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THIS INSTRUMENT PREPARED BY:  
James A. Bradford  
Balch & Bingham  
Post Office Box 306  
Birmingham, Alabama 35201  
Tel: (205) 251-8100

COLLATERAL ASSIGNMENT OF NOTE, MORTGAGE, AND RELATED COLLATERAL

KNOW ALL MEN BY THESE PRESENTS, that:

WHEREAS, SHEWMAKE DEVELOPMENT COMPANY, INC., a corporation (hereinafter called the "Assignor", whether one or more) is, contemporaneously herewith becoming indebted to ST. PAUL FIRE & MARINE INSURANCE COMPANY ("St. Paul") in the principal sum of SIXTEEN THOUSAND THREE HUNDRED SEVENTY-TWO AND 79/100 DOLLARS (\$16,372.79) (the "Loan") as evidenced by a promissory note dated February 6, 1990, payable to St. Paul with interest thereon (the "Note"); and

WHEREAS, the Assignor is desirous of securing (i) the payment of principal, interest and all other sums now due or hereafter to become due under the Note, including any extensions or renewals thereof, this Assignment and all other documents evidencing, securing or relating to the indebtedness evidenced by the Note, and (ii) the performance of each and every obligation, covenant and agreement of the Assignor contained in this Assignment, the Note, and in any other document evidencing, securing or relating to the indebtedness evidenced by the Note; and

WHEREAS, the Assignor is or contemporaneously herewith will become the lawful holder of a certain promissory note and mortgage, with full rights of assignment and transfer.

NOW, THEREFORE, the Assignor, for and in consideration of these presents and the mutual agreements herein contained and in consideration of the sum of One Dollar (\$1.00) to the Assignor in hand paid, St. Paul's making the Loan to Assignor, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby sell, assign and transfer unto St. Paul that certain note and mortgage specifically described upon Exhibit A hereto and the sums due and to become due thereon with interest, it being the intention of the parties to hereby establish a present conditional transfer and assignment of said Mortgage, and the promissory note secured by said Mortgage. Said Mortgage, and promissory note being referred to collectively herein as the "Collateral". The Assignor does hereby appoint irrevocably St. Paul its true and lawful attorney in its name and stead and upon such terms in its discretion as it may determine, and to collect all of said sums arising from or accruing at any time hereafter, and all now due, or that may hereafter become due under said Collateral.

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The Assignor represents and agrees that the payment of none of the sums due or obligations owing under the Collateral will be waived, released, reduced, or discounted, or otherwise discharged or compounded by the Assignor. Assignor agrees that it will not further assign any of the sums due or obligations owing under the Collateral.

In the exercise of the powers herein granted St. Paul, no liability shall be asserted or enforced against St. Paul, all such liability being expressly waived and released by the Assignor.

Although it is the intention of the parties that this Assignment shall be a present assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that St. Paul shall not exercise any of the rights and powers conferred upon it herein until and unless (i) a default shall occur in the payment of interest or principal due under the Note secured by this Assignment or in the performance or observance of any of the conditions or agreements of any instruments now or at any time securing or relating to said Note or the debt secured or evidenced thereby or by any extension thereof, and nothing herein contained shall be deemed to affect or impair any rights which St. Paul may have under said Note or any other instrument evidencing, securing or relating to the indebtedness evidenced by said Note; or (ii) any other event of default shall occur under any document or instrument securing, guaranteeing, evidencing or otherwise relating to the indebtedness evidenced by said Note (collectively, with the Note, the "Loan Documents"); provided, however, that in the event that any of the property covered by the Collateral Mortgage is condemned, wholly or in part, or is totally or partially destroyed by fire or other casualty, and any condemnation awards or insurance policy proceeds payable to the Assignor on account thereof are not used to repair or restore the property to its original condition, then St. Paul shall have the right to collect such awards or proceeds directly from the condemning authority or insurer or, if paid to the Assignor, then the Assignor shall deliver the same immediately to St. Paul and, in either event, such sums received by St. Paul shall be credited against the debt secured hereby; and provided further, that, in the event that any note or Mortgage, or any other Collateral hereby assigned is in default for a period of thirty (30) days, for failure of any Mortgagor, maker or other obligor under any Collateral to make timely payments, or otherwise, then the Assignor, within fifteen (15) days after request so to do by St. Paul, shall, at St. Paul's discretion, assign to St. Paul additional Collateral which, in the sole judgment of St. Paul is of equal or greater value than such Collateral which is in default, or make a cash payment to St. Paul, to be applied against the balance due under the Note, in an amount equal to the outstanding principal balance of the defaulted Collateral. The Assignor shall cause St. Paul to be named in any and all insurance policies as assignee and loss payee, pursuant to a New York standard mortgagee

endorsement. Upon the occurrence of any event of default under the Note or any other Loan Document, St. Paul may immediately, without prior notice to the Assignor, exercise all rights of a holder of the Collateral.

The Assignor expressly covenants and agrees that, to the extent applicable, the Assignor has complied with all provisions of the Federal Truth-in-Lending Act, Federal Equal Credit Opportunity Act, and all other federal and state statutes and regulations applicable to the Collateral or the transactions giving rise thereto.

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St. Paul shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any Collateral, and the Assignor shall and does hereby agree to indemnify and hold St. Paul harmless of and from any and all liability, loss or damage which it may or might incur under said Collateral, 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 Collateral. Should St. Paul incur any such liability loss or damage, under said Collateral or under or by reason of the assignment thereof, or in the defense of any claims or demands asserted against St. Paul in connection with said Collateral, the Assignor agrees to reimburse St. Paul for the amount thereof, including costs, expenses and a reasonable attorney's fee immediately upon demand, and until the same are fully reimbursed by the Assignor, all such costs, expenses and attorney's fees shall be secured by this Assignment.

It is understood and agreed that the provisions set forth in this Assignment shall be deemed as a special remedy given to St. Paul, and shall not be deemed exclusive of any of the remedies granted in the Note or the related Loan Documents, but shall be deemed an additional remedy and shall be cumulative with the remedies therein granted.

Whenever the word "Assignor" is mentioned herein, it shall include and be binding upon heirs, administrators, executors and assigns of the Assignor. All of the rights, powers, privileges and immunities herein granted and assigned to St. Paul shall also inure to its successors and assigns, including all holders, from time to time, of the above-described Note.

It is expressly understood that no judgment or decree which may be entered on any debt secured or intended to be secured by this instrument shall operate to the abrogate or lessen the effect of this instrument, but that the same shall continue in full force and effect until the payment and discharge of any and all indebtedness secured hereby, in whatever form the said indebtedness may

be and until the indebtedness secured hereby shall have been paid in full and all bills incurred by virtue of the authority herein contained have been fully paid out of proceeds of the Collateral, or by the Assignor, or until such time as this instrument may be voluntarily released and cancelled by St. Paul.

The Assignor covenants, represents and warrants that there is now due and owing upon the Collateral Note, without offset or defense of any kind, the principal sum of \_\_\_\_\_ and \_\_\_/100 Dollars (\$\_\_\_\_\_), and that there exist no defaults under any of the Collateral. Assignor warrants and represents that it is the holder of a first and valid lien on each parcel of property covered by the Mortgages constituting the Collateral, and is the owner of the notes, the Mortgages, and all other Collateral; all of the Collateral, free and clear of any encumbrances, liens, or defects of any kind whatsoever, except as may be noted on Exhibit A hereto. The Assignor further agrees to inform St. Paul in writing in the event that any event on default under the notes, the Mortgages, or other property constituting the Collateral occurs and continues uncured for longer than fifteen (15) days.

IN WITNESS WHEREOF, the Assignor has hereunto set his hand and seal as of the 6 day of ~~February~~ <sup>March</sup>, 1990.

**ASSIGNOR:**

SHEWMAKE DEVELOPMENT COMPANY, INC.

ATTEST:

By: \_\_\_\_\_

By: Jack L. Shewmake  
Its: President

**ASSIGNEE:**

ST. PAUL FIRE & MARINE  
INSURANCE COMPANY

WITNESS:

Edward W. Payne

By: E. Dale Williams  
Its: Representative

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STATE OF ALABAMA)

JEFFERSON COUNTY)

I, MICHELLE M. MATHews, a Notary Public in and for said County in said State, hereby certify that Jack Shewmake, whose name as President of Shewmake Development Company, Inc., a corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this 6<sup>th</sup> day of March, 1990.

Michelle M. Mathews  
Notary Public

NOTARIAL SEAL

My commission expires:  
My Commission Expires May 21, 1994

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, Jane Thompson, a Notary Public in and for said County in said State, hereby certify that E. Dale Nellums, whose name as Representative of St. Paul Fire & Marine Insurance Company, a corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this 26<sup>th</sup> day of March, 1990.

Jane Thompson  
Michelle M. Mathews  
Notary Public

NOTARIAL SEAL

My commission expires:

My Commission Expires May 21, 1994  
3-21-90

EXHIBIT A

LIST OF DOCUMENTS BEING ASSIGNED

1. Note payable by Arthur B. Gillespie and wife, Carol W. Gillespie, to Shewmake Development Company, Inc., secured by the below-described
2. Mortgage from Arthur B. Gillespie and wife, Carol W. Gillespie, to Shewmake Development Company, Inc., dated January 30, 1987, said mortgage being upon Lot 1112, according to the survey of Riverchase Country Club, 18th Addition Residential Subdivision as recorded in Map Book 9, Page 86, in the Probate Office of Shelby County, Alabama, being situated in Shelby County, Alabama. Said mortgage is recorded in Real 13, Page 937, in the Office of the Judge of Probate of Shelby County, Alabama.

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1. Deed Tax	—	\$	—
2. Mtg. Tax	—	\$	—
3. Recording Fee	—	\$	15.00
4. Indexing Fee	—	\$	3.00
5. No Tax Fee	—	\$	—
6. Certified Fee	—	\$	1.00
Total	—	\$	19.00

STATE OF ALABAMA  
I CERTIFY THIS  
INSTRUMENT WAS FILED

90 APR -4 AM 10:13

JUDGE OF PROBATE