

STATE OF ALABAMA )

COUNTY OF SHELBY )

LOAN ASSUMPTION AGREEMENT

THIS LOAN ASSUMPTION AGREEMENT dated this 30th day of May, 1991, is made and entered into by and between NEW SOUTH FEDERAL SAVINGS BANK (the "Lender"), LESTER C. WYATT and MARY B. WYATT (collectively, the "Borrowers"), and ANTHONY S. SERIO and LAWRENCE SERIO, JR. (collectively, the "Assumptors").

W I T N E S S E T H:

WHEREAS, Lender is the present holder of a note (the "Note") executed by the Borrowers in the original principal sum of Four Hundred Fifty Thousand & 00/100 Dollars (\$450,000.00), dated February 2, 1990; and

WHEREAS, the Note is secured by, among other things, the following loan documents:

(i) A Mortgage, Security Agreement and Assignment of Rents and Leases duly filed for record in the Probate Office of Shelby County, Alabama (the "Probate Office") in Real Volume 277, at Page 182 (the "Mortgage"),

(ii) An Assignment of Leases, Rents and Profits dated February 2, 1990, filed for record in Volume 277, at Page 208 of the Probate Office,

(iii) UCC-1 Financing Statements filed with the Probate Office in File No. 24657 and with the Secretary of State of Alabama, in File No. \_\_\_\_\_,

(iv) Security Agreement,

(v) Blanket Assignment of Maintenance Contracts, Rental Agreements and Licenses,

(vi) Loan Agreement,

(vii) Collateral Pledge Agreement,

(Collectively, the "Loan Documents"); and

WHEREAS, the real estate which was pledged by the Borrowers to secure the payment of the Note is more particularly described as follows, to-wit:

*Single Section  
900 - Park Place Tower  
Birmingham, AL 35202*

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FOR LEGAL DESCRIPTION, SEE ATTACHED EXHIBIT "A",  
(the "Real Estate"); and

WHEREAS, the Borrowers are desirous of conveying all their right, title and interest in the Real Estate to the Assumptors, who are desirous of assuming all of the obligations of the Borrowers in the Note and Loan Documents; and

WHEREAS, Lender is willing to consent to the conveyance and assumption of the Note and the Loan Documents by Assumptors, subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned do hereby agree and covenant as follows:

1. Consent. Lender does hereby consent to the sale and conveyance of the Real Estate by the Borrowers to the Assumptors, subject, however, to all of the provisions of this Agreement.
2. Assumptors' Acknowledgement. The Assumptors acknowledge that: (i) the Lender has made all disclosures that might be required under applicable federal laws and regulations; (ii) this is a business loan for business purposes; (iii) all copies of the Loan Documents have been given to the Assumptors, who have had the benefit of legal counsel of their choice to review such Loan Documents; (iv) in the event of default under any of the Loan Documents, the Lender shall be entitled to exercise any or all rights the Lender may have under the Loan Documents; (v) the Mortgage is a first, valid and prior lien or encumbrance against the Real Estate; and (vi) the Mortgage, Note and Loan Documents are enforceable under the laws of the State of Alabama, in accordance with their respective terms.
3. First Mortgage Lien. The Real Estate shall remain in all respects subject to the lien, charge or encumbrance of the Mortgage and Loan Documents and nothing herein contained and nothing done pursuant hereto, shall affect or be construed to affect the lien, charge or encumbrance of or conveyance affected by the Mortgage, or the priority thereof over other liens, charges, encumbrances or conveyance or except as expressly provided herein, to release or affect the liability of any party or

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parties whomsoever who may now or hereafter be liable hereunder or on account of the Note and/or Mortgage or other Loan Documents; nor shall anything herein contained or done in pursuance hereof affect or be construed to affect any other Loan Document held by Lender as additional security for or evidence of the aforesaid indebtedness.

4. Assumption of Loan Documents. The Assumptors do hereby assume and agree to pay the Note secured by the Mortgage and other Loan Documents, and to perform all of the obligations, covenants and agreements contained in the Note, Mortgage and other Loan Documents, and to be subject to and comply with all terms and conditions thereof. After payments that are to be made by Assumptors at closing are credited to the Note, it is agreed and understood that as of this date the principal balance of the Note is \$420,000.00, and that the Note matures in a balloon payment on February 1, 1996.
5. Release of Borrowers and Guarantor. Upon execution of this Agreement by all parties thereto, the Borrowers shall be released from all liability and obligations under the Note, Mortgage, or other Loan Documents.
6. Ratification. Assumptors hereby ratify each and every covenant, term and condition of the Loan Documents and agree to be bound by and fully comply with such terms and conditions, including their joint and several liability under the Note.
7. No Waiver. Assumptors agree that the granting of consent by the Lender to this transfer shall not constitute a waiver of the restriction on transfer contained in the Mortgage, and such restriction shall continue in full force and effect; and any future transfer or sale by Assumptors of all or any part of the Mortgaged Property (as defined in the Mortgage) or any interest therein without the prior written consent of the Lender shall constitute a default under the Mortgage, and the Lender, at its option, may exercise all remedies available to it under the terms of the Note and the Mortgage securing the same.
8. No Novation. All parties hereto agree that this Agreement shall not constitute a novation, and further that the terms and provisions of the Loan Documents and the Note secured thereby shall remain valid and in full force and effect except as may be

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hereinabove modified and amended. As a condition precedent to this Assumption, Borrower, at its expense, shall provide Lender with a commitment that an endorsement will be issued by Stewart Title Insurance Company upon the recording of this Loan Assumption Agreement to its Policy No. M-4952-02, 3175 insuring the lien of Lender's Mortgage through the recording of this Loan Assumption Agreement, subject only to the exceptions set forth in the original Schedule B to said policy.

9. Hold Harmless. With respect to the purchase of the Real Estate, the Assumptors acknowledge that they are buying the Real Estate based on their own inspection and opinion of value of the Real Estate and are not relying on any representation or inducement made by the Lender or the Borrower with respect to the Real Estate. The Assumptors agree to release, waive and forever discharge the Lender from any liability whatsoever resulting from all acts arising from or out of the acquisition of the Real Estate and agree that no claim or setoff will be made by the Assumptors in any action or collection of the indebtedness evidenced by the Note instituted by the Lender against the Assumptors resulting from such claims.
10. Modification to Note. In consideration of the release set forth in paragraph 9 above, the Lender agrees, subject to the terms hereof, to waive paragraph 8.1 of the Note, which provides for no prepayment during the first thirty six (36) months of the Note. This waiver shall only apply for a period of one hundred eighty (180) days from the date of this Loan Assumption Agreement and only if such loan is refinanced through First Alabama Bank. After the expiration of one hundred eighty (180) days, if the Note has not been paid in full, then the waiver of paragraph 8.1 hereof shall terminate and the Lender shall be entitled to all the benefits of the prohibition of prepayment as set forth in the Note. In addition to waiving the prepayment prohibition, Lender further agrees that if in the said one hundred eighty (180) day period, the Assumptors should prepay the Note, the provisions of paragraphs 8.2 and 8.3 shall be waived. In the event the one hundred eighty (180) days lapses and the loan is not prepaid, then the waiver set out herein shall terminate and the Lender shall be entitled to all the benefits of the prepayment covenants in the Note.

11. Heirs and Assigns. This Agreement shall be binding upon the parties hereto, their heirs, personal representatives, successors and assigns.
12. Gender. Wherever used, the singular number shall include the plural, the plural the singular, the use of any gender shall include all genders.
13. Governing Law. This Assumption Agreement shall be construed under the laws of the State of Alabama.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on this 30 day of May, 1991.

LENDER:

NEW SOUTH FEDERAL SAVINGS BANK

BY:

Its Sec. President

BORROWERS:

Lester C. Wyatt  
LESTER C. WYATT

Mary B. Wyatt  
MARY B. WYATT

ASSUMPTORS:

Anthony S. Serio  
ANTHONY S. SERIO

Lawrence Serio, Jr.  
LAWRENCE SERIO, JR.

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STATE OF ALABAMA     )  
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public, in and for said County in said State, hereby certify that T. H. McLaughlin, Jr., whose name as Vice-President of NEW SOUTH FEDERAL SAVINGS BANK, is signed to the foregoing instrument, and who is known to me acknowledged before me 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 Bank.

Given under my hand and official seal this 30 day of May, 1991.

Rahm Sul  
NOTARY PUBLIC

My Commission Expires: 10/17/94

[SEAL]

STATE OF ALABAMA     )  
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public, in and for said County in said State, hereby certify that LESTER C. WYATT and MARY B. WYATT, whose names are signed to the foregoing instrument, and who are known to me acknowledged before me this day, that, being informed of the contents of the instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 30 day of May, 1991.

Rahm Sul  
NOTARY PUBLIC

My Commission Expires: 10/17/94

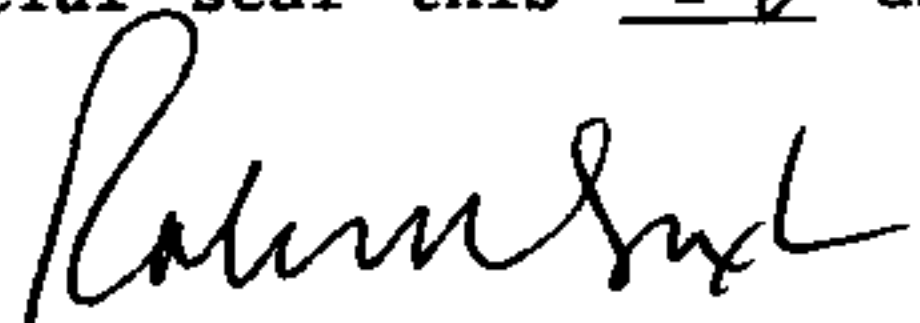
[SEAL]

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STATE OF ALABAMA     )  
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public, in and for said County in said State, hereby certify that ANTHONY S. SERIO and LAWRENCE SERIO, JR., whose names are signed to the foregoing instrument, and who are known to me acknowledged before me this day, that, being informed of the contents of the instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 30 day of May, 1991.



NOTARY PUBLIC

[SEAL]

My Commission Expires: 10/17/94

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EXHIBIT "A"

Parcel of land located in the North  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of Section 31, Township 19 South, Range 2 West, more particularly described as follows: Commence at the Northeast corner of the Southwest  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of said Section 31; thence in an Easterly direction a distance of 452.73 feet; thence 86 degrees, 31 minutes, 40 seconds right, in a Southerly direction, a distance of 1321.78 feet; thence 47 degrees, 06 minutes right, in a Southwesterly direction, a distance of 250.20 feet, said point being the approximate center line of an existing road; thence 100 degrees, 04 minutes, 45 seconds left, in a Southeasterly direction along said approximate center line, a distance of 80.05 feet to the point of beginning; thence continue along last described course, a distance of 300.36 feet to the beginning of a curve to the right, having a radius of 965.17 feet; thence 1 degree, 41 minutes, 30 seconds right, to chord of said curve, in a Southeasterly direction along said approximate center line of said existing road, a chord distance of 56.99 feet; thence 123 degrees, 34 minutes, 03 seconds right from said chord, in a Southwesterly direction, a distance of 583.82 feet to a point on the Easterly right of way line of U. S. Highway 31 South, said point being on a curve having a radius of 2010.08 feet; thence 97 degrees, 33 minutes, 22 seconds right to chord of said curve to the left, in a Northwesterly direction along said right of way, a chord distance of 311.77 feet; thence 85 degrees 12 minutes, 35 seconds right from said chord, in a Northeasterly direction, a distance of 338.31 feet to the point of beginning.

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STATE OF ALA. SHERIFF -  
I CERTIFY THIS  
INSTRUMENT WAS FILED

91 JUN -4 AM 11:05

*Thomas W. Johnson, Jr.*  
JUDGE OF PROBATE

|       |          |       |
|-------|----------|-------|
| 1     | Doc. Fee | _____ |
| 2     | Ad. Fee  | _____ |
| 3     | Not. Fee | _____ |
| 4     | Not. Fee | _____ |
| 5     | Not. Fee | _____ |
| 6     | Not. Fee | _____ |
| Total |          | 24.00 |