit of Mortgagee. Mortgagor shall also cause the issuance and maintenance of comprehensive general public liability insurance protecting Mortgagor and Mortgagee as insureds in such amounts as Mortgagee may require. All such insurance at all times will be with an insurance company or companies and in terms acceptable to Mortgagee, with loss, if any, payable to Mortgagee as its interest may appear, pursuant to a New York Standard mortgagee clause or other clause which shall be satisfactory to Mortgagee; and forthwith upon the issuance of such policies, Mortgagor will deliver same and all renewals thereof to Mortgagee and will deliver to Mortgagee receipts from premiums paid therefor. Any policies furnished Mortgagee shall become its property in the event Mortgagee becomes the owner of the Premises by foreclosure or otherwise. Mortgagor is hereby authorized and empowered to adjust and compromise

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any loss under any insurance policies on the premises, with the approval of Mortgagee, however, Mortgagee shall have the right to receive the proceeds from any such policy or policies; provided, however, in the event that Mortgagor has not adjusted or settled any such loss within sixty (60) days of the occurrence of such loss, then Mortgagee is and shall be authorized and empowered, at its option, to adjust or compromise such loss or losses. Each insurance company is hereby authorized and directed to make payment for all such losses directly to Mortgagee, instead of to Mortgagor and Mortgagee jointly. The proceeds of any insurance, or any part thereof, shall be applied at Mortgagee's option, either to the payment of the indebtedness hereby secured, whether due or not, or to the restoration or repair of the property damaged.

4. At the option of the Mortgagee, the Mortgagor shall pay on the first day of each calendar month to the Mortgagee or to its duly authorized agent, in addition to the monthly payments of principal and interest under the terms of the Note secured hereby, a sum equal to one-twelfth of the known or estimated (by the Mortgagee) annual real property taxes on or against the subject property and one-twelfth of the annual insurance premium on the policy required by Article 3 hereof. The Mortgagee will hold such payments, without obligation to pay interest thereon, and will apply the same to the payment of such taxes and insurance premium, as and when due. If the total escrowed funds are greater than required to pay taxes and insurance premiums as provided herein, the overage shall be held for future needs; but if such monthly payments at any time fail to provide sufficient funds to pay such taxes and insurance premium when due, then the Mortgagor shall, upon demand, pay to the Mortgagee the amount necessary to cover the deficiency. When the Mortgagor shall have paid the Note secured hereby, the Mortgagee shall refund to the Mortgagor any excess funds accumulated hereunder. In the

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event of a default under the Note, this Mortgage or any other instrument securing said Note, the Mortgagee may at its option apply any balance remaining of the funds accumulated for the above purposes to the payment of said Note.

5. Mortgagor shall maintain the Premises in good condition and repair, shall not commit or suffer any waste to the Premises, and shall comply with, or cause to be complied with, all statutes, ordinances and requirements of any governmental authority relating to the ownership, operation and management of the Premises or any part thereof. Mortgagor shall promptly repair, restore, replace or rebuild any part of the Premises, now or hereafter encumbered by this Mortgage and Security Agreement, which may be affected by any proceeding of the character referred to in Articles 3 and 10 hereof. No part of the Premises, including, but not limited to, any building, structure, parking lot, driveway, landscape scheme, or other ground improvement, equipment or other property, now or hereafter conveyed as security by or pursuant to this Mortgage and Security Agreement, shall be removed, demolished or materially altered without the prior written consent of Mortgagee. Mortgagor shall complete, within a reasonable time, and pay for any building, structure or other improvement at any time in the process of construction on the property herein conveyed.

Mortgagor shall not, without the prior written consent of Mortgagee, expand or extend the improvements, nor will Mortgagor construct, restore, add to or alter any of the improvements, or any permitted extension thereof, nor consent to or permit any such construction, restoration, addition or alteration without Mortgagee's written consent. Mortgagor will grant no parking rights in the Premises, rights to ingress and/or egress, or any other rights in the Premises, except with Mortgagee's written consent.

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Mortgagor shall not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restriction limiting or defining the uses which may be made of the Premises or any part thereof. Mortgagee and other persons authorized by Mortgagee shall have access to and the right to enter and inspect said Premises at all reasonable times.

6. Mortgagor will faithfully perform the covenants of the lessor contained in any present or future lease of any part or all of the Premises, will neither do anything nor neglect to do anything nor permit anything to be done which would cause the modification or termination of any such lease or the obligation of any lessee, his or its successors and assigns, or the rents provided for therein, or the interest of the lessor or of the Mortgagee therein or thereunder. Mortgagor will not assign the rent or any part of the rent derived from any lease affecting the Premises to anyone other than the Mortgagee, except in connection with a sale or other transfer of such Mortgagor's interest in the Premises, nor cancel or amend any lease now in existence or hereinafter made, nor permit the assignment or subletting of any lease unless such right is expressly reserved by the lessee, nor collect rents under any lease affecting the Premises for more than one (1) month in advance, nor do any other act with regard to a lease whereby the lien of this Mortgage and Security Agreement may be impaired in value or quality. Mortgagor will give Mortgagee immediate notice by certified mail of any notice of default or notice of cancellation received from any lessee. This provision shall not be construed to prevent Mortgagor from suing for appropriate remedies against any defaulting lessee. Mortgagor will procure and deliver within thirty (30) days after notice and demand, estoppel letters or certificates from each lessee, tenant or occupant in possession

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of the Premises, as required by, and in form and substance satisfactory to Mortgagee, and deliver to Mortgagee a recorded assignment of the lessor's interest in the lease, in form and substance satisfactory to Mortgagee (in addition to the conveyance hereunder).

If at any time there is any conflict between any provision of this Mortgage and Security Agreement and any provisions of the aforesaid leases, then such provision of this Mortgage shall govern and apply.

7. Mortgagor shall keep and maintain complete and accurate books and records of the earnings and expenses of the operations at the subject property, and shall furnish Mortgagee within ninety (90) days ~~after~~ <sup>Accountant Prepared</sup> the close of Mortgagor's fiscal year a balance sheet and an ~~audited~~ <sup>PMSE</sup> statement of income and expenses, both in reasonable detail and form satisfactory to Mortgagee and a rent schedule of the subject property, showing the name of each tenant, and for each tenant, the amount of space occupied, the lease expiration date and the rent paid.

8. If the Mortgagor shall fail to pay or default in the payment of any tax, lien, or assessment, or charge levied or assessed against the subject property, in the payment of any insurance premium, in the delivery of the insurance policies required hereunder, or in the performance or observance of any other covenant, condition, or term of this Mortgage, the Mortgagee may, at its option, pay, perform, or observe same, but nothing herein contained shall obligate the Mortgagee to do so, and further nothing contained herein shall obligate the Mortgagee to continue doing so once it commences to pay or perform or observe same, and all amounts so expended by Mortgagee in connection therewith shall immediately become debts due by Mortgagor, shall bear interest at the rate per annum which is two percent (2%) in excess of the rate of interest provided in the Note, and shall be secured by this Mortgage and Security Agreement.

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9. Mortgagor shall not sell, convey, transfer, encumber or mortgage all or any part of the Premises, or any interest therein, without the prior written approval and consent of the Mortgagee.

10. If the above described Premises or any part thereof be condemned under any power of eminent domain or acquired for public use or quasi-public use, the damages, proceeds and consideration for such acquisition to the extent of the remaining unpaid indebtedness on this Mortgage and Security Agreement, and the Note, are hereby assigned by Mortgagor to Mortgagee, its successors or assigns, and shall be paid forthwith to said Mortgagee, its successors or assigns, to be applied, at the option of Mortgagee on account of the last maturing installment of such indebtedness or in such other manner as Mortgagee may desire.

11. Mortgagor shall execute and deliver (and pay the cost of preparation and recording thereof) to Mortgagee and to any subsequent holder from time to time, upon demand, any further instrument or instruments including, but not limited to, mortgages, security deeds, security agreements, financing statements, assignments and renewal and substitution notes, so as to reaffirm, or to correct or to perfect the evidence of the obligation hereby secured and the lien and security title of Mortgagee to all or any part of the Premises intended to be hereby conveyed, whether now conveyed, later substituted for or acquired subsequent to the date of this Mortgage and Security Agreement and extensions or modifications thereof. Mortgagor upon request, made either personally or by mail, shall certify by a writing, duly acknowledged, to Mortgagee or to any proposed assignee of this Mortgage and Security Agreement, the amount of principal and interest then owing on the Secured Indebtedness and whether or not any offsets or defenses exist against the Secured Indebtedness, within six (6) days in case the request is made personally, or within ten (10) days after the mailing of such request, in case the request is made by mail.

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Mortgagor shall, from time to time, within fifteen (15) days after request by Mortgagee, execute, acknowledge and deliver any financing statement, renewal, affidavit, certificate, continuation statement or other documents as Mortgagee may request in order to perfect, reserve, continue, extend or maintain the secured interest hereunder, and the priority of this Mortgage and Security Agreement or other security interest as a first lien. Mortgagor further agrees to pay to Mortgagee on demand all cost and expenses incurred by Mortgagee in connection with the preparation, execution, recording, filing and refiling of any such instrument or document, including the charges for examining title and the attorney's fee for rendering an opinion as to the priority of this Mortgage and Security Agreement as a valid first and subsisting lien. However, neither a request so made by Mortgagee nor the failure of Mortgagee to make such a request shall be construed as a release of such property, or any part thereof, from the lien of this Mortgage and Security Agreement, it being understood and agreed that this covenant and any such security agreement or other similar security instrument, delivered to Mortgagee, are cumulative and given as additional security.

12. Upon the occurrence of any one of the following events (herein called an "event of default"):

- (i) Should Mortgagor fail to pay the Secured Indebtedness or any part thereof, within the time period provided for in the Note;
- (ii) Should any covenant, agreement, representation, or warranty or Mortgagor herein contained, or contained in any instrument, transfer, conveyance, assignment or loan agreement given with respect to the Secured Indebtedness, prove untrue or misleading in any material respect;
- (iii) Should the Premises be subject to actual or threatened waste, or any part thereof be remodeled, demolished or materially altered so that the value of the Premises be diminished;
- (iv) Should any federal tax lien or claim of lien for labor or material be filed of record against Mortgagor or the Premises and not be removed by payment or bond within sixty (60) days from the date of recording;



(v) Should any claim of priority to this Mortgage by title, lien or otherwise be asserted in any legal or equitable proceeding, and such proceeding not be dismissed within ninety (90) days;

(vi) Should Mortgagor make any assignment for the benefit of creditors, or should a receiver, liquidator or trustee of Mortgagor or of any of Mortgagor's property be appointed, or should any petition for the bankruptcy, reorganization, or arrangement of Mortgagor, pursuant to the Federal Bankruptcy Act or any similar statute, be filed, or should Mortgagor, if a corporation, be liquidated or dissolved or its charter expire or be revoked, or, if a partnership, limited partnership, or business association, be dissolved, liquidated or partitioned, or, if a trust, be terminated or expires;

(vii) Should Mortgagor fail within fifteen (15) days after written notice is mailed to Mortgagor to keep, observe, perform, carry out and execute in every particular the covenants, agreements, obligations and conditions (except for obligations to make payments due under the Note which shall not require notice) set out in this Mortgage and Security Agreement, or in any other instrument given with respect to the Secured Indebtedness (including, but not limited to the Assignment of Leases, Rents and Profits given to Mortgagee by Mortgagor);

THEN AND THEREUPON, Mortgagee without further notice and, at its option, may do any one or more of the following:

(i) Declare the whole amount of the Secured Indebtedness immediately due and payable, whether or not such default be remedied by Mortgagor or others;

(ii) Enter upon and take possession of Premises without the appointment of a receiver, or an application therefor, employ a managing agent of the Premises and let the same, either in its own name, or in the name of Mortgagor, and receive the rents, incomes, issues and profits of the Premises and apply the same, after payment of all necessary charges and expenses, on account of the Secured Indebtedness, and Mortgagor will transfer and assign to Mortgagee, in form satisfactory to Mortgagee, Mortgagor's interest in any lease now or hereafter affecting the whole or any part of the Premises;

(iii) Pay any sums in any form or manner deemed expedient by Mortgagee to protect the security of this instrument or to secure any event of default other than payment of interest or principal on Secured Indebtedness; make any payment hereby authorized to be made according

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to any bill, statement or estimate furnished or procured from the appropriate public officer or the party claiming payment without inquiry into the accuracy or validity thereof, and the receipt of any such public officer or party in the hands of Mortgagee shall be conclusive evidence of the validity and amount of item so paid, in which event the amount so paid, with interest thereon from the date of such payment until paid at the rate per annum which is two percent (2%) in excess of the rate of interest provided in the Note, shall be added to and become a part of the Secured Indebtedness and be immediately due and payable to Mortgagee; and Mortgagee shall be subrogated to any encumbrance, lien, claim or demand, and to all the rights and securities for the payment thereof, paid or discharged with the principal sum secured hereby or by Mortgagee under the provisions hereof, and any such subrogation rights shall be additional cumulative security to this instrument;

(iv) Sell the Premises or any part of the Premises at public sale or sales before the door of the Courthouse of the county in which the Premises or any part of the Premises is situated, to the highest bidder for cash, after advertising the time, place and terms of sale once a week for three (3) successive weeks prior to said sale in a newspaper in which sheriff's sales are advertised in said county, and, upon payment of the purchase money, Mortgagee or any person conducting the sale for Mortgagee is authorized to execute to the purchaser at said sale a deed to the Premises so purchased. Mortgagee may bid at said sale and purchase said Premises, or any part thereof, if the highest bidder therefor. At the foreclosure sale the Premises may be offered for sale and sold as a whole without first offering it in any other manner or may be offered for sale and sold in any other manner Mortgagee may elect. The Mortgagee (or any person on behalf of Mortgagee) may bid and purchase at such sale. The proceeds of any foreclosure sale shall be applied as follows:

(a) First, to the expenses of making the sale, including a reasonable attorney's fee for such services as may be necessary in the collection of said indebtedness or the foreclosure of this Mortgage;

(b) Second, to the repayment of any money, with interest thereon, which Mortgagee may have paid, or become liable to pay, or which it may then be necessary to pay for taxes, insurance, assessments or other charges, liens, utility charges, or debts as herein provided;

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(c) Third, to the payment and satisfaction of the indebtedness hereby specifically secured with interest to date of sale;

(d) Fourth, the balance, if any, shall be paid to the party or parties appearing of record to be the owner of the Premises at the time of the sale after deducting any expense of ascertaining who is such owner.

Mortgagee, in action to foreclose this Mortgage and Security Agreement, or upon any event of default, shall be at liberty to apply for the appointment of a receiver of the rents and profits of the Premises or both without notice, and shall be entitled to the appointment of such a receiver as a matter of right, without consideration of the value of the Premises as security for the amounts due the Mortgagee, or the solvency of any person or corporation liable for the payments of such amounts.

In case of any sale pursuant to any action or proceeding to foreclose this Mortgage and Security Agreement, Mortgagor shall be responsible for and shall immediately on demand from Mortgagee pay any and all charges for utility service, sanitary and garbage service, advertising, maintenance, repair and any and all other charges incurred in the operation or maintenance of the Premises prior to the date of such sale.

In case of any sale pursuant to any action or proceeding to foreclose this Mortgage and Security Agreement, in which the Secured Indebtedness or any part thereof, is established, Mortgagee, in addition to the Secured Indebtedness shall also recover of the Mortgagor all reasonable attorneys' fees incurred or in case the Note and Mortgage and Security Agreement shall be placed with an attorney for collection, all attorneys' fees shall be due and collectible as a part of the Secured Indebtedness and be secured by this Mortgage and Security Agreement.

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13. Mortgagor hereby waives and renounces all homestead and exemption rights provided for by the Constitution and laws of the United States or the State of Alabama, in and to the Premises as against the collection of the Secured Indebtedness, or any part thereof; and Mortgagor agrees that where, by the terms of the conveyance or the Note secured hereby, a day is named or a time fixed for the payment of any sum of money or the performance of any agreement, the time stated enters into the consideration and is of the essence of the whole contract.

14. Mortgagee shall have the right from time to time to sue for any sums, whether interest, principal or any installment of either or both, taxes, penalties, or any other sums required to be paid under the terms of this Mortgage and Security Agreement, as the same become due, without regard to whether or not all of the Secured Indebtedness shall be due on demand, and without prejudice to the right of Mortgagee thereafter to enforce any appropriate remedy against the Mortgagor, including an action of foreclosure, or any other action, for a default or defaults by Mortgagor existing at the time such earlier action was commenced.

15. The obligation of this Mortgage and Note hereby secured shall continue until the entire debt is paid, notwithstanding any action or actions of partial foreclosure which may be brought to recover any amount or amounts for installments of principal, interest, taxes, assessments, levies, charges, insurance premiums or any other sums payable under the provisions of this Mortgage and Security Agreement.

16. The rights of Mortgagee, granted and arising under the clauses and covenants contained in this Mortgage and Security Agreement and the Note, shall be separate, distinct and cumulative of other powers and rights herein granted and all other rights which Mortgagee may have in law or equity, and none of them shall

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be an inclusion of the others; and all of them are cumulative to the remedies for collection of indebtedness, enforcement of rights under mortgages, and preservation of security as provided at law. No act of Mortgagee shall be construed as an election to proceed under any one provision herein or under the Note or any other instrument executed in connection herewith to the exclusion of any other provision; or an election of remedies to the bar of any other remedy allowed at law or in equity, anything herein or otherwise to the contrary notwithstanding.

17. Every provision for notice and demand or request to Mortgagor hereunder shall be deemed fulfilled by written notice and demand or request personally served, or mailed by depositing it in any post office station or letter box, postage prepaid, addressed to Mortgagor at the address of Mortgagor set forth on the signature pages or at such other address as Mortgagor shall have designated by written notice to Mortgagee, and failing such notice to Mortgagee, then to one or more of the persons who shall at the time hold record title to the Premises, or their heirs or successors, at his or their address last known to Mortgagee.

18. No delay or forbearance by the Mortgagee in exercising any or all of its rights hereunder or rights otherwise afforded by law or equity shall operate as a waiver thereof or preclude the exercise thereof during the continuance of any default as set forth herein or in the event of any subsequent default hereunder, and all such rights shall be cumulative. In case the Mortgagee voluntarily or otherwise shall become a party to any suit or legal proceedings to protect the Premises or to protect the lien of this Mortgage, Mortgagee shall be saved harmless and shall be reimbursed by the Mortgagor for any amounts paid, including all reasonable costs, charges and attorneys' fees incurred in any such suit or proceedings, and the same shall be secured by this Mortgage and bear interest at the rate per annum which is two percent (2%) in excess of the rate of interest provided in the Note.

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19. All of the covenants, terms and conditions hereof shall bind and inure to the benefit of the respective heirs, successors and assigns of the parties hereto. Whenever used herein, the words "Mortgagor" and "Mortgagee", shall include all individuals, corporations and any and all other persons or entities, and the respective heirs, executors, administrators, legal representatives, successors and assigns of the parties hereto, and all those holding under either of them, and the pronouns used herein shall include, when appropriate, either gender or both, singular and plural and the word "Note" shall also include one or more notes and any modifications or extensions thereof, and the grammatical construction of sentences shall conform thereto. If more than one party shall execute this Mortgage and Security Agreement, the term "Mortgagor" shall mean all parties signing, and each of them, and each agreement, obligation and Secured Indebtedness of the Mortgagor shall, unless expressly provided to the contrary herein, be and mean the several as well as joint undertaking of each of them.

20. Anything to the contrary notwithstanding contained herein or in the Note which is secured hereby, the total liability for payment in the nature of interest shall not exceed the limits now imposed by the usury laws of the State of Alabama.

21. If any clauses or provisions herein contained operate or would prospectively operate to invalidate this Mortgage and Security Agreement in whole or in part, then, such clauses and provisions only shall be held for naught, as though not herein contained, and the remainder of this Mortgage shall remain operative and in full force and effect.

22. Mortgagee may release, regardless of consideration, any part of the security held for the indebtedness or obligations without, as to the remainder of the security, in any way impairing or affecting the liens of this Mortgage and Security Agreement or their priority over any subordinate lien.

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BOOK 411 PAGE 526



IN WITNESS WHEREOF, Mortgagor has caused these presents to be executed for and in its name on this the 8<sup>th</sup> day of April, 1981.

WITNESS:

[Signature]

[Signature]

[Signature] (L.S.)  
ELI T. STEVENS

[Signature] (L.S.)  
PATRICIA M. STEVENS

STATE OF ALABAMA )

JEFFERSON COUNTY )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Eli T. Stevens and Patricia M. Stevens, whose names are signed to the foregoing conveyance, and who are known to me, acknowledged before me on this day, that, being informed of the contents of the conveyance, they executed the same voluntarily for and as the act of said general partnership.

Given under my hand and official seal this the 8<sup>th</sup> day of April, 1981.

[Signature]  
NOTARY PUBLIC

MY COMMISSION EXPIRES JUNE 17, 1982



STATE OF ALA. SELLING CO.  
I CERTIFY THIS  
DEED WAS FILED  
1981 APR 16 AM 9:07

[Signature]  
CLERK OF PROBATE

Mtg TAX	810.00
Rec	28.50
Jud	1.00
	<u>839.50</u>

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BOOK 411 PAGE 527

STATE OF ALABAMA )  
JEFFERSON COUNTY )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that ELI T. STEVENS and wife, PATRICIA M. STEVENS, whose names are signed to the foregoing conveyance, and who are known to me, acknowledged before me that, being informed of the contents of this conveyance, they executed the same voluntarily and as their act on the day the same bears date.

Given under my hand and seal of office this the 8th day of April, 1981.

My commission expires: June 17th, 1982

*Carolee Hopkins*  
Notary Public  
MY COMMISSION EXPIRES JUNE 17, 1982

BOOK 411 PAGE 764

STATE OF ALA. SHELBY CO.  
I CERTIFY THIS  
1981 APR 24 AM 8:17  
*Carolee Hopkins*  
JUDGE OF PROBATE  
Rec. 30.00  
Index 1.00  
31.00

NO TAX COLLECTED