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This document prepared by:

John R. Parks, Esq.
Powell, Goldstein, Frazer
& Murphy
Suite 1050
400 Perimeter Center Terrace
Atlanta, Georgia 30346

STATE OF ALABAMA
COUNTY OF SHELBY

3,130,000.00

MORTGAGE
AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT made as of the 24th day of August, 1989 by and among SOUTHLAKE OFFICE ASSOCIATES, LTD., an Alabama limited partnership, whose address is c/o Cooper & Grelier Companies, Inc., 2204 Lakeshore Drive, Suite 200, Birmingham, Alabama 35209, (the "Borrower"); and THE CITIZENS AND SOUTHERN NATIONAL BANK, a national banking association chartered under the laws of the United States of America, whose principal place of business is 4 Northeast Center South, 2059 Northlake Parkway, Tucker, Georgia 30084, Attn.: Commercial Real Estate Department (the "Mortgagee");

W I T N E S S E T H :

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

TOGETHER with all buildings, structures and other improvements now or hereafter located on the property hereinbefore described, or any part and parcel thereof (the "Improvements"); and

TOGETHER with all rights, title and interest of the Borrower in and to the minerals, flowers, shrubs, crops, trees, timber and other emblements now or hereafter on said property or above the same or any part or parcel thereof; and

TOGETHER with all and singular the tenements, hereditaments, easements and appurtenances thereunto belonging or in any wise appertaining, and the reversion or reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, claim and demand whatsoever of the Borrower of, in and to the same and of, in and to every part and parcel thereof; and

TOGETHER with all contracts and agreements between the Borrower and others for the design, construction and inspection of the improvements now existing or hereafter built and erected on the property hereinbefore described, and Borrower's right, title and interest in and to all permits and licenses for the construction, utilization and operation for such improvements, including without limitation all building permits, variances and special use permits, agreements with and letters of assurance and

Land Title

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availability from providers of utilities, curb cut and other access permits, reports of soils exploration and testing, agreements with construction contractors, agreements with architects, and plans and specifications for such improvements; and

TOGETHER with all the Borrower's right, title, and interest in and to tradenames, trademarks, service marks, logos and goodwill now or hereafter used, reserved, or otherwise related to the Premises, as hereinafter defined; and

TOGETHER with all of Borrower's right, title and interest in and to all machinery, apparatus, equipment, fittings, fixtures, whether actually or constructively attached to said property and including all trade, domestic and ornamental fixtures, and articles of personal property of every kind and nature whatsoever (the "Personal Property"), now or hereafter located in, upon or under said property or any part thereof and used or usable in connection with any present or future operation of said property, whether now owned or hereafter acquired, including, but without limiting the generality of the foregoing, all heating, air-conditioning, freezing, lighting, laundry, incinerating and power equipment; engines; pipes; pumps; tanks; motors; conduits; switchboards; plumbing, lifting, cleaning, fire prevention, fire extinguishing, refrigerating, ventilating and communications apparatus; boilers, ranges, furnaces, oil burners or units thereof; appliances; air-cooling and air-conditioning apparatus; vacuum cleaning systems; elevators; escalators; shades; awnings; screens; storm doors and windows; stoves; wall beds; refrigerators; attached cabinets; partitions; ducts and compressors; rugs and carpets; draperies; furniture and furnishings in commercial, institutional and industrial buildings; all building materials and equipment now or hereafter delivered to said property and intended to be installed therein; and all additions to and replacements of all of the foregoing (the Borrower hereby agreeing with respect to all additions and replacements to execute and deliver from time to time such further instruments as may be requested by the Mortgagee to confirm the conveyance, transfer and assignment of any of the foregoing); and

TOGETHER with any and all rents which are now due or may hereafter become due by reason of the renting, leasing and bailment of property improvements thereon and Personal Property; and

TOGETHER with any and all awards or payments, including interest thereon, and the right to receive the same, 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, taking of, or decrease in the value of, the premises, to the extent of all amounts which may be secured by this deed at the date of receipt of any such award or payment by the Mortgagee and of the reasonable attorney's fees, costs and disbursements incurred by the Mortgagee in connection with the collection of such award or payment.

TO HAVE AND TO HOLD all the aforesaid property, property rights, contract rights, equipment and claims (all of which are collectively referred to herein as the "Premises") to the use, benefit and behoof of the Mortgagee, forever, and with respect to the Property and the Improvements, in FEE SIMPLE.

The Borrower warrants that it has good fee simple title to the Premises subject only to those matters more particularly described in Exhibit "B" attached hereto and made a part hereof (the "Permitted Exceptions"). The Borrower warrants that it is lawfully seized and possessed of the Premises and every part thereof, and has good right to sell and convey the Premises, as aforesaid; that the Premises are unencumbered except as may be herein expressly provided; and that the Borrower will forever warrant and defend the title to the Premises unto the Mortgagee against the claims of all persons whomsoever.

THIS MORTGAGE IS MADE AND INTENDED TO SECURE:

a. Payment of the indebtedness, with interest thereon, evidenced by that certain Real Estate Note dated even date herewith made by the Borrower to the order of the Mortgagee in the original principal amount of THREE MILLION ONE HUNDRED THIRTY THOUSAND AND NO/100 DOLLARS (\$3,130,000.00) (the "Note") 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 the Mortgagee to protect the Premises, with interest thereon at the Default Rate, as that term is defined in the Note; and

c. Performance of all obligations of any guarantor, all of the obligations of the Borrower contained in this Mortgage, and all obligations of the Borrower contained in the Note, and any other instrument given to evidence or further secure the payment and performance of any obligation secured hereby.

Notwithstanding anything to the contrary contained herein, the maximum principal amount of the debt secured hereby shall be \$3,130,000.00.

This Mortgage, the Note, any guaranty thereof, the Construction Loan Agreement of even date herewith, and any other instrument given to evidence or further secure the payment and performance of any obligation secured hereby may hereafter be collectively referred to as the "Loan Instruments."

TO PROTECT THE SECURITY OF THIS MORTGAGE, THE BORROWER HEREBY COVENANTS AND AGREES WITH AND UNTO THE MORTGAGEE AS FOLLOWS:

ARTICLE 1
COVENANTS AND AGREEMENTS

1.01 Payment of Secured Obligations. The Borrower covenants and agrees to pay when due the principal of, and the interest on, the indebtedness evidenced by the Note, all charges, fees and all other sums as provided in the Loan Instruments, and the principal of, and interest on, any past or future loans secured by this Mortgage.

1.02 Maintenance, Repair, Alterations. The Borrower further covenants and agrees to maintain 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 except as permitted in the Loan Instruments; 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; not to commit, suffer or permit any act to be done in or upon the Premises in violation of any law, ordinance or regulation; and not to take any action or omit to take any action which would cause any easement herein conveyed to be terminated.

1.03 Required Insurance. The Borrower further covenants and agrees 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 "all risk 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. The policies of insurance carried in accordance with this subparagraph (a) shall contain the "Replacement Cost Endorsement";

(b) After construction and occupancy, business interruption insurance and/or loss of "rental value" insurance in such amounts as are satisfactory to the Mortgagee;

(c) Comprehensive public liability insurance (including coverage for elevators and escalators, if any, on the Premises and, if any construction of new improvements on the Property occurs after execution of this Mortgage, completed operations coverage) 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 the Mortgagee with respect to personal injury or death to any one or more persons or damage to property;

(d) Workmen's compensation insurance (including employer's liability insurance, if requested by the Mortgagee) for all employees of the Borrower engaged on or with respect to the Premises in such amount as is reasonably satisfactory to the 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, in nonreporting form, covering the total value of work to be performed and equipment, supplies and materials to be 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 the 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 "all risk coverage"; and

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

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 the Borrower 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 the Borrower.

1.04 Delivery of Policies, Payment of Premiums. The Borrower further covenants and agrees that all policies of insurance shall be issued by companies and in amounts in each company satisfactory to the Mortgagee. All policies of insurance shall have attached thereto a lender's loss payable endorsement (without contribution) for the benefit of the Mortgagee in form satisfactory to the Mortgagee. The Borrower shall furnish the Mortgagee with an original policy of all policies of required insurance. If the Mortgagee consents to the Borrower's providing any of the required insurance through blanket policies carried by the Borrower and covering more than one location, then the Borrower shall furnish the 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, the Borrower shall furnish the Mortgagee with evidence satisfactory to the 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 the Mortgagee. In the event the Borrower fails to provide, maintain, keep in force or deliver and furnish to the Mortgagee the policies of insurance required by this Section 1.04, the Mortgagee may procure such insurance or single-interest insurance for such risks covering the Mortgagee's interest, and the Borrower will pay all premiums thereon promptly upon demand by the Mortgagee, and until such payment is made by the Borrower, the amount of all such premiums together with interest thereon at the rate of interest provided in the Note shall be secured by this Mortgage. At the request of the Mortgagee, the Borrower shall deposit with the 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 in order to accumulate with the Mortgagee sufficient funds to pay all of the aforesaid premiums thirty (30) days prior to their due date. The Borrower further agrees, upon the Mortgagee's request, to cause all bills, statements or other documents relating to the foregoing insurance premiums to be sent or mailed directly to the Mortgagee. Upon receipt of such bills, statements or other documents, and providing the Borrower has deposited sufficient funds with the Mortgagee pursuant to this Section 1.04, the Mortgagee shall pay

such amounts as may be due thereunder out of the funds so deposited with the Mortgagee. If at any time and for any reason the funds deposited with the Mortgagee are or will be insufficient to pay such amounts as may then or subsequently be due, the Mortgagee shall notify the Borrower, and the Borrower shall immediately deposit an amount equal to such deficiency with the Mortgagee. Notwithstanding the foregoing, nothing contained herein shall cause the 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 the Mortgagee pursuant to this Section 1.04. The Mortgagee may commingle said reserve with its own funds, and the Borrower shall be entitled to no interest thereon.

1.05 Insurance Proceeds.

(a) The Borrower covenants and agrees that after the happening of any casualty to the Premises or any part thereof, the Borrower shall give prompt written notice thereof to the Mortgagee. Mortgagee shall be entitled to receive all proceeds of insurance and shall disburse such proceeds in accordance with this Section 1.05.

(b) For purposes of this Mortgage the term "Major Lease" shall mean, that certain Lease dated June 26, 1989, between Cooper & Grelier Companies, Inc., as landlord (whose interest has been assigned to the Borrower), and Digital Equipment Corporation, as tenant.

In the event the Mortgagee receives any insurance proceeds due to a casualty to the Premises or any portion thereof, then the Mortgagee shall (after deducting all its expenses incurred in the collection and administration of such sums) make such proceeds available to Borrower for restoration and repair of the Premises, subject to the following provisions:

(i) there is no existing Event of Default, as hereinafter defined, under this Mortgage; and

(ii) the Major Lease shall remain in full force and effect (including the rental abatement provisions for a casualty as provided therein); and

(iii) a certificate of an architect or engineer of the Borrower's choice stating that the Premises are capable of being restored to substantially the same condition as existed prior to the damage, within the times and to the extent (as to the entire Premises) required by the Major Lease, and no less than ninety (90) days prior to the Maturity Date (as that term is defined in the Note) and stating the estimated cost of such restoration; and

(iv) funds in the amount of the difference between the insurance proceeds derived as a result of such damage to the Premises and the estimated cost of restoration set forth in the certificate of such architect or engineer are forthwith deposited with the Mortgagee.

In the event of restoration of the Premises, the Mortgagee shall disburse such proceeds and the additional amounts deposited for application to the cost of the restoration in accordance with the procedures set forth in the Construction Loan Agreement, as hereinafter described, for disbursement of the loan proceeds for construction of the Premises.

To the extent such insurance proceeds are not required by the Major Lease to be made available for restoration and repair, or in the event any of clauses (i), (ii), (iii) or (iv) are not met, the Mortgagee shall have the right, in its sole discretion, to apply all or part of the insurance proceeds to the indebtedness secured by this Mortgage, or to restoration and repair of the Premises or to the Borrower, but the Mortgagee shall not be obligated to see to the proper application of any amount paid over to the Borrower.

In the event such proceeds of insurance shall be payable to the Mortgagee, the Mortgagee is hereby authorized and empowered by the Borrower to settle, adjust or compromise any claims for loss, damage or destruction under any policy or policies of insurance, provided, however, that should the Borrower satisfy all conditions to the right of the Borrower to cause such proceeds to be applied in the restoration of the Premises, the Mortgagee will not settle any such claims without the prior written consent of the Borrower, which will not be unreasonably withheld or delayed.

The application or release by the 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.

(c) In the event of any loss or damage, and such proceeds are not made available to the Borrower for failure to comply with Section 1.05(b), the Mortgagee is hereby authorized and empowered by the Borrower, after reasonable consultation with the Borrower, to settle, adjust or compromise any claims for loss, damage or destruction under any policy or policies of insurance; provided, however, no Event of Default (as hereinafter defined) exists.

(d) Except to the extent that insurance proceeds are received by the Mortgagee and applied to the indebtedness secured hereby, nothing herein contained shall be deemed to excuse the Borrower 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 the 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 the Borrower in and to all policies of insurance required by this Mortgage shall inure to the benefit of, and pass to the successor in interest of, the Mortgagee or the purchaser or grantee of the Premises.

1.07 Indemnification; Subrogation; Waiver of Offset.

(a) If the 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 the Borrower, then the Borrower shall indemnify, defend and hold the Mortgagee harmless from all liability by reason of said litigation except matters arising from the gross negligence or wilful misconduct of

Mortgagee, including reasonable attorneys' fees and expenses incurred by the Mortgagee in any such litigation, whether or not any such litigation is prosecuted to judgment. If the Mortgagee commences an action to enforce any of the terms hereof or because of the breach by the Borrower of any of the terms hereof, or for the recovery of any sum secured hereby, the Borrower shall pay to the Mortgagee reasonable attorneys' fees and expenses, and the right to such reasonable out-of-pocket 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. Upon the occurrence of any Event of Default under this Mortgage, the Mortgagee may employ an attorney or attorneys to protect its rights hereunder, and in the event of such employment following any such Event of Default, the Borrower shall pay the Mortgagee reasonable out-of-pocket attorneys' fees and expenses incurred out-of-pocket by the Mortgagee, whether or not any action is actually commenced against by reason of such Event of Default.

(b) All sums payable by the Borrower to the Mortgagee shall be paid without notice, demand or deduction and without abatement, suspension, deferment, diminution or reduction, and the obligations and liabilities of the Borrower 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; or (iv) any other occurrence whatsoever, whether similar or dissimilar to the foregoing; whether or not the Borrower shall have notice or knowledge of any of the foregoing.

1.08 Taxes and Impositions.

(a) The Borrower agrees to pay, 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 any at the option of the taxpayer be paid, in installments, the Borrower 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 the Borrower pursuant to subparagraph (a) hereof, or (ii) a license fee, tax or assessment imposed on this Mortgage or the 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 the Borrower shall pay and discharge the same as herein provided with respect to the payment of Impositions or, at the option of the Mortgagee, all obligations secured hereby together with all accrued interest thereon, shall immediately become due and payable. Anything to the contrary herein notwithstanding, the Borrower shall have no obligation to pay any franchise, estate, inheritance, income, excess profits or similar tax levied on the Mortgagee or on the obligations secured hereby.

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

(d) the Borrower 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 the Borrower's covenant to pay any such Imposition at the time and in the manner provided in this Section 1.08, unless the Borrower has given prior written notice to the Mortgagee of the Borrower's intent to so contest or object to an Imposition, and unless, at the Mortgagee's sole option, (i) the Borrower shall demonstrate to the Mortgagee's reasonable 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) the Borrower shall furnish a good and sufficient bond or surety as requested by and reasonably satisfactory to the Mortgagee; or (iii) the Borrower shall have provided 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 the Mortgagee, the Borrower shall pay to the 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 the Mortgagee to pay the installment of taxes next due on the Premises in order to accumulate with the Mortgagee sufficient funds to pay the annual Impositions thirty (30) days prior to their due date. In such event the Borrower further agrees to cause all bills, statements or other documents relating to Impositions to be sent or mailed directly to the Mortgagee. Upon receipt of such bills, statements or other documents, and provided the Borrower has deposited sufficient funds with the Mortgagee pursuant to this Section 1.08, the Mortgagee shall pay such amounts as may be due thereunder out of the funds so deposited with the Mortgagee. If at any time and for any reason the funds deposited with the Mortgagee are or will be insufficient to pay such amounts as may then or subsequently be due, the Mortgagee shall notify the Borrower and the Borrower shall immediately deposit an amount equal to such deficiency with the Mortgagee. Notwithstanding the foregoing, nothing contained herein shall cause the 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 the Mortgagee pursuant to this Section 1.08. The Mortgagee shall not be obliged to pay or allow any interest on any sums held by the Mortgagee pending disbursement or application hereunder, and the Mortgagee may impound or reserve for future payment of Impositions such portion of such payments as the Mortgagee may in

its absolute discretion deem proper, applying the balance on the principal of or interest on the obligations secured hereby. Should the Borrower fail to deposit with the Mortgagee (exclusive of that portion of said payments which has been applied by the 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, the Mortgagee may, at the 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 the Mortgagee as herein provided, or at the option of the Mortgagee the latter may, without making any advance whatever apply any sums held by it upon any obligation secured hereby. Should any default occur or exist on the part of the Borrower in the payment or performance of any of the Borrower's and/or any guarantor's obligations under the terms of the Loan Instruments, the Mortgagee may, at any time at the Mortgagee's option, apply any sums or amounts in its hands received pursuant hereto, (including, without limitation, sums received pursuant to Section 1.04 and this Section 1.08(e)) or as rents or income of the Premises or otherwise, upon any indebtedness or obligation secured hereby in such manner and order as the Mortgagee may elect. The receipt, use or application of any such sums paid to the 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 the Mortgagee under the terms of the Loan Instruments or any of the obligations of the Borrower and/or any guarantor under any Loan Instrument.

(f) The Borrower covenants and agrees not to initiate or consent to the joint assessment of the Property, Personal Property, or Improvements or permit or consent to 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.

1.09 Utilities. The Borrower further covenants and agrees to pay when due all utility charges which are incurred 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 Actions Affecting Premises. The Borrower further covenants and agrees to appear in and contest any action or proceeding purporting to affect the security hereof or the rights or powers of the Mortgagee and to pay all costs and expenses, including cost of evidence of title and reasonable attorneys' fees, in any such action or proceeding in which the Mortgagee may appear.

1.11 Actions by the Mortgagee to Preserve Premises. The Borrower further covenants and agrees that should the Borrower fail to make any payment or to do any act as required, and in the manner provided, in any of the Loan Instruments, the Mortgagee in its own discretion, without obligation to do so and without notice to or demand upon the Borrower and without releasing the Borrower from any obligation, may make or do the same in such manner and to such extent as it may deem necessary to protect the security hereof. In connection therewith (without limiting its general powers), the 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 the Mortgagee; (iv) to pay, purchase, contest or compromise any encumbrance, claim, charge, lien or debt which in the judgment of the 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. The Borrower shall immediately upon demand therefor by the Mortgagee, pay all costs and expenses incurred by the Mortgagee in connection with the exercise by the Mortgagee of the foregoing rights, including without limitation costs of evidence of title, court costs, appraisals, surveys and reasonable out-of-pocket attorneys' fees as provided in the Note.

1.12 Survival of Warranties. The Borrower further covenants and agrees to fully and faithfully satisfy and perform the obligations of the Borrower contained in the Loan Instruments and any modification or amendment thereof. All representations, warranties and covenants of the Borrower contained in the Loan Instruments or incorporated by reference shall survive the closing and funding of the loan evidenced by the Note and shall remain continuing obligations, warranties and representations of the Borrower during any time when any portion of the obligations secured by this Mortgage remain outstanding.

1.13 Eminent Domain. The Borrower covenants and agrees 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 the Borrower receive any notice of other information regarding such proceeding, the party receiving such notice shall give prompt written notice thereof to the Mortgagee.

The Mortgagee shall be entitled to all compensation, awards and other payments or relief therefor, except as hereinafter provided, and shall be entitled at its option to commence, appear in and prosecute in its own name any action or proceedings; provided, however, Mortgagee agrees to confer with Borrower so long as no Event of Default (as hereinafter defined) exists. The 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 the Borrower (the "Proceeds") are hereby assigned to the Mortgagee, and the Borrower agrees to execute such further assignments of the Proceeds as the Mortgagee may require.

In the event Mortgagee receives any Proceeds, Mortgagee shall have the right, in its sole discretion, to apply all or part of the award or payment to the indebtedness secured hereby, or to restoration and repair of the Premises or to the Borrower but Mortgagee shall not be obligated to see to the proper application of any amount paid over to the Borrower.

1.14 Additional Security. The Borrower further covenants and agrees that in the event the 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, concurrently herewith, or after a sale is made hereunder.

1.15 Successors and Assigns. The Borrower further covenants and agrees 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 "the Mortgagee" shall mean the owner and holder of the Note, whether or not named as the Mortgagee herein.

1.16 Inspections. The Borrower further covenants and agrees that the 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.

1.17 Liens. The Borrower further covenants and agrees to pay and promptly discharge, at the Borrower'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 and if such contract does not postpone payment for more than 55 days after the performance thereof. The Borrower shall have the right to contest in good faith the validity of any such lien, encumbrance or charge, provided the Borrower shall first deposit with the Mortgagee a bond or other security reasonably satisfactory to the Mortgagee in such amounts as the Mortgagee shall reasonably require, but not more than two hundred (200%) percent of the amount of the claim, and provided further that the Borrower shall thereafter diligently proceed to cause such lien, encumbrance or charge to be removed and discharged. If the Borrower shall fail to discharge any such lien, encumbrance or charge, then, in addition to any other right or remedy of the Mortgagee, the 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 or the amount claimed or otherwise giving security for such claim, or in such manner as is or may be prescribed by law.

1.18 No Waiver of One Default to Affect Another. No waiver of any Event of Default hereunder shall extend to or affect any subsequent or any other Event of Default then existing, or impair any rights, powers or remedies consequent thereon. If the Mortgagee either with or without notice to or the consent of the Borrower (any right to such notice or consent being hereby expressly waived), (a) grants forbearance or an extension of time for the payment of any of the indebtedness secured hereto; (b) takes other or additional security for the payment thereof; (c) waives or does not exercise any right granted in the Note, this instrument or any other instrument securing the Note; (d) releases any part of the Premises from the lien of this instrument, or any other instrument securing the Note, or; (e) consents to the filing of any map, plat or replat of the Property; (f) consents to the granting of any easement on the Property; or (g) makes or consents to any agreement changing the terms of this instrument or subordinating the lien or any charge hereof, no such act or omission shall release, discharge, modify, change or affect the original liability under the Note, or the validity or enforceability of this Mortgage or the obligations of the Borrower hereunder, or any subsequent purchaser of the Premises or any part thereof or any maker, co-signer, endorser, surety or guarantor. No such act or omission shall preclude the Mortgagee from exercising any right, power or privilege herein

granted or intended to be granted in case of any Event of Default then existing or of any subsequent Event of Default nor, except as otherwise expressly provided in an instrument or instruments executed by the Mortgagee, shall the lien of this Mortgage be altered thereby. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Premises, the Mortgagee without notice to any person, firm or corporation, is hereby authorized and empowered to deal with any such vendee or transferee with reference to the Premises or the indebtedness secured hereby, or with reference to any of the terms or conditions hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any of the liabilities or undertakings hereunder.

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

1.20 Financial Statements. The Borrower shall deliver to the Mortgagee, at any time within thirty (30) days after notice and demand by the Mortgagee but not more frequently than once per month, (i) a statement in such reasonable detail as the Mortgagee may request, certified by a general partner of the Borrower, of the leases relating to the Premises, and (ii) a statement in such reasonable detail as the Mortgagee may request, certified by a general partner of the Borrower (provided, however, if an Event of Default, as hereinafter defined, exists, the Mortgagee may, upon demand, require certification from a certified public accountant satisfactory to the Mortgagee), of the income from and expenses of any one or more of the following: (a) the conduct of any business on the Premises, (b) the operation of the Premises, or (c) the leasing of the Premises or any part thereof, for the last twelve (12) months calendar period prior to the giving of such notice, and, on demand, the Borrower shall furnish to the Mortgagee executed counterparts of any such leases and convenient facilities for the audit and verification of any such statement.

1.21 Transfer of Property. The Borrower shall not sell, convey, transfer, or further encumber any of its interest in or any part of the Premises, without the prior written consent of the Mortgagee except for the sale and replacement of personal property in the normal course of business.

1.22 Further Assurances. At any time and from time to time, upon the Mortgagee's request the Borrower shall make, execute and deliver or cause to be made, executed and delivered to the Mortgagee and, where appropriate, shall cause to be recorded or filed, from time to time, in such offices and places as shall be deemed desirable by the Mortgagee any and all such further mortgages, instruments of further assurance, certificates and other documents as the Mortgagee may consider necessary or desirable in order to effectuate, complete, enlarge or perfect, or to continue and preserve the obligations of the Borrower under the Note and this Mortgage, and the lien of this Mortgage as a first and prior lien upon all of the Premises (subject to the Permitted Exceptions), whether now owned or hereafter acquired by the Borrower.

1.23 After Acquired Property. The lien of this Mortgage will automatically attach, without further act, to all after acquired real or personal property located in or on, appurtenant to or attached to, or used or intended to be used in connection with or with the operation of, the Premises or any part thereof.

ARTICLE II ASSIGNMENT OF RENTS, ISSUES AND PROFITS

2.01 Assignment of Rents. The Borrower hereby assigns and transfers to the Mortgagee all the rents, issues and profits of the Premises, and hereby gives to and confers upon the Mortgagee the right, power and authority to collect such rents, issues and profits. The Borrower irrevocably appoints the Mortgagee its true and lawful attorney-in-fact, at the option of the 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 the Borrower or the Mortgagee, for all such rents, issues and profits and apply the same to the indebtedness secured hereby; provided, however, that the Borrower 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 the Borrower to the Mortgagee and not merely the passing of a security interest. The rents, issues and profits are hereby assigned absolutely by the Borrower to the 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, and after expiration of any applicable cure period hereinafter set forth, without cure, the 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, and 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 the 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. The Borrower agrees to assign and transfer to the 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 the Mortgagee, all such further assurances and assignments in the Premises as the Mortgagee shall from time to time require. The Borrower expressly covenants and agrees that if the Borrower, as lessor under any lease so assigned, shall fail to perform and fulfill any term, covenant, condition or provision under any such lease at the times and in the manner in any such lease provides, or if the Borrower shall suffer or permit to occur any breach or default in any such lease 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.

The Borrower hereby authorizes the Mortgagee to pay any sums in any form or manner deemed expedient by the Mortgagee to cure any breach or violation under the Lease as defined in that certain Assignment of Lessor's Interest in Lease of even date by the Borrower in favor of the Mortgagee, with notice by the Mortgagee to the Borrower where practicable, and to rely on any representations and statements of the Lessees of the Lease in regard to such breach or violation. Any such sums may be expended by the Mortgagee without inquiry into the accuracy or validity of the allegation of breach or violation. Any amounts so expended shall bear interest at the Default Rate, as that term is defined in the Note, shall be added to and become a part of the Secured Indebtedness and shall be immediately due and payable to the Mortgagee.

2.04 The Mortgagee's Right of Possession in Case of Default. In any case in which under the provisions of this Mortgage, the 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 the Mortgagee, the Borrower shall surrender to the Mortgagee, and the Mortgagee shall be entitled to take actual possession of, the Premises or any part thereof personally, or by its agent or attorneys. In such event the Mortgagee in its discretion may, with or without force and with or without process of law, enter upon, take, and maintain possession of all or any part of said Premises, together with all documents, books, records, papers and accounts of the Borrower or then owner of the Premises relating thereto, and may exclude the Borrower, or its agents or servants, wholly therefrom and may as attorney-in-fact or agent of the Borrower, or in its own name as the 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 the Borrower to cancel the same;

(b) to elect to disaffirm any lease or sublease which is then subordinate to the lien of this Mortgage (except to the extent the Mortgagee has executed a non-disturbance agreement);

(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 secured hereby 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 the Borrower and all persons whose interests in the Premises are subject to the interest created by this Mortgage and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the indebtedness secured by this Mortgage,

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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 the 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 one of the rights, privileges and powers herein granted at any and all times hereafter, without notice to the Borrower.

The 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. The Borrower shall and does hereby agree to indemnify and hold the 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, except for matters arising from the Mortgagee's gross negligence or wilful neglect. Should the 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 the Borrower shall reimburse the Mortgagee therefor immediately upon demand.

2.05 Application of Income Received by the Mortgagee. The Mortgagee, in the exercise of the rights and powers hereinabove conferred upon it by Section 2.01 through 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 the Mortgagee may determine:

(a) to the payment of the operating expenses of the Premises, including cost of management and leasing thereof (which shall include reasonable compensation to the 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;

(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 the Mortgagee, make it readily rentable; and

(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. The Borrower hereby grants to the Mortgagee a security interest in the Personal Property located on or at the Property, including without limitation any and all property of similar type or kind hereafter located on or at the Property for the purpose of securing all obligations of the Borrower contained in any of the Loan Instruments.

3.02 Warranties, Representations and Covenants of the Borrower. The Borrower warrants, represents and covenants as follows:

(a) Except for the security interest granted hereby, the Borrower 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, except for the Permitted Exceptions. The Borrower will notify the 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) The Borrower will not lease, sell, convey or in any manner transfer the Personal Property without the prior written consent of the Mortgagee, except as hereinafter provided.

(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 the Borrower will not remove the Personal Property from the Property without the prior written consent of the 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 the Borrower.

(e) At the request of the Mortgagee, the Borrower will join the 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 the Mortgagee and will pay the cost of filing the same in all public offices wherever filing is deemed by the Mortgagee to be necessary or desirable.

(f) All covenants and obligations of the Borrower contained herein relating to the Premises shall be deemed to apply to the Personal Property whether or not 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 "Obligor" shall mean any one or more of the Borrower, the Borrower's successors and assigns, Carter L. Cooper, currently residing in Jefferson County, Alabama, Charles Grelier, currently residing in Jefferson County,

Alabama, Charles A. Schilleci, currently residing in Jefferson County, Alabama, Lawrence J. Lemak, currently residing in Jefferson County, Alabama, any owner or owners of legal title to the Premises or any part thereof, from time to time, and the beneficiaries of any trust or agency which may own such legal title from time to time.

This Mortgage is made upon the condition that if the Borrower pays the indebtedness evidenced by the Note and all other indebtedness owing by the Borrower to the Mortgagee and reimburses the Mortgagee for any amounts the Mortgagee has paid in respect of liens and insurance premiums, and interest thereon, and fulfills all of its other obligations under this Mortgage, this conveyance shall be null and void; provided, however, the Borrower shall be deemed in default hereunder upon the occurrence of any of the following "Events of Default".

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 under the Note or any other sum secured hereby when due; or

(b) Any Obligor 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 Obligor 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 any Obligor 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 thirty (30) 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 any Obligor and such appointment shall remain unvacated and unstayed for an aggregate of thirty (30) 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 any Obligor 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 thirty (30) days after its entry or levy; or

(e) The Borrower shall sell, transfer, encumber or otherwise convey any interest in the Premises or any portion thereof without the prior consent of the Mortgagee; or

(f) Any warranty or representation of the Borrower herein contained or contained in any of the other Loan Instruments shall prove untrue or misleading in any material aspect; or

(g) Any claim of priority to this Mortgage by title, lien or otherwise shall be asserted in any legal or equitable proceeding which remains unsatisfied or unbonded; or

(h) The Borrower shall fail to keep, observe, perform, carry out and execute in every particular the covenants, agreements, obligations and conditions set out in this Mortgage to be performed by it, or the Borrower shall fail to keep, observe, perform, carry out and execute in every particular the covenants, agreements, obligations and conditions set out in any of the Loan Instruments; or

(i) The Borrower shall violate any material provision of the Lease as defined in that certain Agreement of Lessor's Interest in Lease by the Borrower in favor of the Mortgagee of even date with respect to the Premises.

4.02 Acceleration Upon Default, Additional Remedies. In any Event of Default, the 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 the Mortgagee may:

(a) 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 thereof 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, the 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;

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

(c) 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 the Borrower and all

others claiming under the Borrower, 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 the Borrower in respect to the Personal Property or any part thereof. In the event the Mortgagee demands or attempts to take possession of the Personal Property in the exercise of any rights under any of the Loan Instruments, the Borrower promises and agrees to promptly turn over and deliver complete possession thereof to the Mortgagee;

(2) Without notice to or demand upon the Borrower, make such payments and do such acts as the 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 the Borrower to assemble the Personal Property or any portion thereof, at a place designated by the Mortgagee and reasonably convenient to both parties, and promptly to deliver such Personal Property to the Mortgagee, or an agent or representative designated by it. The Mortgagee, and its agents and representatives, shall have the right to enter upon any or all of the premises and property of the Borrower to exercise the 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 the Mortgagee may determine. The 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, the Mortgagee shall give the Borrower 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 the Borrower at the address set forth at the beginning of this Mortgage.

4.03 Foreclosure; Expense of Litigation. When the indebtedness hereby secured, or any part thereof, shall become due, whether by acceleration or otherwise, the 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 the 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, the Mortgagee, or any person conducting the sale for the Mortgagee, is authorized to execute to the purchaser at said sale a deed to the Premises so purchased. The 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 the Mortgagee may elect. In any such foreclosure, any

suit for a deficiency judgment, or upon the enforcement of any other remedy of the 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 the Mortgagee for attorneys' 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 the Mortgagee in any litigation or proceeding affecting this Mortgage, the Note or the Premises, including probate and bankruptcy proceedings, or in preparations for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by the Borrower, with interest thereon at the Default Rate, as that term is defined in the Note, 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 of priority; First, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in the preceding Section 4.03; Second, all other items which under the terms hereof constitute secured 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 overage to the Borrower, its successors or assigns, as its rights may appear.

4.05 Appointment of Receiver. The Mortgagee shall be entitled, upon or at any time after the commencement of any proceedings instituted upon the occurrence of an event of default hereunder, as a matter of strict right, upon the order of any court of competent jurisdiction, to the appointment of 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 the Borrower 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 the Mortgagee hereunder or any holders hereof may be appointed as such receiver. Such receiver shall have power (a) to collect the rents, issues and profits of the Premises; (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; 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. The court from time to time may authorize the receiver to apply the net income in its hands in payment in whole or part of (i) the indebtedness secured hereby, or any tax, special assessment or other lien which may be or become superior to the lien of this Mortgage or of such decree, provided such application is made prior to foreclosure sale; and (ii) the deficiency in case of a sale and deficiency.

4.06 Remedies Not Exclusive. The 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 of 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 the Mortgagee's right to realize upon or enforce any other security now or hereafter held by the Mortgagee, it being agreed that the Mortgagee, shall be entitled to enforce this Mortgage and any other security now or hereafter held by the Mortgagee in such order and manner as it may in its absolute discretion determine. No remedy herein conferred upon or reserved to the 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 the 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 the Mortgagee, and the Mortgagee may pursue inconsistent remedies.

4.07 Giving of Notice. All notices and other communications to the Borrower or the Mortgagee shall be personally delivered (or sent via overnight commercial courier service) or mailed by first class registered or certified mail, return receipt requested, postage prepaid, addressed to the party to be notified at the address set forth on the first page of this Mortgage. Either of the parties hereto may change the address to which notices shall be sent by giving written notice of such change to the other party in the manner herein provided. All notices shall be effective and given on the earlier of: three (3) days after deposit in United States mails (postage prepaid), properly addressed, or upon personal delivery to the proper address. An affidavit executed by the Mortgagee, or an officer of the Mortgagee, as to the date of deposit shall be conclusive evidence of such date as to notice given by the Mortgagee.

ARTICLE V MISCELLANEOUS

5.01 Governing Law. The performance required by this instrument shall, insofar as is possible, be rendered to the Mortgagee at the main office of The Citizens and Southern National Bank in Atlanta, Georgia. The Borrower and the Mortgagee intend that the validity and construction of the obligations secured by this instrument be governed by the laws of the State of Georgia, provided that the enforcement of this Mortgage shall be governed by the laws of the State of Alabama. Should any obligation or remedy under this instrument be invalid or unenforceable under the laws provided herein to govern, then the laws of another state whose laws can validate and apply to this instrument shall apply. 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 Waiver of Rights. The Borrower 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 the Borrower may do so, the Borrower agrees that it will never 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 (to the extent allowed by applicable law), and the Borrower, for itself, its 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 (to the extent allowed by applicable law), 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 the Borrower, or its 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. The Borrower, expressly waives and relinquishes any and all rights and remedies which it has or may be able to assert by reason of the laws of the State of Alabama pertaining to the rights and remedies of sureties.

5.03 Rate of Interest. In no event shall the amount of interest (including any prepaid interest or other charges or fees held to be interest by a court of competent jurisdiction) payable under the Note exceed the highest contract rate of interest allowed by applicable law for the time such indebtedness shall be outstanding and unpaid and if by reason of the acceleration of maturity of the indebtedness secured thereon, or any any other reason, interest in excess of such highest legal rate shall be due and paid, any such excess shall operate to reduce such principal by the amount of such excess, or if in excess of the principal indebtedness, such excess shall be waived or refunded to the party entitled thereto. It is the express intent hereof that the undersigned not pay and holder of the Note not receive, directly or indirectly in any manner whatsoever, interest in excess of that which may be legally paid under applicable law.

5.04 Statements by the Borrower. The Borrower, within ten (10) days after being given notice by mail, will furnish to the Mortgagee a written statement stating whether, to its knowledge, any offset or defense exists against any obligation hereunder or the validity or enforceability of this Mortgage.

5.05 Captions. The captions or headings at the beginning of each Section hereof are for the convenience of the parties and are not a part of this 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 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 on 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 shall be deemed to be advanced by the Mortgagee at the request of the Borrower and the 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. 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 the the Borrower 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 the Mortgagee or any purchaser at any such foreclosure sale shall so elect. No act by or on behalf of the Mortgagee or any such purchaser shall constitute a termination of any lease or sublease unless the Mortgagee or such purchaser shall give written notice thereof to such tenant or subtenant.

5.09 Environmental Warranty and Indemnity. To the best of the Borrower's knowledge, the Borrower warrants to the Mortgagee that (i) the Premises are free from any and all hazardous or toxic substances, pollutants, contaminants (collectively "Hazardous Materials"), defined as hazardous wastes or substances under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. §6903 et seq., and all other federal, state and local laws, rules and regulations pertaining to environmental protection or conservation; (ii) that the Premises do not constitute an environmental hazard of any type under federal, state or local laws, rules or regulations; (iii) that there are no surface impoundments, lagoons, piles, landfills, injection wells, underground storage areas or other man-made facilities on the Premises which have accommodated Hazardous Materials; and (iv) that there has been no treatment, storage, disposal, discharge or other type of release of Hazardous Materials on land adjacent or near to the Premises which may constitute a risk of contamination of the Premises or of surface or ground water flowing to the Premises. The Borrower agrees to indemnify and defend the Mortgagee and to hold the Mortgagee harmless from and against any and all claims, demands, suits, losses, damages, assessments, fines, penalties, costs and other expenses (together with all attorneys' fees and court costs related thereto) arising from or in any manner related to the actual or asserted existence, use, generation, release, storage or disposal of Hazardous Materials on, or from, the Premises, except as to matters arising from the gross negligence or wilful misconduct of the Mortgagee. The warranties and agreements set forth in this Section 5.09 shall survive the payment of the indebtedness secured by this Mortgage and shall not be extinguished thereby.

5.10 Cancellation of Mortgage. When the indebtedness hereby secured shall have been fully paid to the Mortgagee and all covenants herein to be performed shall have been fully performed, the Mortgagee shall cause the lien of this Mortgage to be satisfied, discharged and cancelled of record, at the cost and expense of the Borrower.

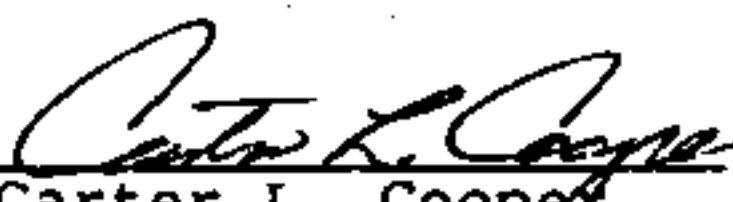
5.11 Notice and Right to Cure. Notwithstanding anything to the contrary herein contained or contained in the Note or the

other Loan Instruments the Borrower agrees that it will not accelerate the maturity of the indebtedness secured by this Mortgage and will not exercise any of its other rights and remedies hereunder or under the other Loan Instruments unless the Mortgagee has first mailed written notice of an Event of Default to the Borrower, to the address of the Borrower set forth in the Construction Loan Agreement, and unless the Borrower has failed to cure such default within the times hereinafter permitted. If such default is a monetary default (i.e., may be cured by the payment of a sum certain), the Borrower shall have a period of ten (10) days within which to cure such default. If such default is not a monetary default, the Borrower shall have a period of thirty (30) days within which to cure such default. Each of the cure periods herein set forth shall commence on the date of the mailing of such notice by the Mortgagee to the Borrower. Notwithstanding the foregoing, after the occurrence of three (3) defaults by the Borrower (whether of a monetary or non-monetary nature), with written notice from the Mortgagee, the Mortgagee shall not be obligated to give any further notice of default to the Borrower. The agreements set forth in this Article do not and shall not be deemed to prevent or prohibit the Mortgagee from withholding any further advances under the Construction Loan Agreement, following the occurrence of a default, until and unless such default shall have been cured. Further, the agreements set forth in this Section 5.11 shall not apply to any default of the type described in subparagraphs (b), (c) and (e) of Section 4.01 of this Mortgage.

IN WITNESS WHEREOF, the undersigned has caused this Mortgage to be duly executed and sealed as of the day and year first above written.

SOUTHLAKE OFFICE ASSOCIATES, LTD.,
an Alabama limited partnership

By: Charter Investments, an
Alabama general partnership,
Authorized General Partner

By:  (SEAL)
Carter L. Cooper,
Authorized General
Partner

- BORROWER -

BOOK 253 PAGE 267

ACKNOWLEDGEMENT OF BORROWER

STATE OF GEORGIA

COUNTY OF DEKALB

I, the undersigned, a notary public in and for said County in said State, do hereby certify that Carter L. Cooper, an authorized general partner of Charter Investments, an Alabama general partnership, the general partner of Southlake Office Associates, Ltd., an Alabama limited partnership, whose name is signed to the foregoing instrument, and who is known to me and is known by me to be such partner, acknowledged before me on this day, being informed of the contents of said instrument, that he, in his capacity as aforesaid, and with full authority, executed the same voluntarily for and as the act of the said Southlake Office Associates, Ltd., an Alabama limited partnership.

Given under my hand and seal of office, this 24th day of August, 1989.

Emily G. Vogel
Notary Public

My Commission Expires:

Emily G. Vogel
Notary Public, Fulton County, Georgia

~~My Commission Expires April 22, 1992~~

[IMPRESS NOTARIAL SEAL]

BOOK 253 PAGE 268

All that tract or parcel of land lying and being in the City of Hoover, Shelby County, Alabama and being Lot 1, according to the Survey of Southlake Office Park as recorded in Map Book 13, Page 97 in the Probate Office of Shelby County, Alabama.

TOGETHER WITH certain ingress-egress and storm water drainage easements on, over and across certain property located immediately south of, and contiguous with, said Lot 1, as set forth in Easement Agreement recorded in Volume 253, Page 236, in the Probate Office of Shelby County, Alabama.



AGCH 253 PAGE 269

EXHIBIT "A"

EXHIBIT "B"

1. All taxes for the year 1989 and subsequent years not yet due and payable.
2. Right of way for Alabama Power Company as recorded in Volume 129, Page 572; Volume 216, Page 103 and Volume 219, Page 734 in the Probate Office of Shelby County, Alabama.
3. Mineral and mining rights and rights incident thereto recorded in Volume 127, Page 140, aforesaid records.
4. 35-foot building line on east side of subject property as shown on Map Book 13, Page 97, aforesaid records.
5. 20-foot easement for sanitary sewer on north and east of subject property as shown on Map Book 13, Page 97, aforesaid records.
6. Declaration of Protective Covenants as recorded in Volume 153, Page 395, aforesaid records.

STATE OF ALA. SHELBY
I CERTIFY THIS
INSTRUMENT WAS FILED

89 AUG 28 AM 8:28

Thomas A. Snowden, Jr.
JUDGE OF PROBATE

1. Deed Tax	\$	_____
2. Mtg. Tax		4,695.00
3. Recording Fee		70.00
4. Indexing Fee		^{cert} 1.00
TOTAL		4,766.00

BOOK 253 PAGE 270