

This Instrument Prepared By:
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THIS IS A FUTURE
ADVANCE MORTGAGE

STATE OF ALABAMA

SHELBY COUNTY

MORTGAGE, SECURITY AGREEMENT
AND ASSIGNMENT OF RENTS AND LEASES

This Mortgage, Security Agreement and Assignment of Rents and Leases ("this Mortgage") is entered into as of December 1, 1985 by HEATHERBROOKE INVESTORS, LTD., an Alabama limited partnership, as the "Mortgagor" who is signatory hereto (the "Mortgagor"), and COLONIAL MORTGAGE COMPANY, an Alabama corporation (the "Mortgagee").

RECITALS

BOOK 054 PAGE 498
A. The Mortgagor has requested the Mortgagee to (i) enter into an Origination and Sale Agreement with Alabama Housing Finance Authority (the "Authority") dated as of December 1, 1985, (the "Origination Agreement"), (ii) enter into a Loan Agreement with the Mortgagor dated as of December 1, 1985 (the "Loan Agreement"), (iii) make a mortgage loan to the Mortgagor in the principal amount of \$10,500,000 and with the final maturity date of October 1, 2013 (the "Loan"), as evidenced by a promissory note of even date herewith executed and delivered by the Mortgagor to the Mortgagee (the "Note"), in accordance with the Origination Agreement and that certain Regulatory Agreement and Declaration of Restrictive Covenants dated as of December 1, 1985 (the "Regulatory Agreement") entered into by the Authority, the Mortgagee, the Mortgagor and First Alabama Bank, as Trustee (the "Trustee"), and (iv) sell the Loan to the Authority, all as provided for in the Origination Agreement.

B. The Mortgagee has entered into the Origination Agreement in reliance in part on the promise of the Mortgagor to accept the Loan and to execute and deliver the Loan Agreement, the Note and this Mortgage.

C. The Mortgagor has requested AmSouth Bank N.A. (the "Bank") to issue its irrevocable letter of credit in a maximum amount of \$10,780,479.45 for the purpose of providing for the direct payment of the principal of and the interest and premium (if any) on the Authority's \$10,500,000 aggregate principal amount of Multi-Family Residential Development Bonds, 1985 Series O (the "Bonds"), the proceeds of which will be used to finance the purchase of the Loan and to provide for the payment of certain costs of issuance in connection with the Bonds. The Bank has required that the Mortgagor enter into a certain Reimbursement Agreement dated as of December 1, 1985 (the "Reimbursement Agreement") to evidence the obligation of the Mortgagor to repay amounts paid by the Bank under the Letter of Credit.

D. In order to secure the Mortgagor's obligations under the Reimbursement Agreement, the Mortgagor has executed and delivered in favor of the Bank a certain Mortgage, Security Agreement and Assignment of Rents and Leases dated as of December 1, 1985 (the "Bank Mortgage"), the lien of which is to be subordinate to the lien of this Mortgage.

E. Capitalized terms not otherwise defined herein, when used herein, shall have the respective meanings accorded to them in the Loan Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and in order to induce the Mortgagee to enter into the Loan Agreement and to make the Loan to the Mortgagor, and in order to secure the prompt payment of the following (hereinafter sometimes referred to collectively as the "Debt"):

(1) any and all sums, principal, interest, premium and agreed charges, becoming due and payable by the Mortgagor under or with respect to the Loan and the Note; and

(2) any and all sums becoming due and payable by the Mortgagor to the Mortgagee under the terms of this Mortgage;

(3) all renewals and extensions of any or all of the obligations of the Mortgagor described in (1) and (2) above, whether or not any renewal or extension agreement is executed in connection therewith; and

(4) any and all fees and expenses of the Trustee and the Authority under the Indenture, the Origination Agreement, the Regulatory Agreement or any of the Mortgage Loan Documents;

and also to secure the full, timely and complete performance of each and every obligation, covenant, duty and agreement of the Mortgagor contained in the Loan Agreement, this Mortgage, the Regulatory Agreement and any of the other Mortgage Loan Documents;

the Mortgagor hereby grants, bargains, sells, conveys, transfers and pledges unto the Mortgagee, its successors and assigns, the property and interests in property described in the following Granting Clauses A through G, both inclusive, and hereby grants to the Mortgagee title to and a security interest in said property and interests in property whether now owned or hereafter acquired:

A. The real estate described on Exhibit B attached hereto and made a part hereof (the "Real Estate") and all improvements, structures, buildings and fixtures now or hereafter situated thereon (the "Improvements").

B. All permits, easements, licenses, rights-of-way, contracts, privileges, immunities, tenements and hereditaments now or hereafter pertaining to or affecting the Real Estate or the Improvements.

BOOK 054 PAGE 500

C. (i) All leases, written or oral, and all agreements for use or occupancy of any portion of the Real Estate or the Improvements with respect to which the Mortgagor is the lessor, any and all extensions and renewals of said leases and agreements and any and all further leases or agreements, now existing or hereafter made, including subleases thereunder, upon or covering the use or occupancy of all or any part of the Real Estate or the Improvements, all such leases, subleases, agreements and tenancies heretofore mentioned being hereinafter collectively referred to as the "Leases"

(ii) any and all guarantees of the lessee's and any sublessee's performance under any of the Leases;

(iii) the immediate and continuing right to collect and receive all the rents, income, receipts, revenues, issues and profits now due or which may become due or to which the Mortgagor may now or shall hereafter (including during the period of redemption, if any) become entitled or may demand or claim, arising or issuing from or out of the Leases or from or out of the Real Estate or any of the Improvements, or any part thereof, including but not limited to minimum rents, additional rents, percentage rents, common area maintenance charges, parking charges, tax and insurance premium contributions, liquidated damages following default, the premium payable by any lessee upon the exercise of any cancellation privilege provided for in any of the Leases, and all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by destruction or damage to the Real Estate or the Improvements, together with any and all rights and claims of any kind that the Mortgagor may have against any such lessee under the Leases or against any subtenants or occupants of the Real Estate or any of the Improvements, all such moneys, rights and claims in this paragraph described being hereinafter referred to as the "Rents"; provided, however, so long as no Event of Default has occurred under this Mortgage, the Mortgagor shall have the right under a license granted hereby (but limited as provided in paragraph 15 below) to collect, receive and retain the Rents (but not prior to accrual thereof); and

(iv) any award, dividend or other payment made hereafter to the Mortgagor in any court procedure involving any of the lessees under the Leases in any bankruptcy, insolvency or reorganization proceedings in any state or federal court and any and all payments made by lessees in lieu of rent. The Mortgagor hereby appoints the Mortgagee as the Mortgagor's irrevocable attorney in fact to appear in any action and to collect any such award, dividend or other payment.

D. All building materials, equipment, fixtures, tools, apparatus and fittings of every kind or character now owned or hereafter acquired by the Mortgagor with the proceeds of the Loan or as a replacement of the same for the purpose of, or used or useful in connection with, the improvements, wherever the same may be located, including, without limitation, all lumber and lumber products, bricks, stones, building blocks, sand, cement, roofing materials, paint, doors, windows, hardware, nails, wires, wiring, engines, boilers, furnaces, tanks, motors, generators, switchboards, elevators, escalators, plumbing, plumbing fixtures, air-conditioning and heating equipment and appliances, electrical and gas equipment and appliances, stoves, refrigerators, dishwashers, hot water heaters, garbage disposals, trash compactors, other appliances, carpets, rugs, window treatments, lighting, fixtures, pipes, piping, decorative fixtures, and all other building materials, equipment and fixtures of every kind and character used or useful in connection with the Improvements.

E. All right, title and interest of the Mortgagor in and to the Construction Fund (as such term is defined in the Origination Agreement) and all earnings thereon and other proceeds thereof.

F. All right, title and interest of the Mortgagor in and to all contracts, agreements and other documents relating to the acquisition, construction and operation of the Development (the "Contract Documents"), together with all (i) changes, additions, extensions, revisions, modifications or guarantees of performance or obligations to the Mortgagor with respect to the Contract Documents and (ii) rights of the Mortgagor to modify or terminate, or waive or release performance or observance of any obligation or condition of, any of the Contract Documents.

G. Any and all other real or personal property of every kind and nature from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned or transferred to Mortgagee, or in which the Mortgagee is granted a security interest, as and for additional security hereunder by the Mortgagor, or by anyone on behalf of, or with the written consent of, the Mortgagor.

(All of the property and interests in property described in the foregoing Granting Clauses A through G, both inclusive, are herein sometimes collectively called the "Property". The personal property described in Granting Clauses D, E and F and all other personal property covered by this Mortgage are herein sometimes collectively called the "Personal Property".)

SUBJECT, HOWEVER, to the liens, easements, rights-of-way and other encumbrances described on Exhibit C hereto ("Permitted Encumbrances").

To have and to hold the Property unto the Mortgagee, its successors and assigns forever.

1. Future Advance Mortgage. This Mortgage is a future advance mortgage and the indebtedness evidenced by the Note is to be advanced to the Mortgagor by the Trustee on behalf of the Mortgagee in accordance with the terms of the Loan Agreement and the Indenture.

2. Warranties of Title. The Mortgagor covenants with the Mortgagee that the Mortgagor is lawfully seized in fee simple of the Real Estate and is the lawful owner of, and has good title to, the Personal Property, the Improvements and other Property and has a good right to sell and convey the Property as aforesaid; that the Property is free of all encumbrances other than Permitted Encumbrances; that the Mortgagor will warrant and forever defend the title to the Property unto the Mortgagee against the lawful claims of all persons except those claiming under Permitted Encumbrances; and that this Mortgage will create a valid first lien in favor of the Mortgagee, and that of its assigns, in and to the Property, subject to no prior mortgage, conveyance or encumbrance.

3. Maintenance of Lien Priority. The Mortgagor shall take all steps necessary to preserve and protect the validity and priority of the liens on, security interests in, and assignment of, the Property created hereby. The Mortgagor shall execute, acknowledge and deliver such additional instruments as the Mortgagee may deem necessary in order to preserve, protect, continue, extend or maintain the liens, security interests and assignments created hereby as first liens on, security interests in, and assignments of, the Property, except as otherwise permitted under the terms of this Mortgage. All costs and expenses incurred in connection with the protection, preservation, continuation, extension or maintaining of the liens, security interests and assignments hereby created shall be paid by the Mortgagor.

4. Representations and Warranties Related to Rents and Leases.

(a) The Mortgagor has good title to the Rents and Leases hereby assigned and good right to assign the same, and no other person, corporation or entity has any right, title or interest therein.

(b) The Mortgagor has not previously sold, assigned, transferred, mortgaged or pledged the Leases or the Rents, whether now due or hereafter to become due.

5. Covenants To Pay Liens and Maintain Insurance. For the purpose of further securing the payment of the Debt, the Mortgagor agrees to: (a) pay all taxes, assessments, and other liens taking priority over this mortgage (hereinafter jointly called "Liens"), and if default is made in the payment of the Liens, or any part thereof, the Mortgagee, at its option, may pay the same; (b) keep the Property continuously insured, in such manner and with such companies as may be satisfactory to the Mortgagee, against loss by flood (if the Property is located in a flood-prone area), fire, windstorm, vandalism and malicious mischief and other perils usually covered by a fire insurance policy with standard extended coverage endorsement, with loss, if any,

BOOK 054 PAGE 502

payable (pursuant to loss payable clauses in form and content satisfactory to the Mortgagee) to the Mortgagee, as its interests may appear, subject to the rights of the holders of any prior mortgages. Such insurance shall be in an amount at least equal to the unpaid balance of the Debt and in an amount sufficient to avoid the Mortgagor becoming a co-insurer unless the Mortgagee agrees in writing that such insurance may be in a lesser amount. The original insurance policy and all replacements therefor or a certificate of insurance in form acceptable to the Mortgagee, shall be delivered to, and held by, the Mortgagee until the Debt is paid in full. The original insurance policy and all replacements therefor must provide that they may not be cancelled without the insurer's giving at least twenty (20) days' prior written notice of such cancellation to the Mortgagee.

6. Assignment of Insurance Policies, etc. The Mortgagor hereby assigns and pledges to the Mortgagee, as further security for the payment of the Debt, each and every policy of hazard insurance now or hereafter in effect insuring the Property, or any part thereof (including without limitation the Personal Property and Improvements, or any part thereof), together with all right, title and interest of the Mortgagor in and to each and every such policy, including, but not limited to, all the Mortgagor's right, title and interest in and to any premiums paid on each such policy, including all rights to return premiums. If the Mortgagor fails to keep the Property insured as specified above then, at the election of the Mortgagee and without notice to any person, the Mortgagee may, but shall not be obligated to, insure the Property for its full insurable value (or for such lesser amount as the Mortgagee may wish) against such risks of loss and for its own benefit. The proceeds from such insurance (less the costs of collecting the same), if collected, shall be credited against the Debt, or, at the election of the Mortgagee, such proceeds may be used to purchase additional Personal Property to replace Personal Property that has been damaged or destroyed and to repair or reconstruct the Improvements. All amounts spent by the Mortgagee for insurance or for the payment of Liens shall become a debt due by the Mortgagor to the Mortgagee and at once payable, without demand upon, or notice to, the Mortgagor, and shall be secured by this Mortgage, and shall bear interest at the rate borne by the Note, or the rate of interest as shall then be the maximum amount permitted by law (whichever shall be the lesser), from the date of payment by the Mortgagee until paid by the Mortgagor.

If, prior to full payment of the Debt, the Property is destroyed or damaged (in whole or in part) by fire or other casualty, the Mortgagor shall promptly give written notice thereof to the Mortgagee. All net proceeds of insurance (hereinafter sometimes referred to as "Insurance Proceeds") resulting from claims for such losses shall be paid to and held by the Trustee in accordance with the provisions of Section 6.11 of the Indenture, and unless the Loan is to be prepaid as a whole as described below, (i) the Mortgagor will promptly repair, rebuild or restore the part of the Property damaged or destroyed to substantially the same condition as existed prior to the event causing such damage or destruction and (ii) the Trustee shall disburse, as provided herein and in the Indenture, so much as may be necessary of the net proceeds of such insurance ("Insurance Proceeds") to payment of the costs of such repair, rebuilding or restoration, either on completion thereof or as the work progresses.

Notwithstanding any other provisions hereof or in the Indenture or any Mortgage Loan Document to the contrary, the Loan shall be prepaid as a whole, with accrued interest to the date of corresponding redemption under the Indenture, upon the damage or destruction, in whole or in part, of the Development under the following circumstances:

(A) If the fire or other casualty shall have resulted in the damage or destruction of all or substantially all of the Development, unless the Mortgagor shall within sixty (60) days following the deposit of Insurance Proceeds with the Trustee notify the Trustee in writing that it elects to repair, replace, rebuild or restore the Development to substantially the same condition as existed prior to such damage or destruction; provided that, as a condition precedent to the effectiveness of such election

(1) There shall then exist no uncured Event of Default under this Mortgage, the Loan Agreement, the Regulatory Agreement or any of the other Mortgage Loan Documents; and

(2) The Mortgagor shall have first provided assurance satisfactory to the Trustee and the Bank that such repair can be completed timely to the satisfaction of the Mortgagee and, in any event, within one (1) year of the condition causing such damage or destruction.

(3) The Mortgagor shall have provided to the Authority, the Trustee and the Bank an opinion of nationally recognized bond counsel acceptable to the Authority, the Trustee and the Bank stating that, based upon review of plans and specifications for any construction, reconstruction or replacement, and other requested information, the use of moneys in the Construction Fund for such purpose will not adversely affect the exemption from federal income taxes of interest on the Bonds.

(B) If, following any election by the Mortgagor described in (A) above, (a) the Mortgagor shall fail to submit any requisitions as provided in Section 6.09 of the Indenture and this paragraph 6 within 120 days following its election, (b) in the reasonable, good faith judgment of the Trustee and the Bank, the Mortgagor shall have abandoned the repairs, reconstruction or restoration of the Development, or (c) in the reasonable, good faith judgment of the Trustee and the Bank the repair, reconstruction or restoration of, due to causes within the control of the Mortgagor, the Development cannot be repaired, rebuilt or restored to substantially the same condition as existed prior to the event causing such damage or destruction within a period of one (1) year from the date of such event.

Notwithstanding the foregoing, the Mortgagor shall not be required to prepay the Loan in accordance with the preceding paragraph due to failure to elect in accordance with (A) above if the Bank shall prior to the date which is 90 days following the deposit of Insurance Proceeds in the Construction Fund pursuant to Section 6.11 of the Indenture of (i) notify the Trustee of its intention to cause the Development to be repaired, replaced, restored or

rebuilt and (ii) deliver to the Trustee an opinion of nationally recognized bond counsel acceptable to the Authority and the Trustee stating that, based upon review of the plans and specifications for any construction, reconstruction or replacement and other requested information, the use of moneys in the Construction Fund for such purpose will not adversely affect the exemption from federal income taxes of interest on the Bonds.

No portion of such proceeds shall be made available by the Trustee for any purpose which are not directly attributable to the cost of reconstruction or restoring those portions of the Development which were so damaged or destroyed. Each disbursement by the Trustee of such proceeds and deposits (i) shall be funded on a periodic basis, but no more frequently than monthly, (ii) shall not in any instance be in an amount greater than the actual cost of such repair, reconstruction and restoration (including architectural plans and review) which has been performed (aa) since the date of performance of that portion of such work which was reimbursed with the immediately preceding disbursement, or (bb) with respect to the first disbursement since the date of commencement of such work (which costs shall be verified in writing in each instance by an independent engineer approved by the Trustee and the Bank), and shall not represent costs which are not directly attributable to the cost of reconstructing or restoring those portions of the Development which are so damaged or destroyed, (iii) shall be conditioned in part upon the delivery to the Mortgagee of a current title insurance policy, (iv) shall be further conditioned upon the satisfaction of the Trustee and the Bank that any undisbursed proceeds and deposits are sufficient to pay fully the then remaining costs of completing such repair and restoration, and (v) conditioned upon the approval of each draw request by an independent engineer approved by the Trustee and the Bank (whose expenses shall be paid by the Mortgagor) as to the matters described in (i) - (iv) above and that the work is being performed in accordance with plans and specifications for such work which have been previously submitted to and approved in writing by the Mortgagee. The provisions of this paragraph 6 shall be read together with the provisions of Section 6.11 of the Indenture and, in the event of any inconsistency, the provisions of the Indenture shall control.

If the Loan shall be subject to mandatory prepayment as a whole pursuant to the provisions of this paragraph 6 and, following application of Insurance Proceeds in accordance herewith to such mandatory prepayment, there shall remain any unexpended proceeds of insurance, such proceeds shall be paid to the Mortgagor. Any balance remaining of Insurance Proceeds paid to the Trustee and deposited to the Construction Fund after payment of all the costs of such repair, rebuilding or restoration shall be applied to the prepayment of the Loan (and the corresponding redemption of the Bonds) in accordance with the Note and the Indenture. If the Debt has been fully paid, all such balance of proceeds shall be paid to the Mortgagor. The purchase of Bonds in lieu of redemption in accordance with the provisions of Section 6.10 of the Indenture shall be deemed a satisfaction, to the extent of such purchase, of the mandatory prepayment of the Loan in accordance with this paragraph.

7. Assignment of Condemnation Proceeds, etc. As further security for the Debt and the full and complete performance of each and every obligation,

covenant, agreement and duty of the Mortgagor contained herein, and to the extent of the full amount of the Debt secured hereby and of the costs and expenses (including reasonable attorney's fees) incurred by the Mortgagee in the collection of any award or payment, the Mortgagor hereby assigns to the Mortgagee any and all awards or payments, including all interest thereon, net of any costs and expenses to the Mortgagor of collection thereof together with the right to receive the same ("Condemnation Awards"), that may be made to the Mortgagor with respect to the Property as a result of (a) the exercise of the right of eminent domain, (b) the alteration of the grade of any street or (c) any other injury to or decrease in value of the Property as a result of any action by any governmental body or any person, firm or corporation acting under governmental authority. All such Condemnation Awards shall be paid directly to the Trustee, and after first applying said sums to the payment of all costs and expenses (including reasonable attorneys' fees) incurred by the Trustee in obtaining such sums.

Notwithstanding any provision contained herein to the contrary, in the event that any part of the Property shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, the Mortgagor shall be obligated to continue to pay the Debt as specified herein. The Mortgagor and the Mortgagee will cause any Condemnation Award received by them or either of them, to be deposited with the Trustee and applied to the Restoration (as hereinafter defined) of the Development to substantially the same condition as they existed immediately prior to the exercise of the said power of eminent domain, and in such case (i) the Condemnation Award shall be paid to the Mortgagee, and (ii) the Restoration shall be commenced and completed in accordance with the procedures and subject to the terms set forth hereof regarding damage to and destruction of the Development; provided, however, that the Loan shall be subject to mandatory prepayment as a whole, with accrued interest to the corresponding date of redemption of the Bonds under the Indenture, under the following circumstances:

(A) Such event giving rise to a Condemnation Award resulted in the permanent loss of title to or use of a substantial portion of the Development or materially impaired the value or utility of the Development, unless

(1) Within sixty (60) days after such event the Mortgagor shall notify the Trustee in accordance with Section 6.11 of the Indenture of its election to cause a Restoration of the Development;

(2) There shall then exist no uncured event of default under this Mortgage, the Loan Agreement, the Regulatory Agreement or any of the Mortgage Loan Documents; and

(3) The Mortgagor shall have first provided assurances satisfactory to the Trustee and the Bank that Restoration can be completed timely to

the satisfaction of the Trustee and the Bank.

(B) In the event (a) that the Mortgagor fails following an election in accordance with (A) above to submit any requisitions as provided in Section 6.09 of the Indenture and this paragraph 7 within 120 days following such election, or (b) in the reasonable, good faith judgment of the Trustee and the Bank, the Mortgagor shall have abandoned the restoration, or (c) in the reasonable, good faith judgment of the Trustee and the Bank, such restoration, due to reasons within the control of the Mortgagor, may not be completed within one (1) year from the date of such event.

The Mortgagor shall not, by reason of the payment or deposit with the Mortgagee of the amounts referred to hereof, be entitled to any reimbursement from the Mortgagee or any abatement or diminution of the Debt payable herein.

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The term "Restoration" shall mean (a) the restoration of the Development to substantially the same condition as they existed prior to the exercise of the said power of eminent domain, with such changes, alterations, and modifications (including the substitution and addition of other property) as may be desired by the Mortgagor and will not impair the utility of the Development and will not impair the character of the Development as a "project" under the Act, or, if prior to the Completion Date, the completion of the Development in accordance with the provisions hereof or (b) the acquisition, by construction or otherwise, by the Mortgagor of other improvements suitable for the Mortgagor's operation of the Development (which improvements shall be deemed a part of the Development and subject to the lien of this Mortgage and available for use and occupancy by the Mortgagor without the payment of the Debt other than herein provided to the same extent as if such other improvements were specifically described herein and demised hereby); provided, that such improvements shall be acquired by the Mortgagor subject to no liens or encumbrances prior to the lien of the Mortgage, other than Permitted Encumbrances.

The provisions of this paragraph 7 shall be read together with the provisions of Section 6.11 of the Indenture and, in the event of any inconsistency, the provisions of the Indenture shall control.

Any balance remaining of such awards after payment of all the costs of such Restoration shall be applied to the prepayment of the Debt (and the redemption of the Bond) in accordance with the provisions of the Note and the Indenture. If the Debt has been fully paid, all such balance of such awards shall be paid to the Mortgagor. The purchase of Bonds in lieu of redemption in accordance with the provisions of Section 6.10 of the Indenture shall be deemed a satisfaction, to the extent of such purchase, of the mandatory prepayment of the Loan in accordance with this paragraph.

8. Covenant Against Waste. The Mortgagor agrees to take good care of the Real Estate and all Improvements and Personal Property and not to commit or permit any waste thereon, and at all times to maintain such Improvements

and Personal Property in as good condition as they now are, reasonable wear and tear excepted.

9. Covenants Related to Rents and Leases. The Mortgagor covenants and agrees that the Mortgagor shall:

(a) enter into Leases that contain terms and conditions that are in form and substance satisfactory to the Mortgagee;

(b) observe, perform and discharge all obligations, covenants and warranties provided for under the terms of the Leases to be kept, observed and performed by the Mortgagor, and shall give prompt notice to the Mortgagee in the event the Mortgagor fails to observe, perform and discharge the same;

(c) use its best efforts to enforce or secure in the name of the Mortgagee the performance of each and every obligation, term, covenant, condition and agreement to be performed by any lessee under the terms of the Leases;

(d) appear in and defend any action or proceeding arising under, occurring out of, or in any manner connected with the Leases or the obligations, duties or liabilities of the Mortgagor and any lessee thereunder, and, upon request by the Mortgagee to do so in the name and on behalf of the Mortgagee but at the expense of the Mortgagor, and to pay all costs and expenses of the Mortgagee, including reasonable attorneys' fees, in any action or proceeding in which the Mortgagee may appear;

(e) not receive or collect any Rents (excluding customary security and breakage deposits) from any present or future lessee of the Real Estate or any of the Improvements, or any part thereof, for a period of more than one month in advance, or pledge, transfer, mortgage or otherwise encumber or assign future payments of the Rents;

(f) not waive, excuse, condone, discount, set off, compromise, or in any manner release or discharge any lessee of the Real Estate or any of the Improvements of and from any obligations, covenants, conditions and agreements by said lessee to be kept, observed and performed, including the obligation to pay rent in the manner and at the place and time specified in any Lease;

(g) not renew or otherwise extend the term of any existing Lease; provided, however, that nothing herein contained shall prevent the Mortgagor, upon expiration of the now-current term (or other expiration or termination) of any existing Lease, from leasing the property covered thereby to the lessee thereunder by a lease or leases expressly subject and fully subordinate to the lien, assignment and security interest of this Mortgage; and

(h) execute all such further assignments of such Lease and the Rents therefrom as the Mortgagee may reasonably require.

10. Loan Agreement and Regulatory Agreement. The Mortgagor covenants and agrees that it will comply fully with and perform each of its

covenants, obligations and agreements set forth in the Loan Agreement and in the Regulatory Agreement and will not cause, or permit to be caused or to exist, any Event of Default under the Loan Agreement or default under the Regulatory Agreement, it being expressly understood and agreed that the occurrence of an Event of Default under the Loan Agreement or a default under the Regulatory Agreement shall constitute an Event of Default under this Mortgage.

11. Prepayment of Loan. The Loan is subject to mandatory and optional prepayment as provided in Section 1.04 of the Loan Agreement.

12. Transfer of, or Liens on, Mortgaged Property. The Mortgagor covenants and agrees that it will not, without the express prior written consent of the Mortgagee (and, in the case of a sale, transfer or other disposition of all or any part of the Real Estate or any of the Improvements, or the placing of any lien thereon, the consent of the Authority pursuant to Section 8 of the Regulatory Agreement), sell, transfer, convey or otherwise dispose of, or create, or permit or suffer to exist, any lien, security interest or other encumbrance (other than the lien and security interest of this Mortgage and Permitted Encumbrances) on, all or any part of the Property (including but not limited to the Leases and Rents), it being expressly understood and agreed that a violation by the Mortgagor of the provisions of this paragraph 12 shall constitute an Event of Default under this Mortgage. Any sale, transfer, conveyance, other disposition or act of creating, permitting or suffering to exist any lien, security interest or other encumbrance in violation of this paragraph 12 shall be null, void and of no effect and shall cause a reversion of title to the Mortgagor as to any right, title or interest purported to be so sold, transferred, conveyed or subjected to a lien. Notwithstanding the foregoing, the Mortgagor may grant liens on the Real Estate and the Improvements which are subordinate to this Mortgage so long as the Mortgagor shall have delivered to the Mortgagee a subordination agreement in form acceptable to the Mortgagee with respect to each such subordinate lien.

13. Defeasance. If (A) the Mortgagor shall pay in full (i) all of the Debt (as defined herein), including but not limited to, all sums (principal, interest, premium and charges) payable under the Note and any and all extensions and renewals of the same and (ii) all sums becoming due and payable by the Mortgagor under the terms of this Mortgage and the Loan Agreement; (B) the Mortgagor shall have kept and performed each and every obligation, covenant, duty, condition and agreement herein and in the Loan Agreement and the Regulatory Agreement imposed on or agreed to by the Mortgagor; and (C) the Indenture shall have been discharged pursuant to Article X thereof, then this conveyance and the grants and conveyances contained herein shall become null and void, and the Property shall revert to the Mortgagor, and the entire estate, right, title and interest of the Mortgagee will thereupon cease; and the Mortgagee in such case shall, upon the request of the Mortgagor and at the Mortgagor's cost and expense, deliver to the Mortgagor proper instruments acknowledging satisfaction of this instrument; otherwise, this Mortgage shall remain in full force and effect.

14. Events of Default. The Mortgagor shall be in default under this Mortgage upon the happening of any of the following events or conditions, or

the happening of any other event of default as defined elsewhere in this Mortgage (hereinafter collectively referred to as "Events of Default"):

(a) any representation or warranty made by the Mortgagor herein, in the Loan Agreement, or in any of the other Mortgage Loan Documents shall prove to be false or misleading in any material respect;

(b) any report, certificate, financial statement or other instrument furnished by the Mortgagor in connection with the Loan, the Note, the Loan Agreement, or any of the Mortgage Loan Documents shall prove to be false or misleading in any material respect;

(c) default shall be made in the prompt payment of the principal of, interest on and premium, if any, on the Note, or any part thereof, as and when the same shall become due and payable, whether by scheduled maturity, mandatory prepayment requirement, acceleration of maturity or otherwise, and such default shall continue for five or more Business Days;

(d) default shall be made in the due observance or performance of any other covenant, condition or agreement on the part of the Mortgagor to be observed or performed pursuant to the terms of this Mortgage, the Note, the Loan Agreement, the Regulatory Agreement, or any of the other Mortgage Loan Documents;

(e) the occurrence of any Event of Default (however defined) under the Bank Mortgage or the Reimbursement Agreement and the continuance thereof beyond any applicable period of grace;

(f) the occurrence of any Event of Default under the Loan Agreement and the continuance thereof beyond any applicable period of grace;

(g) any law is passed imposing, or authorizing the imposition of, any specific tax upon this Mortgage or the Debt, or permitting or authorizing the deduction of any such tax from the principal of, interest on, or premium with respect to, the Debt, or by virtue of which any tax, lien or assessment upon the Property shall be chargeable against the owner of this Mortgage.

15. Rights and Remedies of Mortgagee Upon Default.

(a) Acceleration of Debt. Upon occurrence of an Event of Default or at any time thereafter, the Mortgagee may at its option and without demand or notice to the Mortgagor, declare all or any part of the Debt immediately due and payable, whereupon all such Debt shall forthwith become due and payable, without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by the Mortgagor, and the

BOOK 054 PAGE 510

Mortgagee may immediately enforce payment of all such amounts and may exercise any or all of its rights and remedies under this Mortgage, the Note, the Loan Agreement, any of the other Mortgage Loan Documents and applicable law. The Mortgagor also waives any and all rights the Mortgagor may have to a hearing before any judicial authority prior to the exercise by the Mortgagee of any of its rights under this Mortgage, the Note, the Loan Agreement, any of the other Mortgage Loan Documents and applicable law.

(b) Operation of Property by Mortgagee. Upon the occurrence of an Event of Default or at any time thereafter, in addition to all other rights herein conferred on the Mortgagee, the Mortgagee (or any person, firm or corporation designated by the Mortgagee) may, but will not be obligated to, enter upon and take possession of any or all of the Property, exclude the Mortgagor therefrom, and hold, use, administer, manage and operate the same to the extent that the Mortgagor could do so, without any liability to the Mortgagor resulting therefrom; and the Mortgagee may collect, receive and receipt for all proceeds accruing from such operation and management, make repairs and purchase needed additional property, and exercise every power, right and privilege of the Mortgagor with respect to the Property.

(c) Judicial Proceedings; Right to Receiver. Upon the occurrence of an Event of Default or at any time thereafter, the Mortgagee, in lieu of or in addition to exercising the power of sale hereinafter given, may proceed by suit to foreclose its lien on, security interest in, and assignment of, the Property, to sue the Mortgagor for damages on account of or arising out of said default or breach, or for specific performance of any provision contained herein, or to enforce any other appropriate legal or equitable right or remedy. The Mortgagee shall be entitled, as a matter of right, upon bill filed or other proper legal proceedings being commenced for the foreclosure of this Mortgage, to the appointment by any competent court or tribunal, without notice to the Mortgagor or any other party, of a receiver of the rents, issues and profits of the Property, with power to lease and control the Property and with such other powers as may be deemed necessary.

(d) Foreclosure Sale. Upon the occurrence of any Event of Default, or at any time thereafter, this Mortgage shall be subject to foreclosure and may be foreclosed as now provided by law in case of past due mortgages, and the Mortgagee shall be authorized, at its option, whether or not possession of the Property is taken, after giving notice by publication once a week for three consecutive weeks of the time, place and terms of each such sale by publication in some newspaper published in the county wherein the Property or any part thereof is located, to sell the Property (or such part or parts thereof as the Mortgagee may from time to time elect to sell) in front of such county's courthouse door, at public outcry, to the highest bidder for cash. The Mortgagee, its successors and assigns, may bid at any sale or sales had under the terms of this Mortgage and may purchase the Property, or any part thereof, if the highest bidder therefor. The purchaser at any such sale or sales shall be under no obligation to see to the proper application of the purchase money. At any foreclosure sale, any part or all of the Property, real, personal or mixed, may be offered for sale in parcels or en masse for one total price, the proceeds of any such sale en masse to be accounted for in one account without distinction between the items included therein or without assigning to them any proportion of such proceeds, the Mortgagor hereby waiving the application of any doctrine of marshalling or

like proceeding. In case the Mortgagee, in the exercise of the power of sale herein given, elects to sell the Property in parts or parcels, sales thereof may be held from time to time, and the power of sale granted herein shall not be fully exercised until all of the Property not previously sold shall have been sold or all the Debt secured hereby shall have been paid in full.

(e) Personal Property and Fixtures. On the happening of any Event of Default or at any time thereafter, the Mortgagee shall have and may exercise with respect to the Personal Property and fixtures included in the Property (the "Collateral") all rights, remedies and powers of a secured party under the Alabama Uniform Commercial Code with reference to the Collateral or any other items in which a security interest has been granted herein, including without limitation the right and power to sell at public or private sale or sales or otherwise dispose of, lease or utilize the Collateral and any part or parts thereof in any manner to the fullest extent authorized or permitted under the Alabama Uniform Commercial Code after default hereunder, without regard to preservation of the Collateral or its value and without the necessity of a court order. The Mortgagee shall have, among other rights, the right to take possession of the Collateral and to enter upon any premises where the same may be situated for the purpose of repossessing the same without being guilty of trespass and without liability for damages occasioned thereby and to take any action deemed appropriate or desirable by the Mortgagee, at its option and its sole discretion, to repair, restore or otherwise prepare the Collateral for sale, lease or other use or disposition. At the Mortgagee's request, the Mortgagor shall assemble the Collateral and make the Collateral available to the Mortgagee at any place designated by the Mortgagee. To the extent permitted by law, the Mortgagor expressly waives any notice of sale or any other disposition of the Collateral and any rights or remedies of the Mortgagee with respect to, and the formalities prescribed by law relative to, the sale or disposition of the Collateral or to the exercise of any other right or remedy of the Mortgagee existing after default. To the extent that such notice is required and cannot be waived, the Mortgagor agrees that if such notice is given to the Mortgagor in accordance with the provisions of paragraph 29 below, at least five days before the time of the sale or other disposition, such notice shall be deemed reasonable and shall fully satisfy any requirement for giving said notice.

The Mortgagor agrees that the Mortgagee may proceed to sell or dispose of both the real and personal property comprising the Property in accordance with the rights and remedies granted under this Mortgage with respect to the real property covered hereby. The Mortgagor hereby grants the Mortgagee the right, at its option after default hereunder, to transfer at any time to itself or its nominee the Collateral or any part thereof and to receive the moneys, income, proceeds and benefits attributable to the same and to hold the same as Collateral or to apply it on the Debt in such order and amounts and manner as the Mortgagee may elect. The Mortgagor covenants and agrees that all recitals in any instrument transferring, assigning, leasing or making other disposition of the Collateral or any part thereof shall be full proof of the matters stated therein and no other proof shall be required to establish the legal propriety of the sale or other action taken by the Mortgagee and that all prerequisites of sale shall be presumed conclusively to have been performed or to have occurred.

(f) Rents and Leases. Upon the occurrence of an Event of Default or at any time thereafter:

(i) The Mortgagee, at its option, shall have the right, power and authority to exercise and enforce any or all of the following rights and remedies with respect to Rents and Leases:

(A) to terminate the license granted to the Mortgagor in Granting Clause C(iii) hereof to collect the Rents, and, without taking possession, in the Mortgagee's own name to demand, collect, receive, sue for, attach and levy the Rents, to give proper receipts, releases and acquittances therefor, and after deducting all necessary and reasonable costs and expenses of collection, including reasonable attorney's fees, to apply the net proceeds thereof to the Debt in such order and amounts as the Mortgagee may choose (or hold the same in a reserve as security for the Debt);

(B) without regard to the adequacy of the security, with or without any action or proceeding, through any person or by agent, or by a receiver to be appointed by court, to enter upon, take possession of, manage and operate the Property or any part thereof for the account of the Mortgagor, make, modify, enforce, cancel or accept surrender of any Lease, remove and evict any lessee or sublessee, increase or reduce rents, decorate, clean and make repairs, and otherwise do any act or incur any cost or expenses the Mortgagee shall deem proper to protect the security hereof, as fully and to the same extent as the Mortgagor could do if in possession, and in such event to apply any funds so collected to the operation and management of the Property (including payment of reasonable management, brokerage and attorney's fees) and payment of the Debt in such order and amounts as the Mortgagee may choose (or hold the same in reserve as security for the Debt);

(C) to take whatever legal proceedings may appear necessary or desirable to enforce any obligation or covenant or agreement of the Mortgagor under this Mortgage.

(ii) The collection of the Rents and application thereof (or holding thereof in reserve) as aforesaid or the entry upon and taking possession of the Property or both shall not cure or waive any default or waive, modify or affect any notice of default under this Mortgage, or invalidate any act done pursuant to such notice, and the enforcement of such right or remedy by the Mortgagee, once exercised, shall continue for so long as the Mortgagee shall elect, notwithstanding that the collection and application aforesaid of the Rents may have cured the original default. If the Mortgagee shall thereafter elect to discontinue the exercise of any such right or remedy, the same or any other right to remedy hereunder may be reasserted at any time and from time to time following any subsequent default.

BOOK 054 PAGE 513

BOOK 054 PAGE 514

(g) Application of Proceeds. All payments received by the Mortgagee as proceeds of the Property, or any part thereof, as well as any and all amounts realized by the Mortgagee in connection with the enforcement of any right or remedy under or with respect to this Mortgage, shall be applied by the Mortgagee as follows: (i) to the payment of all necessary expenses incident to the execution of any foreclosure sale or sales or other remedies under this Mortgage, including reasonable attorneys' fees as provided herein and in the Note, the Loan Agreement and the other Mortgage Loan Documents, (ii) to the payment in full of any of the Debt that is then due and payable (including without limitation principal, accrued interest and all other sums secured hereby) and to the payment of attorneys' fees as provided herein and in the Note, (iii) to a cash collateral reserve fund to be held by the Mortgagee in an amount equal to, and as security for, any of the Debt that is not then due and payable, and (iv) the remainder, if any, shall be paid to the Mortgagor or such other person or persons as may be entitled thereto by law, after deducting therefrom the cost of ascertaining their identity.

(h) Multiple Sales. Upon the occurrence of any Event of Default or at any time thereafter, the Mortgagee shall have the option to proceed with foreclosure, either through the courts or by proceeding with foreclosure as provided for in this Mortgage, but without declaring the whole Debt due. Any such sale may be made subject to the unmatured part of the Debt secured by this Mortgage, and such sale, if so made, shall not in any manner affect the unmatured part of the Debt secured by this Mortgage, but as to such unmatured part of the Debt this Mortgage shall remain in full force and effect as though no sale had been made under the provisions of this paragraph. Several sales may be made under the provisions of this paragraph without exhausting the right of sale for any remaining part of the Debt whether then matured or unmatured, the purpose hereof being to provide for a foreclosure and sale of the Property for any matured part of the Debt without exhausting any power of foreclosure and the power to sell the Property for any other part of the Debt, whether matured at the time or subsequently maturing.

(i) Waiver of Appraisement Laws. The Mortgagor waives, to the fullest extent permitted by law, the benefit of all laws now existing or hereafter enacted providing for (i) any appraisement before sale of any portion of the Property (commonly known as appraisement laws), or (ii) any extension of time for the enforcement of the collection of the Debt or any creation or extension of a period of redemption from any sale made in collecting the Debt (commonly known as stay laws and redemption laws).

(j) Prerequisites of Sales. In case of any sale of the Property as authorized by this paragraph 15, all prerequisites to the sale shall be presumed to have been performed, and in any conveyance given hereunder all statements of facts, or other recitals therein made, as to the nonpayment of any of the Debt or as to the advertisement of sale, or the time, place and manner of sale, or as to any other fact or thing, shall be taken in all courts of law or equity as prima facie evidence that the facts so stated or recited are true.

(k) Mortgagor's Warranties After Sale. The Mortgagor hereby authorizes and empowers the Mortgagee or the auctioneer at any foreclosure

sale had hereunder, for and in the name of the Mortgagor, to execute and deliver to the purchaser or purchasers of any of the Property sold at foreclosure good and sufficient deeds of conveyance or bills of sale thereto, and the Mortgagor binds itself to warrant and forever defend, to the extent of the right, title and interest therein of the Mortgagor, the title of such purchaser or purchasers when so made by the Mortgagee or such auctioneer.

16. Collection Costs. The Mortgagor agrees to pay all costs, including reasonable attorneys' fees, incurred by the Mortgagee in collecting or securing, or attempting to collect or secure, the Debt, or any part thereof, or in defending or attempting to defend the priority of this Mortgage against any Lien on the Property, unless this Mortgage is herein expressly made subject to any such Lien; and/or all costs incurred in the foreclosure of this Mortgage, either under the power of sale contained herein, or by virtue of the decree of any court of competent jurisdiction. The full amount of such costs incurred by the Mortgagee shall be a part of the Debt and shall be secured by this Mortgage.

17. No Obligations with Respect to Leases. The Mortgagee shall not by virtue of this Mortgage or otherwise assume any duties, responsibilities, liabilities or obligations with respect to Leases, the Improvements, the Personal Property, the Real Estate or any of the other Property (unless expressly assumed by the Mortgagee under a separate agreement in writing), and this Mortgage shall not be deemed to confer on the Mortgagee any duties or obligations that would make the Mortgagee directly or derivatively liable for any person's negligent, reckless or willful conduct. The Mortgagor agrees to defend, indemnify and save harmless the Mortgagee from and against any and all claims, causes of action and judgments relating to the Mortgagor's performance of its duties, responsibilities and obligations under Leases and with respect to the Real Estate, the Improvements, the Personal Property, or any of the other Property.

18. Nonrecourse Liability of the Mortgagor. Notwithstanding any provision or obligation to the contrary hereinbefore or hereinafter set forth, the Mortgagee and its assigns expressly agree that from and after the date of this Mortgage (except with respect to an action brought by the Mortgagee and its assigns against the Mortgagor based on fraud or intentional misrepresentation, or misappropriation or conversion of funds or the disposition of Insurance Proceeds or Condemnation Awards in breach of the provisions of this Mortgage and except for the obligations of the Mortgagor for the payment of fees and expenses of the Authority, the Trustee, the Remarketing Agent, the Paying Agent and the Tender Agent, and the payment of any amounts pursuant to Section 7.10 of the Loan Agreement or Section 12 of the Regulatory Agreement) in the event of the maturity of the indebtedness evidenced by the Note, or any part thereof, or in the event of a default under any of the Mortgage Loan Documents, (x) the Mortgagee or its assigns shall not and may not seek any judgment for a deficiency or for any other amount against the Mortgagor, the general or limited partners of the Mortgagor, directly or indirectly, or their heirs, successors or assigns, in any action to foreclose this Mortgage or otherwise, and (y) in the event any suit is brought on any of the Mortgage Loan Documents, or concerning any indebtedness evidenced by the Note or secured by this Mortgage, any judgment obtained in such a suit will be and can be enforced only against the Mortgagor as an entity to the extent necessary to acquire the right, title and

Interest of the Mortgagor in the Property and against the Development, and not against the general or limited partners of the Mortgagor or their heirs, successors or assigns. Nothing contained in this paragraph 18 shall be deemed to constitute a release or impairment of the indebtedness evidenced by the Note, or of the lien of this Mortgage, or shall preclude the Mortgagee or its assigns from foreclosing this Mortgage in case of any default or from enforcing any of the other rights of Mortgagee or its assigns except as expressly stated in this paragraph 18.

19. Construction of Mortgage. This Mortgage is and may be construed as a mortgage, deed of trust, chattel mortgage, conveyance, assignment, security agreement, pledge, financing statement, hypothecation or contract, or any one or more of them, in order to effectuate fully the lien hereof and the assignment and security interest created hereby and the purposes and agreements herein set forth.

20. Successors and Assigns. All covenants and agreements herein made by the undersigned shall bind the undersigned and the successors and assigns of the undersigned; and every option, right and privilege herein reserved or secured to the Mortgagee shall inure to the benefit of the Mortgagee's successors and assigns.

21. Waiver and Election. The exercise by the Mortgagee of any option given under the terms of this Mortgage shall not be considered as a waiver of the right to exercise any other option given herein, and the filing of a suit to foreclose the lien, security interest and assignment granted by this Mortgage, either on any matured portion of the Debt or for the whole of the Debt, shall not be considered an election so as to preclude foreclosure under power of sale after a dismissal of the suit; nor shall the publication of notices for foreclosure preclude the prosecution of a later suit thereon. No failure or delay on the part of the Mortgagee in exercising any right, power or remedy under this Mortgage shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other right, power or remedy hereunder or thereunder. The remedies provided in this Mortgage and in the Loan Agreement and in the other Mortgage Loan Documents are cumulative and not exclusive of any remedies provided by law. No amendment, modification, termination or waiver of any provisions of this Mortgage, the Loan Agreement or any of the Mortgage Loan Documents, nor consent to any departure by the Mortgagor therefrom, shall be effective unless the same shall be in writing and signed by an executive officer of the Mortgagee, and then such waiver or consent shall be effective only in this specific instance and for the specific purpose for which given. No notice to or demand on the Mortgagor in any case shall entitle the Mortgagor to any other or further notice or demand in similar or other circumstances.

22. Landlord-Tenant Relationship. Any sale of the Property under this Mortgage shall, without further notice, create the relationship of landlord and tenant at sufferance between the purchaser and the Mortgagor.

23. Enforceability. If any provision of this Mortgage is now or at any time hereafter becomes invalid or unenforceable, the other provisions hereof

shall remain in full force and effect, and the remaining provisions hereof shall be construed in favor of the Mortgagee to effectuate the provisions hereof.

24. Application of Payments. If the lien, assignment or security interest created by this Mortgage is invalid or unenforceable as to any part of the Debt or is invalid or unenforceable as to any part of the Property, the unsecured or partially secured portion of the Debt shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the Debt, and all payments made on the Debt, whether voluntary or under foreclosure or other enforcement action or procedures, shall be considered to have been first paid on and applied to the full payment of that portion of the Debt which is not secured or not fully secured by said lien, assignment or security interest created hereby.

25. Other Mortgages Encumbering the Real Estate. The Mortgagor hereby authorizes the holder of any other mortgage encumbering the Real Estate or the Improvements to disclose to the Mortgagee from time to time and at any time the following information: (a) the amount of debt secured by such mortgage; (b) the amount of such debt that is unpaid; (c) whether such debt is or has been in arrears; (d) whether there is or has been any default with respect to such mortgage or the debt secured thereby; and (e) any other information regarding such mortgage or the debt secured thereby that the Mortgagee may reasonably request from time to time.

The Mortgagor expressly agrees that if default should be made in the payment of principal, interest or any other sum secured by any other mortgage encumbering the Real Estate or the Improvements, the Mortgagee may (but shall not be required to) pay all or any part of such amount in default, without notice to the Mortgagor. The Mortgagor agrees to repay any such sum advanced upon demand, with interest from the date such advance is made at the rate provided for in the Note, or the highest rate permitted by law, whichever shall be less, and any sum so advanced with interest shall be a part of the Debt secured by this Mortgage.

26. Meaning of Particular Terms. Whenever used, the singular number shall include the plural and the plural the singular, and pronouns of one gender shall include all genders; and the words "Mortgagor" and "Mortgagee" shall include their respective successors and assigns.

27. Advances by the Mortgagee. If the Mortgagor shall fail to comply with the provisions hereof with respect to the securing of insurance, the payment of Liens, the keeping of the Property in repair, the performance of the Mortgagor's obligations under any Lease, the payment of any prior mortgages, or the performance of any other term or covenant herein contained, the Mortgagee may (but shall not be required to) make advances to perform the same, and where necessary enter the Property for the purpose of performing any such term or covenant. The Mortgagor agrees to repay all such sums advanced upon demand, with interest from the date such advances are made, at the rate provided for in the Note, or the highest rate permitted by law, whichever shall be less, and all sums so advanced with interest shall be a part of the Debt and shall be secured hereby. The making of any such advances shall not be construed as a waiver by the Mortgagee of any Event of Default resulting from the Mortgagor's failure to pay the amounts paid.

28. Release or Extension by the Mortgagee. The Mortgagee, without notice to the Mortgagor and without in any way affecting the rights of the Mortgagee hereunder as to any part of the Property not expressly released, may release any part of the Property or any person liable for any of the Debt and may agree with any party with an interest in the Property to extend the time for payment of all or any part of the Debt or to waive the prompt and full performance of any term, condition or covenant of the Note, the Loan Agreement, any of the Mortgage Loan Documents, this Mortgage or any other instrument evidencing or securing the Debt.

29. Partial Payments. Acceptance by the Mortgagee of any payment of less than the full amount due on the Debt shall be deemed acceptance on account only, and the failure of the Mortgagor to pay the entire amount then due shall be and continue to constitute an Event of Default, and at any time thereafter and until the entire amount due on the Debt has been paid, the Mortgagee shall be entitled to exercise all rights conferred on it by the terms of this Mortgage in case of the occurrence of an Event of Default.

30. Addresses for Notices. All notices, requests, demands and other communications provided for hereunder shall be in writing and mailed or sent or delivered to the applicable party at its address specified in or pursuant to the Indenture.

31. Inconsistencies. In the event of any inconsistency between the provisions hereof and the provisions of the Bank Mortgage, the Regulatory Agreement or the Indenture, the provisions of the Regulatory Agreement or the Indenture, as the case may be, shall govern. The provisions of this Mortgage shall control over any inconsistent provisions of the Bank Mortgage relating to the application and disposition of Insurance Proceeds and Condemnation Awards.

32. Titles. All sections, paragraphs, subparagraphs or other titles contained in this Mortgage are for reference purposes only, and this Mortgage shall be construed without reference to said titles.

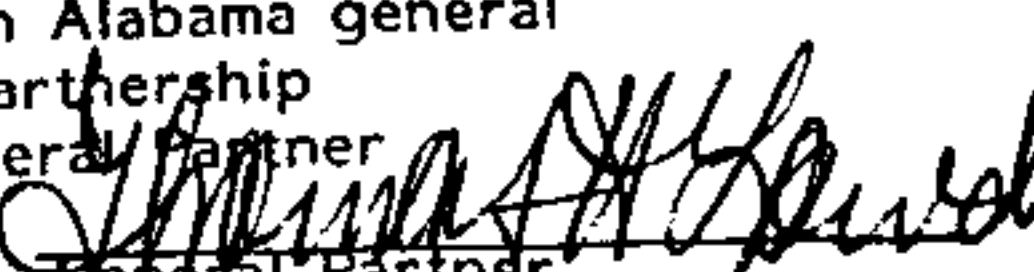
33. Special Provisions. The special provisions, if any, set out in Item E of Exhibit A hereto are incorporated herein as if fully set out herein at this point. If there is any conflict between said special provisions and any other provisions of this Mortgage, said special provisions shall govern.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be executed by its duly authorized officers on the date first written above.

HEATHERBROOKE INVESTORS, LTD., an
Alabama limited partnership

By: COLONIAL PROPERTIES
MANAGEMENT ASSOCIATION,
an Alabama general
partnership

General Partner

By: 
General Partner

STATE OF ALABAMA

Jefferson COUNTY

I, F. Don Siegal, the undersigned Notary public in and for said county and state, hereby certify that Thomas H. Lowder, whose name as General Partner of Colonial Properties Management Association, an Alabama general partnership, the general partner of Heatherbrooke Investors, Ltd., an Alabama limited partnership, is signed to the foregoing instrument, 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 General Partner of such general partnership, executed the same voluntarily for and as the act of said general partnership, as general partner of said limited partnership on the day the same bears date.

Given under my hand and seal of office this 20th day of December, 1985.

F. Don Siegal
Notary Public

My commission expires: 5-14-86

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BOOK 054 PAGE 519

EXHIBIT A

to
Mortgage, Security Agreement and
Assignment of Rents and Leases
from
Heatherbrooke Investors, Ltd.
to
Colonial Mortgage Company
dated as of December 1, 1985

A. Name and address of Mortgagor:

Heatherbrooke Investors, Ltd.
c/o Colonial Properties, Inc.
2 Perimeter Park South
Suite 450
Birmingham, Alabama 35243

B. Address of Mortgagee:

Colonial Mortgage Company
250 Commerce Street
Montgomery, Alabama 36142

C. Principal amount of Loan: \$10,500,000

D. Final maturity date of Loan: October 1, 2013

E. Special Provisions:

- N O N E -

054 PAGE 520

EXHIBIT B

to
Mortgage, Security Agreement and
Assignment of Rents and Leases
from
Heatherbrooke Investors, Ltd.
to
Colonial Mortgage Company
dated as of December 1, 1985

Description of Real Estate

Parcel One:

Beginning at the Southwest corner of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$, Section 36, Township 18 South, Range 2 West, run North along the West boundary of said quarter-quarter a distance of 83.35 feet; thence right 45 deg. 06 min. a distance of 63.10 feet; thence left 49 deg. 11 min. 30 sec. a distance of 170.55 feet; thence right 24 deg. 46 min. a distance of 588.26 feet; thence left 36 deg. 03 min. a distance of 156.52 feet; thence right 37 deg. 27 min. a distance of 135.37 feet; thence right 89 deg. 18 min. 30 sec. a distance of 119.33 feet; thence left 80 deg. 18 min. along a traverse line which approximates the water's edge of Lake Dixie, said water's edge being the true property line, a distance of 204.08 feet; thence right 80 deg. 48 min. and continuing along said traverse line a distance of 265.33 feet; thence left 17 deg. 25 min. a distance of 77.06 feet; thence right 5 deg. 11 min. a distance of 65.07 feet; thence right 51 deg. 03 min. a distance of 94.44 feet; thence right 43 deg. 56 min. a distance of 132.54 feet; thence right 18 deg. 31 min. a distance of 230.34 feet; thence right 6 deg. 55 min. a distance of 142.56 feet; thence left 85 deg. 30 min. a distance of 251.21 feet, which ends the traverse line approximating the water's edge of Lake Dixie, the remaining being the description of the exact property line of the land herein described; thence right 46 deg. 22 min. a distance of 420.00 feet; thence right 91 deg. 07 min. a distance of 271.66 feet; thence left 88 deg. 53 min. a distance of 60.01 feet; thence right 91 deg. 07 min. a distance of 548.37 feet to the point of beginning.

AND:

Beginning at the S.E. Corner of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$, Section 36, Township 18 South, Range 2 West, run North along the East boundary of said $\frac{1}{4}$ - $\frac{1}{4}$ a distance of 83.35 feet; thence right 45 deg. 06 min. a distance of 63.10 feet; thence left 49 deg. 11 min. 30 sec. a distance of 170.55 feet; thence left 155 deg. 14 min. along the centerline of a road easement having a width of 30 feet on each side of the center line, a distance of 61.00 feet to the point of tangency of a curve to the left; thence left along the arc of the curve having a radius of 880.67 feet, a distance of 199.15 feet through an angle of 12 deg. 57 min. 23 sec.;

BOOK 054 PAGE 521

thence continue along the projected tangent to the aforementioned curve a distance of 47.12 feet to the South boundary of said $\frac{1}{4}$ - $\frac{1}{4}$ Section; thence left 95 deg. 39 min. 01 sec. along said South boundary a distance of 44.10 feet to the point of beginning.

Parcel Two:

A non-exclusive easement for ingress and egress and the installation of utilities, 60 feet in width being 30-feet on each side of centerline described as follows:

From the SE. corner of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$, Section 36, Township 18 South, Range 2 West, Shelby County, Alabama, run West along the South boundary of said $\frac{1}{4}$ - $\frac{1}{4}$ a distance of 44.10 feet to the point of beginning; Thence, 30 feet each side of a line described as: From the said $\frac{1}{4}$ - $\frac{1}{4}$ line, turn an angle to the right of 95 deg. 39'07" and go 47.13 feet; thence right along the arc of a curve with a radius of 280.67 feet, a distance of 199.15 feet; thence along the tangent line to said curve a distance of 570.51 feet; thence, along a curve to the left with a radius of 242.04 feet a distance of 152.29 feet; thence, along the arc of a curve to the right with a radius of 232.35 feet a distance of 42.38 feet, said point being the end of this easement.

Said easement being originally created by instrument recorded in Real record 13, page 426 in the Probate Office of Shelby County, Alabama.

Parcel Three:

From the NW corner of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$, Section 36, Township 18 South, Range 2 West, run South along the West boundary of said $\frac{1}{4}$ - $\frac{1}{4}$ a distance of 370.01 feet; thence left 88 deg. 01' 30" a distance of 212.71 feet to the point of beginning, said point on the centerline of a road, said centerline being a curve to the right with a radius of 232.35 feet; thence turn left 97 deg. 53' 56" to the tangent of said curve and follow the arc of the curve a distance of 109.49 feet to the point of tangency of said curve; thence continue along the projection of said tangent a distance of 56.61 feet.

Said easement being originally created by instrument recorded in Real record 028, page 673 in the Probate Office of Shelby County, Alabama.

EXHIBIT C

to
Mortgage, Security Agreement and
Assignment of Rents and Leases
from
Heatherbrooke Investors, Ltd.
to
Colonial Mortgage Company
dated as of December 1, 1985

Permitted Encumbrances

1. Liens for ad valorem taxes and special assessments not delinquent
2. The Mortgage
3. Utility, access and other easements, licenses, rights-of-way, restrictions, reservations and exceptions which, according to the certificate of a licensed engineer (who may be an employee of the Owner), will not materially interfere with or impair the operation of the Development
4. Unfiled and inchoate mechanics', materialmen's or other similar liens for construction work in progress
5. Mechanics', materialmen's or other similar liens not then payable
6. Such minor defects, irregularities, encumbrances, easements, rights-of-way and clouds on title as do not, in the aggregate, in the opinion of counsel materially impair the property affected thereby for the purpose for which it was acquired or is held.
7. The Bank Mortgage, so long as it is subordinate to the Mortgage.
8. The Regulatory Agreement.
9. Mineral and mining rights and rights incident thereto recorded in Volume 113, Page 148, in the Office of the Judge of Probate of Shelby County, Alabama.
10. Easement as recorded in Real 13, Page 426; Real 28, Page 675; and Real 28, Page 673, in the Office of the Judge of Probate of Shelby County, Alabama.

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

1985 DEC 20 PM 12:50

Thomas A. Standen, Jr.
JUDGE OF PROBATE

RECORDING FEES

Mortgage Tax	\$ 16,170.75
Deed Tax	
Mineral Tax	
Recording Fee	65.00
Index Fee	1.00
TOTAL	\$ 16,236.75