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ASSIGNMENT OF RENTS AND LEASES

by

**HARBERT PROPERTIES CORPORATION,
as Borrower**

to

**UNITED OF OMAHA LIFE INSURANCE COMPANY,
as Lender**

Dated as of March 2nd, 1991

This instrument was prepared by:

**Leitman, Siegal, Payne & Campbell, P.C.
Land Title Building
600 North 20th Street
Suite 400
Birmingham, Alabama 35203**

Land Title

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ASSIGNMENT OF RENTS AND LEASES

THIS ASSIGNMENT OF RENTS AND LEASES (this "Assignment") is made on March 20, 1991 by HARBERT PROPERTIES CORPORATION, an Alabama corporation ("Borrower"), to UNITED OF OMAHA LIFE INSURANCE COMPANY, a Nebraska corporation, and its successors and assigns ("Lender").

PRELIMINARY STATEMENT

Lender intends to loan \$3,210,000.00 to Borrower, which will be evidenced by that certain Promissory Note dated March __, 1991 (the "Note") executed by Borrower in favor of Lender. The payment and performance of Borrower's obligations under the Note will be secured, in part, by that certain Mortgage, Financing Statement and Security Agreement dated the same date as the Note and recorded simultaneously with this Assignment (the "Mortgage") between Borrower and Lender encumbering the Property described on Exhibit A and the other property included in part of the Mortgaged Estate.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower agrees as follows:

1. Definitions. Capitalized terms used herein shall have the respective meanings given them in the Mortgage, unless otherwise defined herein.

2. Assignment: Certain Rights of Borrower. To further secure the Secured Obligations, Borrower hereby assigns, transfers, conveys and sets over to Lender all of Borrower's estate, right, title and interest in, to and under all leases, whether existing on the date hereof or hereafter entered into (including any extensions, modifications or amendments thereto) relating to the Property, including, without limitation, the leases and other occupancy agreements, described on Exhibit B hereto (the "Leases"), together with all rights, powers, privileges, options and other benefits of Borrower as the lessor under the Leases regarding the current tenants and any future tenants, and all the rents, issues, royalties, revenues, profits, and income from the Mortgaged Estate (collectively the "Rents"), including those now due, past due or to become due. Borrower irrevocably appoints Lender its true and lawful attorney-in-fact, at the option of Lender at any time and from time to time, to take

possession and control of the Mortgaged Estate, pursuant to Borrower's rights as lessor under the Leases, and to demand, receive and enforce payment, to give receipts, releases and satisfaction and to sue, in the name of Borrower or Lender, for all Rents. It is intended by Borrower and Lender that this Assignment constitutes an absolute assignment and not merely an assignment for additional security.

Notwithstanding the foregoing, however, so long as no Event of Default has occurred, Borrower shall have a revocable license to possess and control the Mortgaged Estate and collect and receive all Rents. Upon the occurrence of an Event of Default, such license shall be automatically revoked by Lender.

Upon the occurrence of any Event of Default, Lender may, at any time without notice, either in person, by agent or by a court-appointed receiver, regardless of the adequacy of Lender's security, enter upon and take possession and control of the Mortgaged Estate, or any part thereof, to perform all acts necessary and appropriate to operate and maintain the Mortgaged Estate including, but not limited to, execute, cancel or modify the Leases, make repairs to the Mortgaged Estate, execute or terminate contracts providing for the management or maintenance of the Mortgaged Estate, all on such terms as are deemed best to protect the security of this Assignment, and in Lender's or Borrower's name, sue for or otherwise collect such Rents from the Mortgaged Estate as specified in this Assignment as the same become due and payable, including, but not limited to, Rents then due and unpaid.

All Rents collected shall immediately be held by Borrower as trustee for the benefit of Lender only. Borrower agrees that commencing upon the occurrence of such Event of Default, each tenant of the Mortgaged Estate shall make its Rent payable to and pay such Rent to Lender on Lender's written demand therefor, without any liability on the part of said tenant to inquire further as to the existence of an Event of Default by Borrower.

All Rents collected subsequent to the occurrence of any Event of Default shall be applied at the discretion of, and in such order as determined by, Lender to the costs, if any, of taking possession and control of and managing the Mortgaged Estate and collecting such amounts, including, but not limited to, reasonable attorney's fees, receiver's fees, premiums on receiver's bonds, costs of repairs to the Mortgaged Estate, premiums on insurance policies, taxes, assessments and other charges on the Mortgaged Estate, and the costs of discharging any obligation or liability of

Borrower as lessor or landlord of the Mortgaged Estate and to the Secured Obligations. Lender or the receiver shall have access to the books and records used in the operation and maintenance of the Mortgaged Estate and shall be liable to account only for those rents actually received. Lender shall not be liable to Borrower, anyone claiming under or through Borrower or anyone having an interest in the Mortgaged Estate by reason of anything done or left undone by Lender hereunder except for the willful or wanton misconduct of Lender.

If the Rents are not sufficient to meet the costs, if any, of taking possession and control of and managing the Mortgaged Estate and collecting the same, any funds expended by Lender for such purposes shall become Secured Obligations.

Any entering upon and taking possession and control of the Mortgaged Estate by Lender or the receiver and any application of Rents as provided herein shall not cure or waive any Event of Default or invalidate any other right or remedy of Lender.

Borrower hereby represents and agrees that it is and will be the sole owner of the entire landlord's interest (or tenant's interest in the case of Leases with respect to which Borrower is the tenant) in all Leases, subject only to Permitted Encumbrances.

3. Certain Agreements of Borrower. Borrower hereby agrees as follows:

(a) If any of the Leases provide for a security deposit paid by the tenant thereunder to Borrower, this Assignment shall transfer to the Lender all of Borrower's right, title and interest in and to such security deposits; provided that, Borrower shall have the right to retain such security deposits so long as no Event of Default shall have occurred; and provided further that Lender shall have no obligation to any such tenant with respect to such security deposits unless and until Lender comes into actual possession and accepts control of such security deposits by notice to such tenant;

(b) Borrower shall not terminate any Lease (except pursuant to the terms of such Lease upon a default by the tenant thereunder), or grant concessions or modify or amend any such Lease in any material manner, without the prior written consent of Lender;

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(c) Borrower has not and shall not collect any rent more than one (1) month in advance of the date on which it becomes due under the terms of each Lease;

(d) Borrower shall not discount any future accruing rent and, after the occurrence of an Event of Default, Borrower waives any right of setoff against any tenant under the Leases;

(e) Except with the prior written consent of Lender, Borrower shall not permit a subordination of any Lease to any mortgage, deed of trust or other encumbrance, or any other lease, now or hereafter affecting the Mortgaged Estate or any part thereof, or permit conversion of any Lease to a sublease;

(f) Borrower shall faithfully perform and discharge all obligations of the landlord under the Leases, and shall give prompt written notice to Lender of any notice of Borrower's default received from the tenant or any other person and shall furnish Lender with a complete copy of said notice. Borrower shall appear in and defend, at no cost to Lender, any action or proceeding arising under or in any manner connected with the Leases. If requested by Lender, Borrower shall enforce any Lease and all remedies available to Borrower against the tenant in the case of default under such Lease by the tenant thereunder;

(g) Upon the request of Lender, Borrower shall promptly provide to Lender a true and correct copy of all existing Leases and any subsequent lease of all or any part of the Property shall contain a covenant obligating the Lessee thereunder to enter a subordination, attornment and non-disturbance agreement satisfactory to Lender upon request of Lender; and

(h) Nothing herein shall be construed to constitute Lender as a "mortgagee in possession" in the absence of its taking of actual possession of the Mortgaged Estate pursuant to the powers granted herein, or to impose any liability or obligation on Lender under or with respect to the Leases. Borrower shall indemnify and hold Lender harmless from and against any and all liabilities, losses and damages (including reasonable attorneys' fees) that Lender may incur under the Leases or by reason of this Assignment, and of and from any and all claims and demands whatsoever that may be asserted against Lender by reason of any alleged obligations to be performed or discharged by Lender under the Leases or this Assignment except for the willful or wanton misconduct of Lender. Any Rent collected by Lender may be applied by Lender in its

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discretion in satisfaction of any such liability, loss, damage, claim, demand, costs, expense or fees.

4. Event of Default. The following shall constitute an Event of Default hereunder:

(i) the occurrence of an Event of Default under any Loan Document;

(ii) if at any time any representation or warranty made by Borrower in this Assignment shall be or become materially incorrect; or

(iii) the breach of any agreement by Borrower under this Assignment.

5. Additional Rights and Remedies of Lender. If an Event of Default occurs, Lender shall have the following rights and remedies, all of which are cumulative, in addition to all other rights and remedies provided under the Loan Documents, or any other agreement between Borrower and Lender, or otherwise available at law or in equity or by statute:

(a) Lender shall be deemed to be the creditor of each tenant in respect of any assignments for the benefit of creditors and any bankruptcy, arrangement, reorganization, insolvency, dissolution, receivership or other debtor-relief proceedings affecting the tenant (without obligation on the part of Lender, however, to file timely claims in such proceedings or otherwise pursue creditor's rights therein); and

(b) Lender shall have the right to assign Borrower's right, title and interest under this Assignment in any of the Leases to any subsequent holder of the Note or any participating interest therein or to any person acquiring title to the Mortgaged Estate or any part thereof through foreclosure or otherwise. Any subsequent assignee shall have all the rights and powers herein provided to Lender.

6. Additional Security. Lender may take or release other security for the Secured Obligations, may release any party primarily or secondarily liable therefor and may apply any other security held by it to the satisfaction of Secured Obligations, without prejudice to any of its rights under this Assignment.

7. Absolute Assignment; Release. The assignment made hereby is an absolute and unconditional assignment of

rights only, and not a delegation of duties. The assignment contained herein and all rights herein assigned to Lender shall cease and terminate as to all Leases:

(a) upon the satisfaction of all Secured Obligations; or

(b) upon the release of the Mortgaged Estate subject to such Lease from the lien of the Mortgage covering such Mortgaged Estate pursuant to the provisions of such Mortgage.

It is expressly understood that no judgment or decree that may be entered on any debt secured or intended to be secured by this Assignment shall operate to abrogate or lessen the effect of this Assignment, but that the same shall continue in full force and effect as herein provided. The provisions of this Assignment shall also remain in full force and effect during the pendency of any proceedings for the foreclosure and/or sale of the Mortgaged Estate, or any part thereof, both before and after sale, until the issuance of a deed pursuant to a decree of foreclosure and/or sale, unless all Secured Obligations are fully satisfied pursuant to paragraph (a) of this Section.

8. Effect on Rights Under Other Documents. Nothing contained in this Assignment and no act done or omitted by Lender pursuant to the powers and rights granted it hereunder shall prejudice or be deemed to be a waiver by Lender of its rights and remedies under the Loan Documents. The right of Lender to collect the Secured Obligations and to enforce any other security therefor held by it may be exercised by Lender either prior to, simultaneously with, or subsequent to any action taken by it hereunder. This Assignment is intended to be supplementary to and not in substitution for or in derogation of any assignment of rents contained in the Mortgage or in any other document.

9. Further Assurances. Borrower hereby agrees that it shall, whenever and as often as it shall be requested to do so by Lender, execute, acknowledge and deliver, or cause to be executed, acknowledged, and delivered, any and all such further conveyances, approvals, consents, memoranda of the subject matter hereof, duplicate originals hereof, and any and all other documents and to do any and all other acts as may be necessary or appropriate to carry out the terms of this Assignment. This Assignment or a memorandum hereof may be recorded by Lender at any time. All Leases executed on or after the date of this Assignment shall contain a provision obligating the tenant to enter into a

subordination, non-disturbance and attornment agreement with Lender in form and substance satisfactory to Lender.

10. No Waiver. A waiver by Lender of any of its rights hereunder or under the Leases or of a breach of any of the covenants and agreements contained herein to be performed by Borrower shall not be construed as a waiver of such rights in any succeeding instance or of any succeeding breach of the same or other covenants, agreements, restrictions or conditions.

11. Marshalling. Notwithstanding the existence of any other security interest in the Mortgaged Estate held by Lender or by any other party, Lender shall have the right to determine the order in which any of the Mortgaged Estate or any part thereof shall be subjected to the remedies provided herein. Lender shall have the right to determine the order in which any or all portions of the Secured Obligations are satisfied from the proceeds realized upon the exercise of the remedies provided herein. Borrower and any party who now or hereafter acquires a security interest in any of the Mortgaged Estate and who has actual or constructive notice hereof hereby waives, to the extent permitted by law, any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

12. Notices. All notices, demands, requests, consents, approvals or communications required under this Assignment shall be in writing and shall be deemed to have been properly given if sent by hand delivery, overnight courier, or certified mail, postage prepaid, addressed to the parties as specified in the Mortgage.

13. Governing Law; Severability. This Assignment shall be governed by and construed under the laws of the state where the Property is located. In case any of the provisions of this Assignment shall at any time be held by a court of competent jurisdiction to be illegal, invalid, or unenforceable for any reason, such illegality, invalidity or unenforceability shall not affect the remaining provisions of this Assignment, and this Assignment shall be construed and enforced as if all such illegal, invalid or unenforceable provisions had never been inserted herein.

14. Limited Liability of Borrower. The obligations of Borrower under this Assignment are subject to the Non-Recourse provisions of the Note.

IN WITNESS WHEREOF, Borrower has executed this Assignment on the date set forth in the acknowledgement attached hereto and effective as of the date first above written.

HARBERT PROPERTIES CORPORATION

By *Barnett J. Earles*
Name BARNETT J. EARLES
Title PRESIDENT

STATE OF ALABAMA)

SHELBY COUNTY)

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I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that BARNETT J. EARLES, whose name as PRESIDENT of Harbert Properties Corporation, an Alabama corporation, is signed to the foregoing Assignment of Rents and Leases, and who is known to me, acknowledged before me on this day, that, being informed of the contents thereof, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this the 20th day of March, 1991.

Bonnie H. McNeil
NOTARY PUBLIC

My Commission Expires: MY COMMISSION EXPIRES JULY 31, 1993

ATTACHMENTS

- Exhibit A: Legal Description
Exhibit B: Certified Rent Roll

EXHIBIT "A"

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Lot 3-A, according to a Resurvey of an Amendment to The Concourse at Riverchase as recorded in Map Book 14 page 120 in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama. Mineral and mining rights excepted. Together with ingress and egress over and across that certain road described in the Declaration of Easement recorded in Real 332 page 637 in said Probate Office.

CONCOURSE AT RIVERCHASE-BUILDING 800

14-Mar-01

RENT ROLL

TENANT NAME	SQUARE FEET	LEASE TERM(YRS)	COMMENCEMENT DATE	EXPIRATION	NET RATE	BOC(1) PASS-THRU	NET RATE ESCALATIONS	RENTAL CONCESSIONS	OPTIONS	EXPANSIONS
LAW ENGINEERING-OFFICE	20,414	10	7-1-1990	6-30-2000	\$8.00	\$1.54	3%	3 MOS FREE	2/5YR	4 @ 3000sf
-LAB	4,161	10	7-1-1990	6-30-2000	\$8.00	\$1.54	3%	3 MOS FREE	2/5YR	4 @ 3000sf
-SHOP	1,762	10	7-1-1990	6-30-2000	\$4.00	\$1.54	3%	3 MOS FREE	2/5YR	4 @ 3000sf
VACANT SPACE	18,868									
TOTAL:	44,945 sf									

(1) ESTIMATED BASIC OPERATING COST PASS-THRU EXCLUDING ELECTRICAL AND JANITORIAL SERVICE
LAW IS SEPARATELY METERED AND BILLED DIRECTLY FOR ELECTRICAL AND JANITORIAL SERVICES.

EXHIBIT "B"

1. Deed Tax -----
2. Mtg. Tax -----
3. Recording Fee ----- 27.50
4. Indexing Fee ----- 3.00
5. No Tax Fee -----
6. Certified Fee ----- 1.00
Total ----- 31.50

STATE OF ALABAMA
I CERTIFY THIS INSTRUMENT WAS FILED

91 MAR 21 AM 9:59

JUDGE OF PROBATE