

THIS INSTRUMENT PREPARED BY:
Randolph H. Lanier
Balch, Bingham, Baker, Hawthorne,
Williams & Ward
600 North 18th Street
Birmingham, Alabama 35203

STATE OF ALABAMA)
COUNTY OF SHELBY)

MORTGAGE AND SECURITY AGREEMENT

KNOW ALL MEN BY THESE PRESENTS: That

WHEREAS, the undersigned JOHNSON-RAST & HAYS CO., INC., a corporation (hereinafter called "Mortgagors", whether one or more), are, contemporaneously with the execution hereof, becoming indebted to THE HARBERT-EQUITABLE JOINT VENTURE (hereinafter referred to as "HEJV") on a loan in the sum of Nineteen Thousand Two Hundred and No/100 Dollars (\$19,200.00) principal, as evidenced by a promissory note of even date herewith, payable to HEJV with interest thereon, on demand or as otherwise provided therein (hereinafter "Note"); and

WHEREAS, said Mortgagors may hereafter become indebted to HEJV or a subsequent holder of this Mortgage on loans or otherwise (said HEJV and any subsequent holder of this Mortgage being referred to herein as "Mortgagee"); and

WHEREAS, it is desired by the parties to secure said principal amount with interest, and all renewals, extensions or modifications thereof, and any and all other additional indebtedness of Mortgagors to Mortgagee, now existing or hereafter arising, whether joint or several, due or to become due, absolute or contingent, direct or indirect, liquidated or unliquidated, and all renewals, modifications or extensions thereof, and whether incurred or given as maker, endorser, guarantor or otherwise (all of which additional indebtedness is hereinafter referred to as "Other Indebtedness").

NOW, THEREFORE, the undersigned Mortgagors and all others executing this Mortgage, in consideration of making the loan or loans above mentioned, and to secure the prompt payment of same, with the interest thereon, and any extensions, renewals or modifications of same, and any and all charges herein incurred by Mortgagee on account of Mortgagors, including but not limited to attorney's fees, and any and all Other Indebtedness of Mortgagors to Mortgagee as set forth above, and further to secure the performance of the covenants, conditions and agreements hereinafter set forth and set forth in the Note, and as may be set forth in any other instruments evidencing, securing or given in connection with the Note or Other Indebtedness of Mortgagors to Mortgagee, have bargained and sold and do hereby grant, bargain, sell and convey unto the said Mortgagee, its successors and assigns, the following described land, real estate, buildings, improvements, and fixtures (which together with any additional such property hereafter acquired by the Mortgagors and subject to the lien of this Mortgage, or intended to be so, as the same may be from time to time constituted is hereinafter referred to as the "Property") to-wit:

(a) All that tract or parcel or parcels of land particularly described in Schedule "A" attached hereto and made a part hereof.

(b) All buildings, structures, fixtures and improvements of every nature whatsoever now or hereafter situated on the property described in Schedule "A", and all extensions, additions, improvements, betterments, renewals and replacements to any of the foregoing.

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R. Lanier
P.O. Box - 1297
Bham. 35201

TOGETHER with all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interest, privileges, liberties, tenements, hereditaments, and appurtenances whatsoever, in any way belonging, relating or appertaining to any of the property hereinabove described, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by the Mortgagors, and the reversion and reversions, remainder and remainders, rents, issues, profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of the Mortgagors of, in and to the same, including but not limited to:

(a) All rents, profits, issues and revenues of the Property from time to time accruing, whether under leases or tenancies now existing or hereafter created, reserving to Mortgagors, however, so long as Mortgagors are not in default hereunder, the right to receive and retain the rents, issues and profits thereof; and,

(b) All judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the Property or any part thereof under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the Property or the improvements thereon or any part thereof, or to any rights appurtenant thereto, including any award for change of grade or streets. Mortgagee is hereby authorized on behalf and in the name of Mortgagors to execute and deliver valid acquittances for, and appeal from, any such judgments or awards. Mortgagee may apply all such sums or any part thereof so received, after the payment of all its expenses, including costs and attorney's fees, on the indebtedness secured hereby in such manner as it elects, or at its option, the entire amount or any part thereof so received may be released.

PROVIDED, HOWEVER, that these presents are upon the condition that, if the Mortgagors shall pay or cause to be paid to the Mortgagee the principal and interest payable in respect to the Note, at the times and in the manner stipulated therein and herein, all without any deduction or credit for taxes or other similar charges paid by the Mortgagors, and shall pay all charges incurred herein by Mortgagee on account of Mortgagors, including, but not limited to attorney's fees, and shall pay any and all Other Indebtedness of Mortgagors to Mortgagee, and shall keep, perform and observe all and singular the covenants, conditions and agreements in the Note, and in this Mortgage, and in any other instruments evidencing, securing or given in connection with the Note or Other Indebtedness of Mortgagors to Mortgagee, expressed to be kept, performed, and observed by or on the part of the Mortgagors, all without fraud or delay, then this Mortgage, and all the properties, interest and rights hereby granted, bargained, and sold shall cease, determine and be void, but shall otherwise remain in full force and effect.

Upon the happening of a default in the payment of the Note, or of any installment thereof, principal or interest, when due, or upon the happening of a default in the payment of any Other Indebtedness, obligation or liability hereby secured, or any renewals, extensions, or modifications thereof when due, or upon default in the performance of any of the covenants, conditions or agreements in the Note, or in this Mortgage, or in any other instruments evidencing, securing or given in connection with the Note or Other Indebtedness of Mortgagors to Mortgagee, or should the interest of said Mortgagee or assigns in said Property become endangered by reason of the enforcement of any prior lien or encumbrance thereon or otherwise, so as to endanger the security hereby given, or should the Mortgagors, or any endorser, surety or guarantor of the Note or Other Indebtedness of Mortgagors to Mortgagee, file, or have filed against any one of them, a petition under any provision of any federal or state law pertaining to bankruptcy, insolvency, or any other law for relief of debtors, including but not limited to, proceedings for liquidation, adjustment of debts, reorganization, or any filing of any plan, composition or arrangement under any such law, or seek or acquiesce in a general assignment or any other arrangement

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for the benefit of creditors, Mortgagee may, at its option, declare all indebtedness, Other Indebtedness, obligations, and liabilities secured hereby to be immediately due and payable, and the Mortgagors hereby vest the Mortgagee with full power and authority to sell said Property at public auction at the front door of the courthouse of the county or counties in which all or a portion of said Property is located, as Mortgagee may elect, subject to the provisions of any applicable law. Such sale may be in lots or parcels or en masse as Mortgagee's agents, auctioneer or assigns deem best, for cash, to the highest bidder, after first giving notice of the time, place and terms of such sale, together with a description of the Property to be sold, by publishing the same once a week for three (3) consecutive weeks in a newspaper published in the county or counties and state in which all or a portion of said Property is located. Mortgagee has full power and authority to make proper conveyance to the purchaser and to apply the proceeds of said sale: First, to the payment of the expenses of such sale including advertising, selling and conveying, including reasonable attorney's and auctioneer's fees; second, to the payment of any and all debts, obligations and liabilities hereby secured, principal and interest, whether such debts, obligations or liabilities be then due or not, and any amount that may be due the Mortgagee by virtue of any of the special liens or agreements herein declared; and, lastly, the surplus, if any, to be paid over to the party or parties appearing of record to be the owner of the Property at the time of the sale after deducting any expense of ascertaining who is such owner, or to be paid as otherwise required by law. The said Mortgagee may, at any sale made under this Mortgage, become the purchaser of said Property, or any part thereof or interest therein, like a stranger thereto, in which event the auctioneer making the sale shall make the deed in the name of the Mortgagors, and all recitals made in any deed executed under this Mortgage shall be evidence of the facts therein recited.

The Mortgagors, their heirs, successors, assigns, executors and administrators, hereby covenant with the Mortgagee, its successors and assigns, that they are seized of an indefeasible estate in fee simple in and to said Property, that said Property is free from all liens and encumbrances except as may be set forth on Schedule A hereto, and that they will forever warrant and defend the title thereto and the quiet use and enjoyment thereof unto the said Mortgagee, its successors and assigns, and unto the purchaser at any such sale, against the lawful claims of all persons whomsoever.

The Mortgagors further expressly agree and covenant as follows:

1. Mortgagors shall pay the Note and all Other Indebtedness of Mortgagors to Mortgagee, and all installments of principal and interest thereon, when they respectively fall due.

2. Mortgagors shall keep any buildings now or hereafter erected on said Property in good repair, and insured against fire and wind-storm, and such other risks as Mortgagee may designate, with policies, forms and companies satisfactory to Mortgagee, such policies to be made payable to the Mortgagee as its interests may appear, and deposited with the Mortgagee. Such policies shall be in an amount as may be required by the Mortgagee, but Mortgagee shall not require insurance exceeding the value of said buildings, and other improvements.

3. Mortgagors shall keep the improvements situated on the Property in a good state of repair and shall not commit or permit waste of the Property, or remove any fixtures.

4. Mortgagors shall pay promptly all taxes, assessments, liens and other charges which are now, or may become effective against said Property before the same become delinquent, together with all penalties, costs, and other expenses incurred, or which may accrue, in connection therewith.

5. If it shall become necessary to employ an attorney to collect the debt or any of the indebtedness or Other Indebtedness hereby secured, or any portion thereof, or to foreclose this Mortgage by sale

under the powers herein contained, or by an action at law or other judicial or administrative proceedings, then the said Mortgagors shall pay and allow a reasonable attorney's fee.

6. Mortgagors shall maintain possession of the Property above described, subordinate to the rights of the Mortgagee, and in the event of litigation arising over the title to, or possession of said Property, the Mortgagee may prosecute or defend said litigation.

7. If the said Mortgagors fail to perform any of the duties herein specified, the Mortgagee may perform the same, including but not limited to payment of insurance premiums, taxes, liens and other charges.

8. The Mortgagee may advance to said Mortgagors such monies as may be necessary to discharge any liens of any character now or hereafter placed against said Property, or to pay for any work done upon said Property, or materials furnished to said Property.

9. The Mortgagee shall have an additional lien upon said Property, secured by this Mortgage, for any sums expended or advanced by Mortgagee pursuant to the provisions of paragraphs 5 through 8 above, together with interest thereon, and all such sums expended or advanced shall bear interest at the rate set forth in the Note or at 15%, whichever is greater, unless otherwise agreed by Mortgagee and Mortgagor, and shall be immediately due and payable.

10. Mortgagors shall not sell or otherwise transfer or dispose of the Property without the prior written consent of the Mortgagee. Upon any such sale, transfer or disposition of the Property without the prior written consent of Mortgagee, Mortgagee may, at its option, declare all indebtedness, Other indebtedness, obligations, and liabilities secured hereby to be immediately due and payable.

11. The provisions of this Mortgage shall inure to and bind not only the parties hereto, but also their respective heirs, executors, administrators, successors, and assigns.

12. No delay or omission of the Mortgagee or of any holder of the Note to exercise any right, power or remedy under this Mortgage, or the Note, or any other instrument, upon any default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such default, or acquiescence therein. No waiver of any default hereunder shall extend to or shall affect any subsequent or any other then existing default or shall impair any rights, powers or remedies consequent thereon.

13. All rights, powers and remedies of Mortgagee herein shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity or by statute. In the event that any one or more of the terms or provisions of this Mortgage or of the Note shall be invalid, illegal or unenforceable in any respect, the validity of the remaining terms or provisions shall in no way be affected, prejudiced or disturbed thereby.

14. Mortgagee agrees with Mortgagors to subordinate this Mortgage and the Note to a loan from a third party to Mortgagors, as evidenced by a promissory note and secured by a mortgage on the Property, made for the exclusive purpose of improving the Property.

15. This Mortgage is given under the seal of all parties hereto, and it is intended that this Mortgage is and shall constitute and have the effect of a sealed instrument according to law.

IN WITNESS WHEREOF, said Mortgagors have caused this instrument to be executed on this the 6th day of April, 1982.

ATTEST:

By:

Its:

MORTGAGORS:

JOHNSON-RAST & HAYS CO., INC.,
a corporation

By:

Its:

Mortgagors' Address:

2131 Magnolia Avenue South
Birmingham, Alabama 35205

Mortgagee's Address:

The Harbert-Equitable Joint Venture
P. O. Box 1297
Birmingham, Alabama 35201

THE HARBERT-EQUITABLE JOINT VENTURE

By:

Its:

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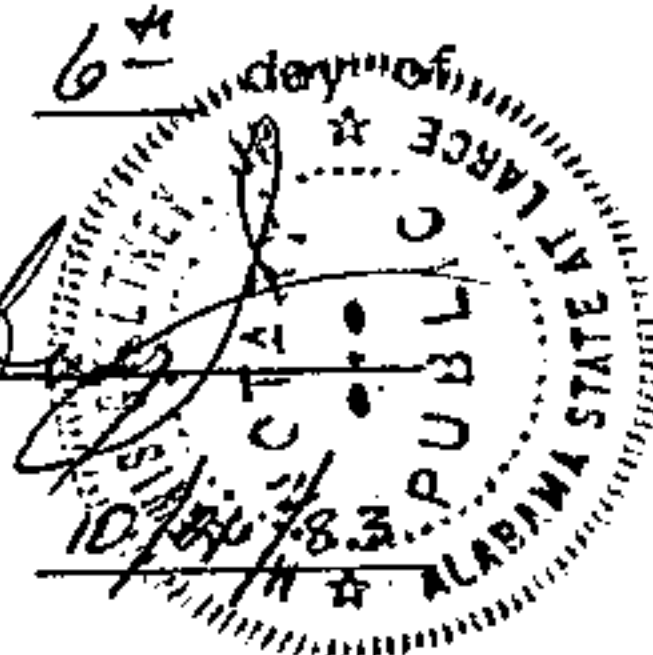
STATE OF ALABAMA
COUNTY OF Shelby

I, W. Lewis Swaltney, Jr., a Notary Public in and for said County in said State, hereby certify that Robert E. Reed, whose name as President of Johnson-Rast & Hays Co., Inc., and who is known to me, acknowledged before me on this day that, being informed of the contents of the above and foregoing instrument, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and official seal of office this 6th day of April, 1982.

Notary Public

My Commission expires: 10/24/83



SCHEDULE A
TO
MORTGAGE AND SECURITY AGREEMENT

Record Owner of Real Property: Johnson-Rast & Hays Co., Inc.

Lot 402, according to the survey of Riverchase Country Club, 11th Addition, as recorded in Map Book 8, Page 76, Probate Office of Shelby County, Alabama. Situated in Shelby County, Alabama.

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STATE OF ALA. SHELBY CO.
I CERTIFY THIS
DOCUMENT WAS FILED

1982 APR 20 AM 10:17

Thomas A. J. J. J.
JUDGE OF PROBATE

Mtg. Pay - 2880
Rec. 900
Ord 100

2880

FOR IDENTIFICATION:

Johnson-Rast & Hays Co. Inc

By: _____
Its _____