

STATE OF ALABAMA)
COUNTY OF SHELBY)

1472

MORTGAGE

ASSIGNMENT OF RENTS AND SECURITY AGREEMENT

THIS MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT made this 19th day of June, 1986, by and between Daniel Meadows Partnership, a general partnership ("Mortgagor") whose place of business is 10 Inverness Center Parkway, P. O. Box 43250, Birmingham, Alabama, 35243, and Aetna Life Insurance Company ("Mortgagee"), whose place of business is CityPlace, Hartford, Connecticut, 06156.

WITNESSETH:

FOR GOOD AND VALUABLE CONSIDERATION, including the indebtedness herein recited the receipt of which is hereby acknowledged, Mortgagor hereby irrevocably grants, remises, aliens, releases, transfers, conveys and mortgages to Mortgagee and its successors and assigns, under and subject to the terms and conditions hereinafter set forth, the real property, located near the City of Birmingham, County of Shelby, State of Alabama, described in Exhibit "A" attached hereto and by this reference incorporated herein (the "Property").

TOGETHER WITH all rents, issues, profits, royalties, income and other benefits derived from the Property (collectively the "rents"), subject to the right, power and authority hereinafter given to Mortgagor to collect and apply such rents;

TOGETHER WITH all leasehold estate, right, title and interest of Mortgagor in and to all leases or subleases covering the Property or any portion thereof now or hereafter existing or entered into, and all right, title and interest of Mortgagor thereunder, including, without limitation, all cash or security deposits, advance rentals, and deposits or payments of similar nature;

TOGETHER WITH all right, title and interest of Mortgagor in and to all options to purchase or lease the Property or any portion thereof or interest therein, and any greater estate in the Property owned or hereafter acquired;

TOGETHER WITH all interests, estate or other claims, both in law and in equity, which Mortgagor now has or may hereafter acquire in the Property;

TOGETHER WITH, all easements, rights-of-way and rights used in connection therewith or as a means of access thereto, and all tenements, hereditaments and appurtenances thereof and thereto, and all water rights and shares of stock evidencing the same;

TOGETHER WITH, all right, title and interest of Mortgagor, now owned or hereafter acquired, in and to any land lying within the right-of-way of any street, open or proposed, adjoining the Property, and any and all sidewalks, alleys and strips and gores or land adjacent to or used in connection with the Property;

TOGETHER WITH, any and all buildings and improvements now or hereafter erected thereon, including, but not limited to, the fixtures, attachments, appliances, equipment, machinery, and other articles attached to said buildings and improvements (the "Improvements");

TOGETHER WITH, all right, title and interest of Mortgagor in and to all tangible personal property (the "Personal Property") owned by Mortgagor and now or at any time hereafter located on or at the Property or used in connection therewith, including, but not limited to: all goods, machinery, tools, insurance proceeds, equipment (including fire sprinklers and alarm systems, office air conditioning, heating refrigerating, electronic monitoring, entertainment, recreational, window or structural cleaning rigs, maintenance, exclusion of vermin or insects, removal of dust, refuse or garbage and all other equipment of every kind), lobby and all other indoor or outdoor furniture (including tables, chairs, planters, desks, sofas, shelves, lockers and cabinets), wall beds, wall safes, furnishings, appliances (including ice boxes, refrigerators, fans, heaters, stoves, water heaters and incinerators), inventory, rugs, carpets and other floor coverings, draperies and drapery rods and brackets, awnings, window shades, venetian blinds, curtains, lamps, chandeliers and other lighting fixtures and office maintenance and other supplies; and

TOGETHER WITH, all the estate, interest, right, title, other claim or demand, including claims or demands with respect to the proceeds of insurance with effect with respect thereto, which Mortgagor now has or may hereafter acquire in the Property, and any and all awards made for the taking of eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or any part of the premises, including without limitation any awards resulting from a change of grade of streets and awards for severance damages.

The entire estate, property and interest hereby conveyed to Mortgagee may hereafter be referred to as the "premises".

FOR THE PURPOSE OF SECURING:

- a. Payment of indebtedness with interest thereon, evidenced by the Note in the sum of \$5,000,000. which has been delivered to and is payable to the order of the Mortgagee, and which by this reference is hereby made a part hereof and any and all modifications, extensions and renewals thereof.
- b. Payment of all sums advanced by Mortgagee to protect the premises, with interest thereon at the rate of ten percent (10%) per annum.
- c. Payment of all other sums, with interest thereon, which may hereafter be loaned to Mortgagor, or its successors or assigns, by mortgagee, when evidenced by a promissory note or notes reciting that they are secured by this Mortgage.
- d. Performance of Mortgagor's obligations and agreements contained in Mortgagor's loan application and Mortgagee's loan commitment, and any such application and commitment between Mortgagor and any assignee of Mortgagee, which loan is secured hereby, and any modification or amendment thereof.

This Mortgage, the Note, and any other instrument given to evidence or further secure the payment and performance of any obligation secured hereby may thereafter be referred to as the "Loan Instruments".

TO HAVE AND TO HOLD THE MORTGAGED PROPERTY AND ALL PARTS THEREOF UNTO THE MORTGAGEE, ITS SUCCESSORS AND ASSIGNEES FOREVER, SUBJECT, HOWEVER, TO THE TERMS AND CONDITIONS HEREIN:

ARTICLE I COVENANTS AND AGREEMENTS OF MORTGAGOR

Mortgagor hereby covenants and agrees (subject to the exoneration of Mortgagor from personal liability herein contained):

1.01 Payment of Secured Obligations. To pay when due the principal of, and the interest on, the indebtedness evidenced by the Note, charges, fees and all other sums as provided in the Loan Instruments, and the principal of, and interest on, any future advances secured by this Mortgage.

1.02 Maintenance, Repair, Alterations. To keep the premises in good condition and repair; not to remove, demolish or substantially alter (except such alterations as may be required by laws, ordinances or regulations) any of the Improvements; to complete promptly and in good and workmanlike manner any building or other improvement which may be constructed on the Property and promptly restore in like manner any Improvement which may be damaged or destroyed thereon, and to pay when due all claims for labor performed and materials furnished therefor, to comply with all laws, ordinances, regulations, covenants, conditions and restrictions now or hereafter affecting the premises or any part thereof or requiring any alterations or improvements; not to commit or permit any waste or deterioration of the premises, to keep and maintain abutting grounds, sidewalks, roads, parking and landscape areas in good and neat order and repair; to comply with the provisions of any lease, if this Mortgage is on a leasehold; not to commit, suffer or permit any act to be done in or upon the premises in violation of any law, ordinance or regulation.

1.03 Required Insurance. To at all times provide, maintain and keep in force the following policies of insurance:

(a) Insurance against loss or damage to the Improvements by fire and any of the risks covered by insurance of the type now known as "fire and extended coverage", in an amount not less than the original amount of the Note or the full replacement cost of the Improvements (exclusive of the cost of excavations, foundations, and footings below the lowest basement floor), whichever is greater; and with not more than \$1,000 deductible from the loss payable for any casualty. The policies of insurance carried in accordance with this subparagraph (a) shall contain the "Replacement Cost Endorsement;"

(b) If requested by Mortgagee, business interruption insurance and/or loss of "rental value" insurance in such amounts as are satisfactory to Mortgagee;

(c) During the course of any construction or repair of Improvements on the Property, comprehensive public liability insurance (including coverage for elevators and escalators, if any, on the premises and, if any construction of new Improvements occurs after execution of this Mortgage, completed operations coverage for two years after construction of the Improvements has been completed) on an "occurrence basis" against claims for "personal injury" including without limitation bodily injury, death or property damage occurring, on, in or about the premises and the adjoining streets, sidewalks and passageways, such insurance to afford immediate minimum protection to a limit of not less than that required by Mortgagee with respect to personal injury or death to any one or more persons or damage to property;

(d) During the course of any construction or repair of Improvements on the Property, workmen's compensation insurance (including employer's liability insurance, if requested by Mortgagee) for all employees of Mortgagor engaged on or with respect to the premises in such amount as is reasonably satisfactory to Mortgagee, or, if such limits are established by law; in such amounts;

(e) During the course of any construction or repair of Improvements on the Property, builder's completed value risk insurance against "all risks of physical loss," including collapse and transit coverage, during construction of such Improvements, with deductibles not to exceed \$1,000, in non-reporting form, covering the total value of work performed and equipment, supplies and materials furnished. Said policy of insurance shall contain the "permission to occupy upon completion of work or occupancy" endorsement;

(f) Boiler and machinery insurance covering pressure vessels, air tanks, boilers, machinery, pressure piping, heating, air conditioning and elevator equipment and escalator equipment, provided the Improvements contain equipment of such nature, and insurance against loss of occupancy or use arising from any such breakdown, in such amounts as are reasonably satisfactory to Mortgagee;

(g) Insurance against loss or damage to the Personal Property by fire and other risks covered by insurance of the type now known as "fire and extended coverage;" and

(h) Such other insurance, and in such amounts, as may from time to time be required by Mortgagee against the same or other hazards.

(i) All policies of insurance required by terms of this Mortgage shall contain an endorsement or agreement by the insurer that any loss shall be payable in accordance with the terms of such policy notwithstanding any act or negligence of Mortgagor which might otherwise result in forfeiture of said insurance and the further agreement of the insurer waiving all rights of set off, counterclaim or deductions against Mortgagor.

1.04 Delivery of Policies, Payment of Premiums. That all policies of insurance shall be issued by companies and in amounts in each company satisfactory to Mortgagee. All policies of insurance shall have attached thereto a lender's loss payable endorsement for the benefit of Mortgagee in form satisfactory to Mortgagee. Mortgagor shall furnish Mortgagee with an original policy of all policies of required insurance. If Mortgagee consents to Mortgagor providing any of the required insurance through blanket policies carried by Mortgagor and covering more than one location, then Mortgagor shall furnish Mortgagee with a certificate of insurance for each such policy setting forth the coverage, the limits of liability, the name of the carrier, the policy number, and the expiration date. At least thirty (30) days prior to the expiration of each such policy, Mortgagor shall furnish Mortgagee with evidence satisfactory to Mortgagee of the payment of premium and the reissuance of a policy continuing insurance in force as required by this Mortgage. All such policies shall contain a provision that such policies will not be cancelled or materially amended, which term shall include any reduction in the scope or limits of coverage, without at least thirty (30) days prior written notice to Mortgagee. In the event Mortgagor fails to provide, maintain, keep in force or deliver and furnish to Mortgagee the policies of insurance required by this Section, Mortgagee may procure such insurance or single-interest insurance for such risks covering Mortgagee's interest, and Mortgagor will pay all premiums thereon promptly upon demand by Mortgagee, and until such payment is made by Mortgagor the amount of all such premiums together with interest thereon at the rate of ten percent (10%) per annum shall be secured by this Mortgage. At the request of Mortgagee Mortgagor shall deposit with Mortgagee in monthly installments, an amount equal to one-twelfth of the estimated aggregate annual insurance premiums on all policies of insurance required by this Mortgage. Mortgagor further agrees, upon Mortgagee's request, to cause all bills, statements or other documents relating to the foregoing insurance premiums to be sent or mailed directly to Mortgagee. Upon receipt of such bills, statements or other documents, and providing Mortgagor has deposited sufficient funds with Mortgagee pursuant to this Section 1.04, Mortgagee shall pay such amounts as may be due thereunder out of the funds so deposited with Mortgagee. If at any time and for any reason the funds deposited with Mortgagee are or will be insufficient to pay such amounts as may then or subsequently be due, Mortgagee shall notify Mortgagor and Mortgagor shall immediately deposit an amount equal to such deficiency with Mortgagee. Notwithstanding the foregoing, nothing contained herein shall cause Mortgagee to be deemed a trustee of said funds or to be obligated to pay any amounts in excess of the amount of funds deposited with Mortgagee pursuant to this Section 1.04. Mortgagee may commingle said reserve with its own funds and Mortgagor shall be entitled to no interest thereon.

1.05 Insurance Proceeds. That after the happening of any casualty to the premises or any part thereof, Mortgagor shall give prompt written notice thereof to Mortgagee.

(a) In the event of any damage or destruction of the Improvements, Mortgagee shall have the option in its sole discretion of applying all or part of the insurance proceeds (i) to any indebtedness secured hereby and in such order as Mortgagee may determine, or (ii) to the restoration of the Improvements or (iii) to Mortgagor.

(b) In the event of such loss or damage, all proceeds of insurance shall be payable to Mortgagee, and Mortgagee is hereby authorized and empowered by Mortgagor to settle, adjust or compromise any claims for loss, damage or destruction under any policy or policies of insurance.

(c) Except to the extent that insurance proceeds are received by Mortgagee and applied to the indebtedness secured hereby, nothing herein contained shall be deemed to excuse Mortgagor from repairing or maintaining the premises as provided in Section 1.02 hereof or restoring all damage or destruction to the premises, regardless of whether or not there are insurance proceeds available or whether any such proceeds are sufficient in amount, and the application or release by Mortgagee of any insurance proceeds shall not cure or waive any default or notice of default under this Mortgage or invalidate any act done pursuant to such notice.

1.06 Assignment of Policies Upon Foreclosure. In the event of foreclosure of this Mortgage or other transfer of title or assignment of the premises in extinguishment, in whole or in part, of the debt secured hereby, all right, title and interest of Mortgagor in and to all policies of insurance required by this Section shall inure to the benefit of and pass to the successor in interest to Mortgagor or the purchaser or grantee of the premises.

1.07 Indemnification; Subrogation; Waiver of Offset.

(a) If Mortgagee is made a party defendant to any litigation concerning this Mortgage or the premises or any part thereof or therein, or the occupancy thereof by Mortgagor, then Mortgagor shall indemnify, defend and hold Mortgagee harmless from all liability by reason of said litigation, including reasonable attorneys' fees and expenses incurred by Mortgagee in any such litigation, whether or not any such litigation is prosecuted to judgment. If Mortgagee commences an action against Mortgagor to enforce any of the terms hereof or because of the breach by Mortgagor of any of the terms hereof, or for the recovery of any sum secured hereby, Mortgagor shall pay to Mortgagee reasonable attorneys' fees and expenses, and the right to such attorneys' fees and expenses shall be deemed to have accrued on the commencement of such action, and shall be enforceable whether or not such action is prosecuted to judgment. If Mortgagor breaches any term of this Mortgage, Mortgagee may employ an attorney or attorneys to protect its rights hereunder, and in the event of such employment following any breach by Mortgagor, Mortgagor shall pay Mortgagee reasonable attorneys' fees and expenses incurred by Mortgagee, whether or not an action is actually commenced against Mortgagor by reason of breach.

(b) Mortgagor waives any and all right to claim or recover against Mortgagee, its officers, employees, agents and representatives, for loss of or damage to Mortgagor, the premises, Mortgagor's property or the property of others under control from any cause insured against or required to be insured against by the provisions of this Mortgage.

(c) All sums payable by Mortgagor hereunder shall be paid without notice, demand, counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction, and the obligations and liabilities of Mortgagor hereunder shall in no way be released, discharged or otherwise affected (except as expressly provided herein) by reason of: (i) any damage to or destruction of or any condemnation or similar taking of the premises or any part thereof; (ii) any restriction or prevention of or interference with any use of the premises or any part thereof; (iii) any title defect or encumbrance or any eviction from the Property or the Improvements or any part thereof by title paramount or otherwise; (iv) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Mortgagee, or any action taken with respect to this Mortgage by any trustee or receiver of Mortgagee, or by any court, in any such proceeding; (v) any claim which Mortgagor has or might have against Mortgagee; (vi) any default or failure on the part of Mortgagee to perform or comply with any of the terms hereof or of any other agreement with Mortgagor; or (vii) any other occurrence whatsoever, whether similar or dissimilar to the foregoing, whether or not Mortgagor shall have notice or knowledge of any of the foregoing. Except as expressly provided herein, Mortgagor waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution or reduction of any sum secured hereby and payable by Mortgagor.

1.08 Taxes and Impositions.

(a) Mortgagor agrees to pay, at least 10 days prior to delinquency, all real property taxes and assessments, general and special, and all other taxes and assessments of any kind or nature whatsoever, including without limitation non-governmental levies or assessments such as maintenance charges, owner association dues or charges or fees, levies or charges resulting from covenants, conditions and restrictions affecting the premises, which are assessed or imposed upon the premises, or become due and payable, and which create, may create or appear to create a lien upon the premises, or any part thereof, or upon any Personal Property, equipment or other facilities used in the operation or maintenance thereof (all of which taxes, assessments and other governmental charges of like nature are hereinafter referred to as "Impositions"); provided, however, that if, by law, any such Imposition is payable, or may at the option of the taxpayer be paid, in installments, Mortgagor may pay the same together with any accrued interest on the unpaid balance of such Imposition in installments as the same become due and before any fine, penalty, interest or cost may be added thereto for the nonpayment of any such installment and interest.

(b) If at any time after the date hereof there shall be assessed or imposed (i) a tax or assessment on the premises in lieu of or in addition to the Impositions payable by Mortgagor pursuant to subparagraph (a) hereof, or (ii) a license fee, tax or assessment imposed on Mortgagee and measured by or based in whole or in part upon the amount of the outstanding obligations secured hereby, then all such taxes, assessments or fees shall be deemed to be included within the term "Impositions" as defined in subparagraph (a) hereof, and Mortgagor shall pay and discharge the same as herein provided with respect to the payment of Impositions or, at the option of Mortgagee, all obligations secured hereby together with all accrued interest thereon, shall immediately become due and payable. Anything to the contrary herein notwithstanding, Mortgagor shall have no obligation to pay any franchise, estate, inheritance, income, excess profits or similar tax levied on Mortgagee or on the obligations secured hereby.

(c) Subject to the provisions of subparagraph (d) of this Section 1.08, Mortgagor covenants to furnish Mortgagee within thirty (30) days after the date upon which any such Imposition is due and payable by Mortgagor, official receipts of the approximate taxing authority, or other proof satisfactory to Mortgagee, evidencing the payments thereof.

(d) Mortgagor shall have the right before any delinquency occurs to contest or object to the amount or validity of any such Imposition by appropriate legal proceedings, but this shall not be deemed or construed in any way as relieving, modifying or extending Mortgagor's covenant to pay any such Imposition at the time and in the manner provided in this Section 1.08, unless Mortgagor has given prior written notice to Mortgagee of Mortgagor's intent to so contest or object to an Imposition, and unless, at Mortgagee's sole option, (i) Mortgagor shall demonstrate to Mortgagee's satisfaction that the legal proceedings shall conclusively operate to prevent the sale of the premises, or any part thereof, to satisfy such Imposition prior to final determination of such proceedings; or (ii) Mortgagor shall furnish a good and sufficient bond or surety as requested by and satisfactory to Mortgagee; or (iii) Mortgagor shall have provided with a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of such proceedings.

(e) At the request of Mortgagee, Mortgagor shall pay to Mortgagee, on the day monthly installments of principal and interest are payable under the Note, until the Note is paid in full, an amount equal to one-twelfth of the annual Imposition reasonably estimated by Mortgagee to pay the installment of taxes next due on the premises. In such event Mortgagor further agrees to cause all bills, statements or other documents relating to Impositions to be sent or mailed directly to Mortgagee. Upon receipt of such bills, statements or other documents, and providing Mortgagor has deposited sufficient funds with Mortgagee pursuant to this Section 1.08, Mortgagee shall pay such amounts as may be due thereunder out of the funds so deposited with Mortgagee. If at any time and for any reason the funds deposited with Mortgagee are or will be insufficient to pay such amounts as may then or subsequently be due, Mortgagee shall notify Mortgagor and Mortgagor shall immediately deposit an amount equal to such deficiency with Mortgagee. Notwithstanding the foregoing, nothing contained herein shall cause Mortgagee to be deemed a trustee of said funds or to be obligated to pay any amounts in excess of the amount of funds deposited with Mortgagee pursuant to this Section 1.08. Mortgagee shall not be obliged to pay or allow any interest on any sums held by Mortgagee pending disbursement or application hereunder, and Mortgagee may impound or reserve for future payment of Impositions such portion of such payments as Mortgagee may in its absolute discretion deem proper, applying the balance on the principal of or interest on the obligations secured hereby. Should Mortgagor fail to deposit with Mortgagee (exclusive of that portion of said payments which has been applied by Mortgagee on the principal of or interest on the indebtedness secured by the Loan Instruments) sums sufficient to fully pay such Impositions at least thirty (30) days before delinquency thereof, Mortgagee may, at Mortgagee's election, but without any obligation so to do, advance any amounts required to make up the deficiency which advances, if any, shall be secured hereby and shall be repayable to Mortgagee as herein elsewhere provided, or at the option of Mortgagee the latter may, without making any advance whatever apply any sums held by it upon any obligation of the Mortgagor secured hereby. Should any default occur or exist on the part of the Mortgagor in the payment or performance of any of the Mortgagor's and/or any guarantor's obligations under the terms of the Loan Instruments, Mortgagee may, at any time at Mortgagee's option, apply any sums or amounts in its hands received pursuant hereto, or as rents or income of the premises or otherwise, upon any indebtedness or obligation of the Mortgagor secured hereby in such manner and order as Mortgagee may elect. The receipt, use or application of any such sums paid by Mortgagor to Mortgagee hereunder shall not be construed to affect the maturity of any indebtedness secured by this Mortgage or any of the rights or powers of Mortgagee under the terms of the Loan Instruments or any of the obligations of Mortgagor and/or any guarantor under this Loan Instrument.

(f) Mortgagor covenants and agrees not to suffer, permit or initiate the joint assessment of the real personal property, or any other procedure whereby the lien of the real property taxes and the lien of the personal property taxes shall be assessed, levied or charged to the premises as a single lien.

(g) If requested by Mortgagee, Mortgagor shall cause to be furnished to Mortgagee a tax reporting service covering the premises of the type, duration and with a company satisfactory to Mortgagee. **or the mortgage loan correspondent within thirty (30) days of written request by Mortgagee**

1.09 Utilities. To pay when due all utility charges which are incurred by Mortgagor for the benefit of the premises or which may become a charge or lien against the premises for gas, electricity, water or sewer services furnished to the premises and all other assessments or charges of a similar nature, whether public or private, affecting the premises or any portion thereof, whether or not such taxes, assessments or charges are liens thereon.

1.10 Ground Lease. To pay when due all rents and other payments and perform all covenants and agreements contained in any lease, sublease or ground lease which may constitute a portion of or an interest in the premises; not to surrender, assign or sublease any such lease, sublease or ground lease, nor take any other action which would effect or permit the termination of any such lease, sublease or ground lease. Mortgagor covenants to furnish to Mortgagee within thirty (30) days after the date upon which such rents or other payments are due and payable by Mortgagor, receipts or other evidence satisfactory to Mortgagee evidencing the payment thereof.

1.11 Actions Affecting Premises. To appear in and contest any action or proceeding purporting to affect the security hereof or the rights or powers of Mortgagee and to pay all costs and expenses, including cost of evidence of title and attorney's fees, in any such action or proceeding in which Mortgagee may appear.

1.12 Actions by Mortgagee to Preserve Premises. That should Mortgagor fail to make any payment or to do any act as and in the manner provided in any of the Loan Instruments, Mortgagee in its own discretion, without obligation so to do and without notice to or demand upon Mortgagor and without releasing Mortgagor from any obligation, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof. In connection therewith (without limiting their general powers), Mortgagee shall have and is hereby given the right, but not the obligation, (i) to enter upon and take possession of the premises; (ii) to make additions, alterations, repairs and improvements to the premises which it may consider necessary or proper to keep the premises in good condition and repair; (iii) to appear and participate in any action or proceeding affecting or which may affect the security hereof or the rights or powers of Mortgagee; (iv) to pay, purchase, contest or compromise any encumbrance, claim, charge, lien or debt which in the judgment of Mortgagee may affect or appears to affect the security of this Mortgage or be prior or superior hereto; and (v) in exercising such powers, to pay necessary expenses, including employment of counsel or other necessary or desirable consultants. Mortgagor shall immediately upon demand therefor by Mortgagee, pay all costs and expenses incurred by Mortgagee in connection with the exercise by Mortgagee of the foregoing rights, including without limitation costs of evidence of title, court costs, appraisals, surveys and attorney's fees.

1.13 Survival of Warranties. To fully and faithfully satisfy and perform the obligations of Mortgagor contained in the Mortgagor's loan application and Mortgagee's loan commitment, and any such application and commitment between Mortgagor and any assignee of Mortgagee, and each agreement of Mortgagor incorporated by reference therein or herein, and any modification or amendment thereof. All representations, warranties and covenants of Mortgagor contained therein or incorporated by reference shall survive the close and funding of the loan evidenced by the Note and shall remain continuing obligations, warranties and representations of Mortgagor during any time when any portion of the obligations secured by this Mortgage remain outstanding.

1.14 Eminent Domain. That should the premises, or any part thereof or interest therein, be taken or damaged by reason of any public improvement or condemnation proceeding, or in any other manner ("Condemnation"), or should Mortgagor receive any notice of other information regarding such proceeding, Mortgagor shall give prompt written notice thereof to Mortgagee.

(a) Mortgagee shall be entitled to all compensation, awards and other payments or relief therefor, and shall be entitled at its option to commence, appear in and prosecute in its own name any action or proceedings. Mortgagee shall also be entitled to make any compromise or settlement in connection with such taking or damage. All such compensation, awards, damages, rights of action and proceeds awarded to Mortgagor (the "Proceeds") are hereby assigned to Mortgagee and Mortgagor agrees to execute such further assignments of the Proceeds as Mortgagee may require.

(b) In the event any portion of the premises is so taken or damaged, Mortgagee shall have the option, in its sole and absolute discretion, to apply all such Proceeds, after deducting therefrom all costs and expenses (regardless of the particular nature thereof and whether incurred with or without suit), including attorneys' fees, incurred by it in connection with such Proceeds, upon any indebtedness secured hereby and in such order as Mortgagee may determine, or to apply all such Proceeds, after such deductions, to the restoration of the premises upon such conditions as Mortgagee may determine. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

1.15 Additional Security. That in the event Mortgagee at any time holds additional security for any of the obligations secured hereby, it may enforce the sale thereof or otherwise realize upon the same, at its option, either before or concurrently herewith or after a sale is made hereunder.

1.16 Successors and Assigns. That this Mortgage applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term "Mortgagee" shall mean the owner and holder of the Note, whether or not named as Mortgagee herein.

1.17 Inspections. That Mortgagee, or its agents, representatives or workmen, are authorized to enter at any reasonable time upon or in any part of the premises for the purpose of inspecting the same and for the purpose of performing any of the acts it is authorized to perform under the terms of any of the Loan Instruments.

1.18 Liens. To pay and promptly discharge, at Mortgagor's cost and expense, all liens, encumbrances and charges upon the premises, or any part thereof or interest therein; provided that the existence of any mechanic's, laborer's, materialman's, supplier's or vendor's lien or right thereto shall not constitute a violation of this Section if payment is not yet due under the contract which is the foundation thereof. Mortgagor shall have the right to contest in good faith the validity of any such lien, encumbrance or charge, provided Mortgagor shall first deposit with Mortgagee a bond or other security satisfactory to Mortgagee in such amounts as Mortgagee shall reasonably require, but not more than one and one-half (150%) of the amount of the claim, and provided further that Mortgagor shall thereafter diligently proceed to cause such lien, encumbrance or charge to be removed and discharged. If Mortgagor shall fail to discharge any such lien, encumbrance or charge, then, in addition to any other right or remedy of Mortgagee, Mortgagee may, but shall not be obligated to, discharge the same, either by paying the amount claimed to be due, or by procuring the discharge of such lien by depositing in court a bond for the amount claimed or otherwise giving security for such claim, or in such manner as is or may be prescribed by law.

1.19 Financial Statements. Mortgagor and its successors and assigns shall furnish to Mortgagee, within one hundred twenty (120) days after the close of each fiscal year of Mortgagor, or such successors or assigns, audited operating statements of the premises, prepared and certified by certified public accountants reasonably satisfactory to Mortgagee, showing in reasonable detail all income and expense, together with gross sales of each tenant whose rent is based in whole or in part upon such gross sales.

1.20 Mortgagee's Powers. Without affecting the liability of any other person liable for the payment of any obligation herein mentioned, and without affecting the lien or charge of this Mortgage upon any portion of the Property not then or theretofore released as security for the full amount of all unpaid obligations, Mortgagee may, from time to time and without notice (i) release any person so liable, (ii) extend the maturity or alter any of the terms of any such obligation, (iii) grant other indulgences, (iv) release or reconvey, or cause to be released or reconveyed at any time at Mortgagee's option, any parcel, portion or all of the Premises, (v) take or release any other or additional security for any obligation herein mentioned, or (vi) make compositions or other arrangements with debtors in relation thereto.

1.21 Tradenames. At the request of Mortgagee, Mortgagor shall execute a certificate in form satisfactory to Mortgagee listing the tradenames under which Mortgagor intends to operate the premises, and representing and warranting that Mortgagor does business under no other tradename with respect to the premises. Mortgagor shall immediately notify Mortgagee in writing of any change in said tradenames, and will, upon request of Mortgagee, execute any additional financing statements and other certificates revised to reflect the change in tradename.

1.22 Financial Statements. Mortgagor will cause to be delivered to Mortgagee as soon as practicable, but in any event within 120 days after the close of each operating year of Mortgagor, a statement of condition or balance sheet of Mortgagor as at the end of each operating year, all certified as to accuracy by an independent certified public accountant or representative of Mortgagor acceptable to Mortgagee, and an annual operating statement showing in reasonable detail all income and expenses of Mortgagor with respect to the operation of the premises prepared by Mortgagor and certified as to accuracy by an independent certified public accountant or officer of Mortgagor acceptable to Mortgagee.

ARTICLE II ASSIGNMENT OF RENTS, ISSUES AND PROFITS

2.01 Assignment of Rents. Mortgagor hereby assigns and transfers to Mortgagee all the rents, issues and profits of the premises, and hereby gives to and confers upon Mortgagee the right, power and authority to collect such rents, issues and profits. Mortgagor irrevocably appoints its true and lawful attorney-in-fact, at the option of Mortgagee at any time and from time to time, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, in the name of Mortgagor or Mortgagee, for all such rents, issues and profits and apply the same to the indebtedness secured hereby; provided, however, that Mortgagor shall have the right to collect such rents, issues and profits (but not more than two months in advance) prior to or at any time there is not an event of default under any of the Loan Instruments. The assignment of the rents, issues and profits of the premises in this Article II is intended to be an absolute assignment from Mortgagor to Mortgagee and not merely the passing of a security interest. The rents, issues and profits are hereby assigned absolutely by Mortgagor to Mortgagee contingent only upon the occurrence of an event of default under any of the Loan Instruments.

2.02 Collection Upon Default. Upon any event of default under any of the Loan Instruments, Mortgagee may, at any time, without notice, either in person, by agent or by a receiver appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the premises, or any part thereof, in its own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including attorneys' fees, upon any indebtedness secured hereby, and in such order as Mortgagee may determine. The collection of such rents, issues and profits, or the entering upon and taking possession of the premises, or the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default.

2.03 Assignment of Leases. Mortgagor agrees to assign and transfer to Mortgagee as additional security for the payment of the indebtedness secured hereby, all present and future leases upon all or any part of the premises and to execute and deliver, at the request of Mortgagee, all such further assurances and assignments in the premises as Mortgagee shall from time to time require. In the event Mortgagor, as such additional security has sold, transferred and assigned, or may hereafter sell, transfer and assign, to Mortgagee, its successors and assigns, any interest of Mortgagor as lessor in any lease or leases, Mortgagor expressly covenants and agrees that if Mortgagor, as lessor under said lease or leases so assigned shall fail to perform and fulfill any term, covenant, condition or provision in said lease or leases, or any of them, on its part to be performed or fulfilled, at the times and in the manner in said lease or leases provided, or if Mortgagor shall suffer or permit to occur any breach or default under the provisions of any such assignment of any lease or leases and such default shall continue for three (3) days, then and in any such event, such breach or default shall constitute an event of default hereunder as such term is defined in Section 4.01 hereof.

2.04 Mortgagee's Right of Possession in Case of Default. In any case in which under the provisions of this mortgage Mortgagee has a right to institute foreclosure proceedings, whether before or after the whole principal sum secured hereby is declared to be immediately due, or whether before or after the institution of legal proceedings to foreclose the lien hereof or before or after sale thereunder, forthwith, upon demand of Mortgagee, Mortgagor shall surrender to Mortgagee and Mortgagee shall be entitled to take actual possession of the premises or any part thereof personally, or by its agent or attorneys, as for condition broken. In such event Mortgagee in its discretion may, with or without force and with or without process of law, enter upon and take and maintain possession of all or any part of said premises, together with all documents, books, records, papers, and accounts of Mortgagor or then owner of the premises relating thereto, and may exclude Mortgagor, its agents or servants, wholly therefrom and may as attorney in fact or agent of Mortgagor, or in its own name as Mortgagee and under the powers herein granted, hold, operate, manage and control the premises and conduct the business, if any, thereof, either personally or by its agents, and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns, may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent, and with full power: (a) to cancel or terminate any lease or sublease for any cause or on any ground which would entitle Mortgagor to cancel the same; (b) to elect to disaffirm any lease or sublease which is then subordinate to the lien hereof; (c) to extend or modify any then existing leases and to make new leases, which extensions, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the indebtedness hereunder and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the mortgage indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser; (d) to make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the premises as to it may seem judicious; (e) to insure and reinsure the same and all risks incidental to Mortgagee's possession, operation and management thereof; and (f) to receive all of such avails, rents, issues and profits; hereby granting full power and authority to exercise each and every of the rights, privileges and powers herein granted at any and all times hereafter, without notice to Mortgagor.

Mortgagee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any leases. Mortgagor shall and does hereby agree to indemnify and hold Mortgagee harmless of and from any and all liability, loss or damage which it may or might incur under said leases or under or by reason of the assignment thereof and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in

said leases. Should Mortgagee incur any such liability, loss or damage, under said leases or under or by reason of the assignment thereof, or in the defense of any claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall be secured hereby, and Mortgagor shall reimburse Mortgagee therefor immediately upon demand.

2.05 Application of Income Received by Mortgagee. Mortgagee, in the exercise of the rights and powers hereinabove conferred upon it by Section 2.01 and Section 2.04 hereof shall have full power to use and apply the avails, rents, issues and profits of the premises to the payment of or on account of the following, in such order as Mortgagee may determine:

(a) to the payment of the operating expenses of said property, including cost of management and leasing thereof (which shall include reasonable compensation to Mortgagee and its agent or agents, if management be delegated to an agent or agents, and shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases), established claims for damages, if any, and premiums on insurance hereinabove authorized;

(b) to the payment of taxes and special assessments now due or which may hereafter become due on the premises; and, if this is a leasehold mortgage, of all rents due or which may become hereafter due under the underlying lease;

(c) to the payment of all repairs, decorating, renewals, replacements, alterations, additions, betterments, and improvements of the premises, including the cost from time to time of installing or replacing refrigeration and gas or electric stoves therein, and of placing the premises in such condition as will, in the judgment of Mortgagee, make it readily rentable;

(d) to the payment of any indebtedness secured hereby or any deficiency which may result from any foreclosure sale.

ARTICLE III SECURITY AGREEMENT

3.01 Creation of Security Interest. Mortgagor hereby grants to Mortgagee a security interest in the Personal Property located on or at the Property, including without limitations any and all property of similar type or kind hereafter located on or at the Property for the purpose of securing all obligations of Mortgagor contained in any of the Loan Instruments.

3.02 Warranties, Representations and Covenants of Mortgagor. Mortgagor warrants, represents, and covenants as follows:

(a) Except for the security interest granted hereby, Mortgagor is, and as to portions of the Personal Property to be acquired after the date hereof will be, the sole owner of the Personal Property, free from any adverse lien, security interest, encumbrance or adverse claims thereon of any kind whatsoever. Mortgagor will notify Mortgagee of, and will defend the Personal Property against, all claims and demands of all persons at any time claiming the same or any interest therein.

(b) Mortgagor will not lease, sell, convey or in any manner transfer the Personal Property without the prior written consent of the Mortgagee.

(c) The Personal Property is not used or bought for personal, family or household purposes.

(d) The Personal Property will be kept on or at the Property and Mortgagor will not remove the Personal Property from the Property without the prior written consent of Mortgagee, except such portions or items of Personal Property which are consumed or worn out in ordinary usage, all of which shall be promptly replaced by Mortgagor.

(e) At the request of Mortgagee, Mortgagor will join Mortgagee in executing one or more financing statements and renewals and amendments and continuations thereof pursuant to the Uniform Commercial Code of Alabama in form satisfactory to Mortgagee, and will pay the cost of filing the same in all public offices wherever filing is deemed by Mortgagee to be necessary and desirable.

(f) All covenants and obligations of Mortgagor contained herein relating to the premises shall be deemed to apply to the Personal Property expressly referred to herein.

(g) This Mortgage constitutes a Security Agreement as that term is used in the Uniform Commercial Code of Alabama.

ARTICLE IV REMEDIES UPON DEFAULT

As used herein, the word "Owner" shall mean any one or more of Mortgagor or any owner or owners of legal title to the premises or any part thereof, from time to time.

4.01 Events of Default. Any of the following events shall be deemed an event of default hereunder.

(a) Default shall be made in the payment of any installment of principal or interest or any other sum secured when due; or

(b) Owner shall file a voluntary petition in bankruptcy or shall be adjudicated a bankrupt or insolvent, or shall file any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors; or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Owner or of all or any part of the premises, or of any or all of the royalties, revenues, rents, issues or profits thereof, or shall make any general assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due; or

(c) A court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against Owner seeking any reorganization, dissolution or similar relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, and such order, judgment or decree shall remain unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive) from the first date of entry thereof; or any trustee, receiver or liquidator of Owner or of all or any part of the premises, or of any or all of the royalties, revenues, rents, issues or profits thereof, shall be appointed without the consent or acquiescence of Owner and such appointment shall remain unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive); or

(d) A writ of execution or attachment or any similar process shall be issued or levied against all or any part of or interest in the premises, or any judgment involving monetary damages shall be entered against Owner which shall become a lien on the premises or any portion thereof or interest therein and such execution, attachment or similar process or judgment is not released, bonded, satisfied, vacated or stayed within sixty (60) days after its entry or levy; or

(e) There has occurred a breach of or default under any term, covenant, agreement, condition, provision, representation or warranty contained in any of the Loan Instruments or any part thereof, not referred to in this Section 4.01.

4.02 Acceleration Upon Default, Additional Remedies. In the event of any event of default Mortgagee may declare all indebtedness secured hereby to be due and payable and the same shall thereupon become due and payable without any presentment, demand, protest or notice of any kind. Thereafter Mortgagee may:

(i) Either in person or by agent, with or without bringing any action or proceeding, enter upon and take possession of the premises, or any part thereof, in its own name, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the premises, or part thereof or interest therein, increase the income therefrom or protect the security hereof and, with or without taking possession of the premises, sue for or otherwise collect the rents, issues and profits thereof, including those past due and unpaid, and apply the same in accordance with Section 2.05 hereof. The entering upon and taking possession of the premises, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default and, notwithstanding the continuance in possession of the premises or the collection, receipt and application of rents, issues or profits, Mortgagee shall be entitled to exercise every right provided for in any of the Loan Instruments or by law upon occurrence of any event of default, including the right to exercise the power of sale;

(ii) Commence an action to foreclose this Mortgage, appoint a receiver, or specifically enforce any of the covenants hereof;

(iii) Exercise any or all of the remedies available to a secured party under the Alabama Uniform Commercial Code, including, but not limited to:

(1) Either personally or by means of a court appointed receiver, take possession of all or any of the Personal Property and exclude therefrom Mortgagor and all other claiming under Mortgagor, and thereafter hold, store, use, operate, manage, maintain and control, make repairs, replacements, alterations, additions and improvements to and exercise all rights and powers of Mortgagor in respect to the Personal Property or any part thereof. In the event Mortgagee demands or attempts to take possession of the Personal Property in the exercise of any rights under any of the Loan Instruments, Mortgagor promises and agrees to promptly turn over and deliver complete possession thereof to Mortgagee;

(2) Without notice to or demand upon Mortgagor, make such payments and do such acts as Mortgagee may deem necessary to protect its security interest in the Personal Property including without limitation, paying, purchasing, contesting or compromising any encumbrance, charge or lien which is prior to or superior to the security interest granted hereunder, and in exercising any such powers or authority to pay all expenses incurred in connection therewith;

(3) Require Mortgagor to assemble the Personal Property or any portion thereof, at a place designated by Mortgagee and reasonably convenient to both parties, and promptly to deliver such Personal Property to Mortgagee, or an agent or representative designated by it. Mortgagee, and its agents and representatives shall have the right to enter upon any or all of Mortgagor's premises and property to exercise Mortgagee's rights hereunder;

(4) Sell, lease or otherwise dispose of the Personal Property at public sale, with or without having the Personal Property at the place of sale, and upon such terms and in such manner as Mortgagee may determine. Mortgagee may be a purchaser at any such sale;

(5) Unless the Personal Property is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Mortgagee shall give Mortgagor at least ten (10) days prior written notice of the time and place of any public sale of the Personal Property or other intended disposition thereof. Such notice may be mailed to Mortgagor at the address set forth in the beginning of this Mortgage.

4.03 Foreclosure; Expense of Foreclosure. When the indebtedness hereby secured, or any part thereof, shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof for such indebtedness or part thereof, and may sell the premises at public outcry to the highest bidder for cash in front of the Courthouse door in the County where said property is located, either in person or by auctioneer, having first given notice of the time, place and terms of sale by publication once a week for three successive weeks prior to said sale in some newspaper published 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 the 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. In any such foreclosure and any suit for a deficiency judgment, if any, or upon the enforcement of any other remedy of Mortgagee under this mortgage or the Note, there shall be allowed and included as additional indebtedness all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorney's fees, appraiser's fees, outlays for documentary and expert evidence, stenographer's charges, publication costs, and costs involved in title insurance and title examinations. All expenditures and expenses of the nature in this paragraph mentioned, and such expenses and fees as may be incurred in the protection of the premises and the maintenance of the lien of this mortgage, including the fees of any attorney employed by Mortgagee in any litigation or proceeding affecting this mortgage, the Note or the premises, including probate and bankruptcy proceedings, or in preparation for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by Mortgagor, without interest thereon at the after-maturity rate, and shall be secured by this mortgage.

4.04 Application of Proceeds of Foreclosure Sale. The proceeds of any foreclosure sale of the premises shall be distributed and applied in the following order or priority: First, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in the preceding paragraph hereof; second, all other items which under the terms hereof constitute secure indebtedness additional to that evidenced by the Note, with interest thereon as herein provided; third, all principal and interest remaining unpaid on the Note; fourth, any overplus to the Mortgagor, its successors or assigns, as their rights may appear.

4.05 Appointment of Receiver. Upon, or at any time after the filing of a complaint to foreclose this mortgage, the court in which such complaint is filed may appoint a receiver of the premises. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to the then value of the premises or whether the same shall be then occupied as a homestead or not and Mortgagee hereunder or any Holders may be appointed as such receiver. Such receiver shall have power: (a) to collect the rents, issues and profits of the premises during the pendency of such foreclosure and, in case of a sale and a deficiency, during the full statutory

period of redemption, whether there be redemption or not, as well as during any further times when Mortgagor, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits; (b) to extend or modify any then existing leases and to make new leases, which extensions, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the indebtedness hereunder and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge on the mortgage indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser; and (c) all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the premises during the whole of said period. The court from time to time may authorize the receiver to apply the net income in his hands in payment in whole or in part of: (a) the indebtedness secured hereby, or by any decree foreclosing this mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale; (b) and if this is a leasehold mortgage, all rents due or which may become due under the underlying lease; (c) the deficiency in case of a sale and deficiency.

4.06 Remedies Not Exclusive. Mortgagee shall be entitled to enforce payment and performance of any indebtedness or obligations secured hereby and to exercise all rights and powers under this Mortgage or under any Loan Instrument or other agreement or any laws now or hereafter in force, notwithstanding some or all of the said indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by Mortgage, deed or trust, pledge, lien, assignment or otherwise. Neither the acceptance of this Mortgage nor its enforcement whether by court action or other powers herein contained, shall prejudice or in any manner affect Mortgagee's right to realize upon or enforce any other security now or hereafter held by Mortgagee, its being agreed that Mortgagee, shall be entitled to enforce this Mortgage and any other security now or hereafter held by Mortgagee in such order and manner as it may in its absolute discretion determine. No remedy herein conferred upon or reserved to Mortgagee is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any of the Loan Instruments to Mortgagee or to which it may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as it may be deemed expedient by Mortgagee and Mortgagee may pursue inconsistent remedies.

4.07 Giving of Notice. Any notice which either party hereto may desire or be required to give to the other party shall be in writing and the mailing thereof be certified mail addressed to Mortgagor at 10 Inverness Center Parkway, P. O. Box 43250, Birmingham, Alabama 35243, or the Mortgagee at CityPlace, Hartford, Connecticut 06156 or at such other place as either party hereto may by notice in writing designate as a place for service of notice shall constitute service of notice hereunder.

ARTICLE V MISCELLANEOUS

5.01 Governing Law. This Mortgage shall be governed by the laws of the State of Alabama. In the event that any provision or clause of any of the Loan Instruments conflicts with applicable laws, such conflicts shall not affect other provisions of such Loan Instruments which can be given effect without the conflicting provision, and to this end the provisions of the Loan Instruments are declared to be severable. This instrument cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought.

5.02 Mortgagor Waiver of Rights. Mortgagor waives the benefit of all laws now existing or that hereafter may be enacted providing for (i) any appraisal before sale of any portion of the premises, and (ii) the benefit of all laws that may be hereafter enacted in any way extending the time for the enforcement of the collection of the Note or the debt evidenced thereby or creating or extending a period of redemption from any sale made in collecting said debt. To the full extent Mortgagor may do so, Mortgagor agrees that Mortgagor will not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter in force providing for any appraisal, valuation, stay, extension or redemption, and Mortgagor, for Mortgagor, Mortgagor's heirs, devisees, representatives, successors and assigns, and for any and all persons ever claiming any interest in the premises, to the extent permitted by law, hereby waives and releases all rights of redemption, valuation, appraisal, stay of execution, notice of election to mature or declare due the whole of the secured indebtedness and marshaling in the event of foreclosure of the liens hereby created. If any law referred to in this Section and now in force, of which Mortgagor, Mortgagor's heirs, devisees, representatives, successors and assigns or other person might take advantage despite this Section, shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to preclude the application of this Section. Mortgagor expressly waives and relinquishes any and all rights and remedies which Mortgagor may have or be able to assert by reason of the laws of the State of Alabama pertaining to the rights and remedies of sureties.

5.03 Limitation of Interest. It is the intent of Mortgagor and Mortgagee in the execution of this Mortgage and the Note and all other instruments securing the Note to contract in strict compliance with the usury laws of the State of Alabama governing the loan evidenced by the Note. In furtherance thereof, Mortgagee and Mortgagor stipulate and agree that none of the terms and provisions contained in the Loan Instruments shall ever be construed to create a contract for the use, forbearance or detention of money requiring payment of interest at a rate in excess of the maximum interest rate permitted to be charged by the laws of the State of Alabama governing the loan evidenced by the Note. Mortgagor or any guarantor, endorser or other party now or hereafter becoming liable for the payment of the Note shall never be liable for unearned interest on the Note and shall never be required to pay interest on the Note at a rate in excess of the maximum interest that may be lawfully charged under the laws of the State of Alabama and the provisions of this Section shall control over all other provisions of the Note and any other instrument executed in connection herewith which may be in apparent conflict herewith. In the event any holder of the Note shall collect monies which are deemed to constitute interest which would otherwise increase the effective interest rate on the Note to a rate in excess of that permitted to be charged by the laws of the State of Alabama, all such sums deemed to constitute interest in excess of the legal rate shall be immediately returned to the Mortgagor upon such determination.

5.04 Statements by Mortgagor. Mortgagor, within ten (10) days after being given notice by mail, will furnish to Mortgagee a written statement stating the unpaid principal of and interest on the Note and any other amounts secured by this Mortgage and stating whether any offset or defense exists against such principal and interest.

5.05 Captions. The captions or headings at the beginning of each Section hereof are for the convenience of the parties and not a part of the Mortgage.

5.06 Invalidity of Certain Provisions. If the lien of this Mortgage is invalid or unenforceable as to any part of the debt, or if the lien is invalid or unenforceable as to any part of the premises, 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 procedure, shall be considered to have been first paid of and applied to the full payment of that portion of the debt which is not secured or fully secured by the lien of this Mortgage.

5.07 Subrogation. To the extent that proceeds of the Note are used to pay any outstanding lien, charge or prior encumbrance against the premises, such proceeds have been or will be advanced by Mortgagee at Mortgagor's request and Mortgagee shall be subrogated to any and all rights and liens owned by any owner or holder of such outstanding liens, charges and prior encumbrances, irrespective of whether said liens, charges or encumbrances are released.

5.08 No Merger. If both the Lessor's and Lessee's estates under any lease or any portion thereof which constitutes a part of the premises shall at any time become vested in one owner, this Mortgage and Lien created hereby shall not be destroyed or terminated by application of the doctrine of merger and, in such event, Mortgagee shall continue to have and enjoy all of the rights and privileges of Mortgagee as to the separate estates. In addition, upon the foreclosure of the lien created by this Mortgage on the premises pursuant to the provisions hereof, any leases or subleases then existing and created by Mortgagor shall not be destroyed or terminated by application of the law of merger or as a matter of law or as a result of such foreclosure unless Mortgagee or any purchaser at any such foreclosure sale shall so elect. No act by or on behalf of Mortgagee or any such purchaser shall constitute a termination of any lease or sublease unless Mortgagee or such purchaser shall have given written notice thereof to such tenant or subtenant.

5.09 Conditional Transfer. These presents are made upon the condition that, if Mortgagor shall pay or cause to be paid to Mortgagee the principal and interest payable in respect to the Note, at the times and in the manner stipulated therein, all without any deduction or credit, and if Mortgagor shall keep, perform and observe all and singular the covenants and promises in the Note and this Mortgage to be kept, performed and observed by and on the part of Mortgagor, all without fraud or delay, then this Mortgage and all the properties, interest and rights hereby granted, bargained and sold shall cease, terminate and be void, but shall otherwise remain in full force and effect.

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ADDITIONAL PROVISIONS

6.01 Waiver of Deposits. Notwithstanding Paragraphs 1.04 and 1.08(e) above, Mortgagee hereby waives collection of the deposits for taxes and insurance, provided that record title to the Property remains unchanged, and, if the Property owner is a partnership, joint venture, trust, or corporation, the ownership and voting or controlling interest(s) of the present partners, joint venturers, trustors or trust beneficiaries, or shareholders, as appropriate, remains unchanged, taxes and assessments as well as regular monthly installments to interest and principal are current, and the loan is not otherwise in default. Notwithstanding the foregoing, Mortgagee reserves the right to require such deposits commencing at any time without regard to the status of the matters referred to in the preceding sentence.

6.02 Transfers by Mortgagor. In addition to the Events of Default listed in Paragraph 4.01 above, the sale or transfer by the Mortgagor of all or any part of its interest in the real estate secured hereby shall constitute an Event of Default hereunder; provided, however, that the following transfers by the Mortgagor, its successors and assigns, shall not constitute an Event of Default hereunder:

The sale or transfer of the partnership interest of The Meadows Partnership in the Mortgagor to an entity in which any wholly-owned subsidiary or sub-subsidiary of Daniel Realty Corporation, Fluor Real Estate Services, Inc., or Fluor Corporation is a general partner thereof, (the "New Entity"); provided, that the New Entity retains a 40% general partnership interest in said Mortgagor and that Paine Webber Income Properties Seven Limited Partnership retains a 60% general partnership interest in the Mortgagor; provided further that the New Entity has assets at least equal to the assets of the Mortgagor hereof, and that the principals in the New Entity retain the same ownership position as the principals in the Mortgagor; provided further that the New Entity assumes the Mortgagor's obligations to the extent set forth in the Note. Mortgagee has the right in its sole discretion to approve in writing the New Entity prior to said transfer. Mortgagor agrees to pay a processing fee equal to the then prevailing processing fee of the Mortgagee for the initial transfer, and to pay a processing fee of \$10,000 for any transfer subsequent to the initial transfer.

6.03 Secondary Financing. Mortgagor covenants and agrees that so long as the indebtedness secured by this Mortgage is outstanding, there will be no secondary financing, Mortgage or encumbrance with respect to the Mortgaged Property without Mortgagee's prior written approval. Mortgagee reserves the right to require modification of this Mortgage, the Note secured hereby, and all other loan documents executed in connection herewith, including an increase in the interest rate and a change in the maturity date hereof, as a condition to its consent to any secondary financing. Any violation of this covenant shall entitle Mortgagee, at its sole option, to accelerate the indebtedness secured hereby.

6.04 Rent Roll and Operating Statement. In addition to the financial statements set forth in section 1.19 herein, Mortgagor shall furnish annually to Mortgagee during the term of this Mortgage, certified rent rolls in form satisfactory to Mortgagee. Such rent rolls will be furnished within 120 days of the close of each operating year of Mortgagor. Mortgagor agrees to advise Mortgagee as to the commencement of its operating year within 60 days of the date hereof.

6.05 Compliance with Laws. Upon request of the Mortgagee, Mortgagor will furnish Mortgagee with evidence satisfactory to Mortgagee of compliance by Mortgagor with all Federal and State laws related to Mortgagor's structure, including, but not limited

to, Blue Sky laws and laws and regulations of the Federal and State Securities Exchange Commissions.

6.06 Solvency Certifications. In the event of any future advances hereunder, Mortgagee may, in its sole discretion, require that it be provided with satisfactory evidence that there is not pending against Mortgagor (or any party guaranteeing Mortgagee's loan or any principals of Mortgagor or such party, e.g., partners or principal stockholders a petition in bankruptcy, whether voluntary or otherwise, any assignment for the benefit of creditors, any petition seeking reorganization or arrangement under the bankruptcy or insolvency laws of the United States or of any state thereof, or any other action brought under any of the aforesaid bankruptcy or insolvency laws and that no order has been entered granting relief or approving a petition under any of the aforesaid laws, and if any such event shall arise hereafter Mortgagee's commitment shall thereupon terminate at the option of Mortgagee and Mortgagee shall thereupon be released from all its obligations thereunder.

6.07 Non-recourse. Notwithstanding any provision hereof or in any of the other Loan Instruments to the contrary, the liability of the undersigned with respect to the principal and interest due under the Note shall be "non-recourse", and in the event of any default hereunder, the Mortgagee may pursue such remedies as are available hereunder, or under the Note, or under the laws of the State of Alabama, to have the property serving as security for the indebtedness evidenced by the Note applied toward the satisfaction of such indebtedness, but following any such application, no deficiency judgment for any unsatisfied amount of principal and interest owed under the Note shall be rendered against the undersigned.

6.08 Fixture Filing. This Mortgage, Assignment of Rents, and Security Agreement constitutes a fixture filing under the Uniform Commercial Code as is in force under the State of Alabama.


6.09 Homestead. The Property secured hereby does not constitute homestead property of any of the Mortgagors under the laws of the State of Alabama.

IN WITNESS WHEREOF, the undersigned, as general partner of the Mortgagor, have executed this instrument on the day and year first above written.

Daniel Meadows Partnership,
a Virginia General Partnership

By: The Meadows Partnership, a
Virginia General Partnership
its General Partner

By: Daniel Realty Investment
Corporation - Meadows,
its General Partner

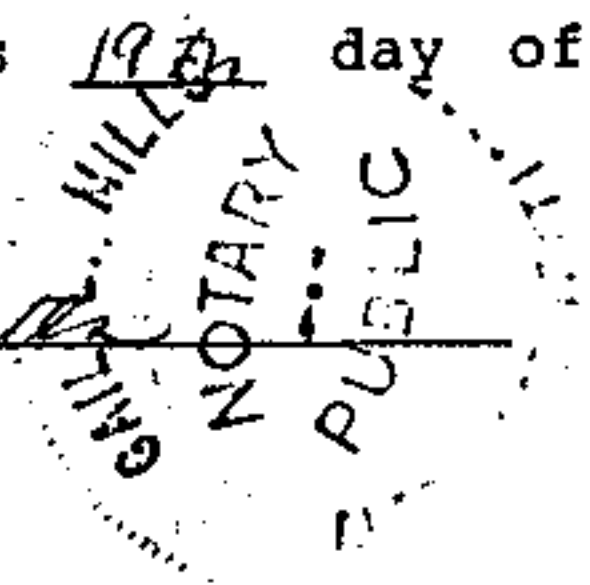
By: 
Its Daniel Realty Investment Corporation

STATE OF ALABAMA)
)
JEFFERSON COUNTY)

I, a notary public in and for said County in said State, hereby certify that Stephen E. Monk as vice president of Daniel Realty Investment Corporation, as general partner of The Meadows Partnership, as general partner of Daniel Meadows Partnership, a Virginia General Partnership, whose name is signed to the foregoing Mortgage, Assignment of Rents and Security Agreement, and who is known to me, acknowledged before me, that, being informed of the contents of this conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation, as general partner of The Meadows Partnership, as general partner of Daniel Meadows Partnership, a Virginia general partnership.

Given under my hand and official seal this 19th day of June, 1986.

Gail L. Miller
Notary Public



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EXHIBIT A

PARCEL I:

Description of a parcel of land situated in the Southeast Quarter of the Northwest Quarter of Section 31, Township 18 South, Range 1 West, Shelby County, Alabama, and being more particularly described as follows:

From the Southwest corner of said quarter-quarter section, run thence in a Northerly direction along the West line of said quarter-quarter section for a distance of 882.30 feet; thence turn an angle to the right of 91 degrees 17 minutes 06 seconds and run in an Easterly direction for a distance of 198.02 feet to the point of beginning of the parcel herein described; thence continue in an Easterly direction along the same course as before for a distance of 1001.66 feet; thence turn an angle to the right of 90 degrees and run in a Southerly direction for a distance of 307.97 feet to the beginning of a curve to the right, said curve to the right having a radius of 545.12 feet, and a central angle of 62 degrees 38 minutes 49 seconds and being concave to the Northwest; thence run along the arc of said curve in a Southerly to Southwesterly direction for a distance of 596.03 feet to the end of said curve; thence run in a Southwesterly direction tangent to said curve for a distance of 166.48 feet; thence turn an angle to the right of 26 degrees 18 minutes 34 seconds and run in a Westerly direction for a distance of 347.77 feet; thence turn an angle to the right of 63 degrees 41 minutes 26 seconds and run in a Northwesterly direction for a distance of 136.63 feet to the beginning of a curve to the right, said curve to the right having a radius of 1682.21 feet and a central angle of 17 degrees 35 minutes 45 seconds and being concave to the Northeast; thence run in a Northwesterly direction along the arc of said curve for a distance of 516.62 feet to end of said curve and the beginning of a second curve to the right, said second curve to the right having a radius of 537.13 feet and a central angle of 20 degrees and being concave to the East; thence run in a Northwesterly to Northerly direction along the arc of said curve for a distance of 187.49 feet to the end of said curve; thence run in a Northerly direction tangent to said curve for a distance of 80.52 feet to the point of beginning, being situated in Shelby County, Alabama.

PARCEL II:

Description of a parcel of land situated in the West Half of Section 31, Township 18 South, Range 1 West, Shelby County, Alabama; and being more particularly described as follows:

From the Northwest corner of the Northeast Quarter of the Southwest Quarter of said section run thence in an Easterly direction along the North line of said quarter-quarter section for a distance of 389.72 feet to the point of beginning of the parcel herein described; thence continue in an Easterly direction along the North line of said quarter-quarter section for a distance of 347.77 feet; thence turn an angle to the right of 153 degrees 41 minutes 26 seconds and run in a Southwesterly direction for a distance of 286.75 feet to the beginning of a curve to the right, said curve to the right having a radius of 25 feet, a central angle of 90 degrees and being concave Northward; thence run in a Westerly to Northwesterly direction along the arc of said curve for a distance of 39.27 feet to the end of said curve; thence run in a Northwesterly direction tangent to said curve for a distance of 129.14 feet to the point of beginning, being situated in Shelby County, Alabama.

Subject to the following:

1. Title to all minerals within and underlying the premises, together with all mining rights and other rights, privileges and immunities relating thereto as recorded in Deed Book 28, page 581, (affects NE 1/4 of SW 1/4) and Deed Book 32, Page 183 (affects SE 1/4 of NW 1/4), Shelby County, Alabama.

2. Right of way granted to Alabama Power Company in Real Book 41, Page 840, and Real Book 41, Page 863, in the Probate Office of Shelby County, Alabama, and Disclaimer by Alabama Power Company as recorded in Real Record 052, Page 634.

3. Restrictions appearing of record in Misc. Book 46, Page 718, Shelby County, Alabama (affects NE 1/4 of SW 1/4).

1. Deed Tax \$ _____
 2. Mtg. Tax 7,500.00
 3. Recording Fee 35.00
 4. Indexing Fee 1.00
 TOTAL 7,536.00

1986 JUN 19 PM 3:33

James O. Henderson, Jr.
 JUDGE PROBATE

STATE OF ALABAMA, SHELBY CO.
 INSTRUMENT NO. 1536

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