

State of Alabama)

Jefferson County)

**ACCOMMODATION MORTGAGE, SECURITY AGREEMENT
AND ASSIGNMENT OF RENTS AND LEASES
(WITH REPRESENTATIONS AND WARRANTIES)**

THIS INSTRUMENT (hereinafter, with all amendments thereto, being referred to as "this Mortgage"), made and entered into on June 4, 1991 between EAGLE POINT ASSOCIATES, an Alabama general partnership (the "Mortgagor"), whose address is 2117 Second Avenue N., Birmingham, AL 35203 and NATIONAL BANK OF COMMERCE OF BIRMINGHAM, a national banking association (the "Lender"), whose address is 1927 First Avenue North, Birmingham, Alabama 35203.

Recitals

A. The Mortgagor is justly indebted to the Lender in the principal amount of \$1,500,000, as evidenced by a certain promissory note of the Mortgagor to the Lender in said amount dated January 16, 1990 (the "Existing Note").

B. The Mortgagor does not have sufficient cash on hand to pay the amounts due thereunder (although the Mortgagor has sufficient assets that could satisfy the debt) and the Mortgagor has sufficient assets and prospects that it could borrow monies to satisfy the debt.

C. To avoid the Mortgagor having to borrow monies or liquidate assets, William K. Murray, Frank Nix, James R. Davis, John A. Mann, Jr., William C. Hulsey, A. Myron Harper and Sims R. Beavers (collectively, the "Individuals") have agreed to inject sufficient cash, namely \$1,500,000, into the Mortgagor to allow the Mortgagor to repay the Existing Note, subject to the Lender agreeing to lend the Individuals such cash; such cash injection will be made indirectly through entities owned by the Individuals.

D. The Lender has agreed to lend the Individuals \$1,500,000 on the condition, among others, that the Mortgagor execute and deliver this Mortgage to the Lender; such loan to the Individuals is to be evidenced by a promissory note of the Individuals to the Lender in the amount of \$1,500,000 with a final maturity date of May 5, 1996 (together with any extensions, renewals or modifications thereof, the "Note").

E. The Mortgagor expressly agrees that the Mortgagor will benefit from the loan evidenced by the Note, and that the Lender has given good and valid consideration for this Mortgage.

F. To induce the Lender to make the loan evidenced by the Note to the Individuals, the Mortgagor is executing and delivering this Mortgage.

Land Title

Agreement

NOW, THEREFORE, in consideration of the premises and in order to induce the Lender to extend credit to the Mortgagor, the Mortgagor hereby agrees with the Lender as follows:

I. LIABILITIES, GRANTING CLAUSES, ASSIGNMENTS, ETC.

SECTION 1.01 Liabilities

This Mortgage is given to secure and shall secure the following (hereinafter sometimes referred to collectively as the "Liabilities"):

(a) the payment of any and all sums, principal, interest and agreed charges, becoming due and payable by the Individuals under or with respect to the Note (including future advances under the Note); and

(b) the payment of any and all sums now or hereafter becoming due and payable by the Mortgagor to the Lender under the terms of this Mortgage, including but not limited to advances made by the Lender pursuant to the terms and conditions of this Mortgage; and

(c) the payment of all renewals and extensions of any or all of the obligations described in (a) and (b) above, whether or not any renewal or extension agreement is executed in connection therewith; and

(d) the full and complete performance of each and every obligation, covenant, duty and agreement of the Mortgagor contained in this Mortgage.

SECTION 1.02 Granting Clauses

As security for the Liabilities, the Mortgagor does hereby grant, bargain, sell, assign and convey to the Lender, its successors and assigns, the property and interests in property described in the following Granting Clauses (a) through (h), both inclusive, and does hereby grant to the Lender, its successors and assigns, a security interest in said property and interests in property:

(a) The real estate and premises described on Exhibit A attached hereto (the "Real Estate"), together with all improvements, buildings, structures and fixtures now or hereafter located thereon (the "Improvements"), which Real Estate is located in Jefferson County, Alabama.

(b) All minerals, oil, gas and other hydrocarbon substances, development rights, air rights, water, water rights, water stock, permits, licenses, rights-of-way, contracts, privileges, immunities, estates, tenements, hereditaments and appurtenances now or hereafter belonging or pertaining to, or affecting, the Real Estate or the Improvements, including without limitation all rights of the Mortgagor in and to any streets, roads and public places, easements and rights of way.

(c) (i) All leases and subleases, written or oral, and all agreements for use or occupancy of any portion of the Real Estate or the Improvements with respect to which the Mortgagor is the lessor or sublessor, including but not limited to the existing leases, if any, described on Exhibit B attached hereto and made a part hereof (the "Existing Leases"), any and all extensions and renewals of said leases, subleases and agreements and any and all further leases or agreements, now existing or hereafter made, including subleases thereunder, upon or covering the use or occupancy of all or any part of the Real Estate or the Improvements, all such leases, subleases, agreements and tenancies heretofore mentioned (including but not limited to the Existing Leases) being hereinafter collectively referred to as the "Leases";

(ii) any and all guaranties of the lessee's and any sublessee's performance under any of the Leases;

(iii) the immediate and continuing right to collect and receive all of the rents, income, receipts, revenues, issues and profits now due or which may become due or to which the Mortgagor may now or shall hereafter (including during the period of redemption, if any) become entitled or may demand or claim, arising or issuing from or out of the Leases or from or out of the Real Estate or the Improvements, or any part thereof, including but not limited to minimum rents, additional rents, percentage rents, common area maintenance charges, parking charges, tax and insurance premium contributions, and liquidated damages following default, the premium payable by any lessee upon the exercise of any cancellation privilege provided for in any of the Leases, and all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by destruction or damage to the Real Estate or the Improvements, together with any and all rights and claims of any kind that the Mortgagor may have against any such lessee under the Leases or against any subtenants or occupants of the Real Estate or any of the Improvements, all such moneys, rights and claims in this paragraph described being hereinafter referred to as the "Rents"; provided, however, so long as no Event of Default has occurred, the Mortgagor shall have the right under a license granted hereby to collect, receive and retain the Rents, but no Rents shall be collected in advance of the due date thereof; and

(iv) any award, dividend or other payment made hereafter to the Mortgagor in any court procedure involving any of the lessees under the Leases in any bankruptcy, insolvency or reorganization proceedings in any state or federal court and any and all payments made by lessees in lieu of rent. The Mortgagor hereby appoints the Lender as the Mortgagor's irrevocable attorney in fact to appear in any action and/or to collect any such award, dividend or other payment.

(d) All equipment, tools, apparatus, fittings and other personal property and fixtures, both tangible and intangible (including replacements, substitutions and after-acquired property), of every kind or character now owned or hereafter acquired by the Mortgagor for the purpose of, or used or useful in connection with, the Real Estate or the

Improvements, wherever the same may be located, including, without limitation, all engines, boilers, furnaces, tanks, motors, generators, switchboards, elevators, escalators, plumbing, plumbing fixtures, air-conditioning and heating equipment and appliances, electrical and gas equipment and appliances, facilities used to provide utility services (including sewer or septic facilities), refrigeration, ventilation, laundry, drying, dishwashing, garbage disposal, recreation or other services to the Real Estate or the Improvements, stoves, refrigerators, dishwashers, hot water heaters, garbage disposers, trash compactors, laundry equipment and appliances, other appliances, carpets, rugs, floor coverings, window treatments, lighting, fixtures, pipes, piping, decorative fixtures, recreation facilities (such as tennis courts, golf courses and swimming pools) and all other building materials, equipment, fixtures and amenities of every kind and character used or useful in connection with the Real Estate or any of the Improvements.

(e) All proceeds and claims arising on account of any damage to or taking of the Real Estate or any of the Improvements, or any part thereof, and all causes of action and recoveries for any loss or diminution in the value of the Real Estate or any of the Improvements.

(f) All general intangibles relating to the development or use of the Real Estate or any of the Improvements, or the management and operation of any business thereon, including but not limited to all governmental permits relating to the operation of the Real Estate or any of the Improvements, all names under or by which the Real Estate or any of the Improvements may at any time be operated or known, and all rights to carry on business under any such names or any variant thereof, and all trademarks and goodwill in any way relating to the Real Estate and any of the Improvements.

(g) All leasing, management and other contracts and agreements related to the use and operation of the Real Estate or any of the Improvements, or any part thereof.

(h) All proceeds (including insurance proceeds) of the foregoing, or of any part thereof, and any and all other real or personal property of every kind and nature from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned or transferred to Lender, or in which the Lender is granted a security interest, as and for additional security hereunder by the Mortgagor, or by anyone on behalf of, or with the written consent of, the Mortgagor.

(All of the property described in the foregoing Granting Clauses (a) through (h), both inclusive, of this Section 1.02 is herein sometimes collectively referred to as the "Property". The personal property described in Granting Clause (d) of this Section 1.02 and all other personal property covered by this Mortgage is herein sometimes collectively called the "Personal Property".)

SUBJECT, HOWEVER, to the liens, easements, rights-of-way and other encumbrances, if any, described on Exhibit C hereto ("Permitted Encumbrances").

TO HAVE AND TO HOLD the Property, together with all the rights, privileges and appurtenances thereunto belonging, unto the Lender, its successors and assigns, forever.

SECTION 1.03 Assignment of Insurance Policies, etc.

As further security for the Liabilities, the Mortgagor hereby assigns and pledges to the Lender each and every policy of insurance now or hereafter in effect which insures the Property, or any part thereof (including without limitation the Personal Property, the Improvements, or any part thereof), to receive the proceeds and returned premiums of such insurance.

SECTION 1.04 Assignment of Condemnation Awards

As further security for the Liabilities, the Mortgagor hereby assigns to the Lender any and all awards or payments, including all interest thereon, together with the right to receive the same, that may be made to the Mortgagor with respect to the Property as a result of (a) the exercise of the right of eminent domain, (b) the alteration of the grade or of any street or (c) any other injury to or decrease in value of the Property. Subject to the rights of the holders of any prior mortgages, all such damages, condemnation proceeds and consideration shall be paid directly to the Lender, and after first applying said sums to the payment of all costs and expenses (including reasonable Attorneys' fees) incurred by the Lender in obtaining such sums, the Lender may, at its option, apply the balance on the Liabilities in any order and amount and whether or not then due, or hold such balance as a cash collateral reserve against the Liabilities, or apply such balance to the restoration of the Property, or remit the balance to the Mortgagor. No such application, holding in reserve or remittance shall cure or waive any default of the Mortgagor.

II. REPRESENTATIONS AND WARRANTIES

The Mortgagor represents and warrants that:

SECTION 2.01 Valid Title, etc.

(a) The Mortgagor is lawfully seized in fee simple of the Real Estate and is the lawful and absolute owner of the Personal Property, Improvements and other Property and has a good right to grant, bargain, sell, assign and convey the Property to the Lender as aforesaid;

(b) the Property is free of all mortgages, pledges, encumbrances, charges, security interests, assignments or other preferential

arrangements of any nature ("Liens") other than Permitted Encumbrances;
and

(c) the Mortgagor will forever warrant and defend the title to the Property unto the Lender, its successors and assigns, against the claims of all persons whomsoever, except those claiming under Permitted Encumbrances, whether such claims are lawful or unlawful.

SECTION 2.02 Rents and Leases

Except for any Permitted Encumbrances:

(a) The Mortgagor has good title to the Rents and Leases hereby assigned and good right to assign the same, and no other person, corporation or entity has any right, title or interest therein.

(b) The Mortgagor has duly and punctually performed all and singular the terms, covenants, conditions and warranties of the Existing Leases on the Mortgagor's part to be kept, observed and performed.

(c) Except as set forth in Exhibit C, the Mortgagor has not previously sold, assigned, transferred, mortgaged or pledged the Leases or the Rents, whether now due or hereafter to become due.

(d) No Rents due for any period subsequent to the month next succeeding the date of this Mortgage have been collected, and no payment of any of the Rents has otherwise been anticipated, waived, released, discounted, set-off or otherwise discharged or compromised.

(e) The Mortgagor has not received any funds or deposits from any lessee in excess of one month's rent for which credit has not already been made on account of accrued rents.

(f) To the best of the Mortgagor's knowledge, the lessees under the Existing Leases are not in default under any of the terms thereof.

SECTION 2.03 Environmental Compliance

(a) Neither the Property nor any other real property now or previously owned by the Mortgagor is or has been in violation of any applicable Environmental Law;

(b) the Property and all real property now or previously owned by the Mortgagor are free of Hazardous Substances; and

(c) there are no pending investigations, claims or threats of claims with respect to the Property or any other real property now or previously owned by the Mortgagor by any governmental authority or other person relating to any Environmental Law.

As used in this Mortgage, "Hazardous Substances" shall mean and include all pollutants, contaminants, toxic or hazardous wastes, and other

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substances (including without limitation asbestos and urea formaldehyde foam insulation), the removal of which is required or the manufacture, use, maintenance of handling of which is regulated, restricted, prohibited or penalized by any Environmental Law, or even though not so regulated, restricted, prohibited or penalized, might pose a hazard to the health and safety of the occupants of the property on which it is located or the occupants of the property adjacent thereto.

"Environmental Law" shall mean and include any federal, state or local law or ordinance relating to pollution or protection of the environment, including any relating to Hazardous Substances, and any and all regulations, codes, plans, orders, decrees, judgments, injunctions, notices and demand letters issued, entered, promulgated or approved thereunder.

SECTION 2.04 Governmental Compliance

(a) The Property, the Improvements and the use and operation thereof comply with all applicable laws, ordinances, regulations, rules, covenants, conditions, restrictions, licenses and permits; and

(b) no Lien exists on the Property, or any part thereof, in favor of any governmental authority or other person or organization under any federal, state or local law, ordinance, regulation or rule that might have priority over this Mortgage.

SECTION 2.05 Organization, Partnership Powers, etc.

(a) The Mortgagor is a partnership duly organized, validly existing and in good standing under the laws of the state of Alabama;

(b) the Mortgagor has the partnership power and authority to own its properties and assets and to carry on its business as now being conducted and is duly qualified to do business in every jurisdiction wherein such qualification is necessary; and

(c) the Mortgagor has the partnership power to execute and perform this Mortgage and the Note, to borrow hereunder and to execute and deliver the Security Documents described in the Note (the "Security Documents").

SECTION 2.06 Authorization of Borrowing, etc.

The execution, delivery and performance of this Mortgage and the Security Documents by the Mortgagor (a) have been duly authorized by all requisite partnership action (including any necessary partner action), and (b) will not violate any provision of law, any order of any Governmental Authority or the partnership agreement of the Mortgagor or any indenture, agreement or other instrument to which the Mortgagor is a party, or by which the Mortgagor or its properties or assets (including any collateral described in the Security Documents (the "Collateral")) are bound, or be in conflict with, result in a breach of or constitute

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(with due notice or lapse of time or both) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any Lien, upon any of the properties or assets (including the Collateral) of the Mortgagor, except as contemplated by this Mortgage and the Security Documents.

SECTION 2.07. Litigation

There are no actions, suits or proceedings (whether or not purportedly on behalf of it) pending or, to the best knowledge of the Mortgagor, threatened against or affecting it, at law or in equity or by or before any local, state or federal governmental authority ("Governmental Authority"), that involve any of the transactions contemplated in this Mortgage or the possibility of any judgment or liability that may result in any material adverse change in its business, operations, properties or assets, or in its condition, financial or otherwise; and it is not, to the best knowledge of the Mortgagor, in default with respect to any judgment, writ, injunction, decree, rule or regulation of any court or any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign.

SECTION 2.08 Agreements

The Mortgagor is not a party to any agreement or instrument, or subject to any charter or other partnership restriction, that materially and adversely affects its business, properties or assets, operations or condition, financial or otherwise, and it is not in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which it is a party, which default would have a material adverse effect upon its business, properties or assets, operations or condition, financial or otherwise.

SECTION 2.09 Federal Reserve Board Regulations

The Mortgagor does not intend to use any part of the proceeds of the Note, and has not incurred any indebtedness to be reduced, retired or purchased by it out of such proceeds, for the purpose of purchasing or carrying any Margin Stock, and it does not own and has no intention of acquiring any such Margin Stock.

SECTION 2.10 Investment Company Act

The Mortgagor is not an "investment company," or a company "controlled" by an "investment company," as such terms are defined in the Investment Company Act of 1940, as amended.

SECTION 2.11 ERISA

(a) The execution and delivery of this Mortgage and the issuance and delivery of the Note as contemplated hereby will not involve any

prohibited transaction within the meaning of ERISA or Section 4975 of the Internal Revenue Code, as amended;

(b) Based upon ERISA and the regulations and published interpretations thereunder, it is in compliance in all material respects with the applicable provisions of ERISA; and

(c) no "Reportable Event," as defined in Section 4043(b) of Title IV of ERISA, has occurred with respect to any plan maintained by it.

SECTION 2.12 Enforceability

This Mortgage does and the Security Documents, when duly executed and delivered by the Mortgagor in accordance with the provisions of this Mortgage, will constitute the legal, valid and binding obligation of the Mortgagor, enforceable in accordance with its terms.

SECTION 2.13 Consents, Registrations, Approvals, etc.

No registration with or consent or approval of, or other action by, any Governmental Authority is required for the execution, delivery and performance of this Mortgage or the Note, or the borrowings hereunder, by the Mortgagor.

SECTION 2.14 Financial Condition

The Mortgagor has heretofore furnished to the Lender a copy of the consolidated balance sheet of the Mortgagor as of December 31, 1990, and the related statements of income and changes in financial position for the fiscal year then ended. Such financial statements were prepared in conformity with generally accepted accounting principles consistently applied throughout the periods involved, are in accordance with the books and records of the Mortgagor, are correct and complete and present fairly the financial condition, assets, and liabilities of the Mortgagor as of the date of such balance sheet and the results of operations for the period covered by such statements of income and changes in financial position and, since the date of said financial statements, no material adverse change in the financial condition, business or operations of the Mortgagor has occurred. There is no liability, direct or contingent, of the Mortgagor that is material in amount and that is not reflected in the above-described financial statements.

SECTION 2.15 Taxes

It has filed or caused to be filed all federal, state and local tax returns that, to the knowledge of the officers thereof, are required to be filed, and has paid or has caused to be paid all taxes as shown on said returns or on any assessment received by it to the extent that such taxes have become due. It has reserves that are believed by its officers to be adequate for the payment of additional taxes for years that have not been audited by the respective tax authorities.

SECTION 2.16 Title to Properties, etc.

It has good and marketable title to all its properties and assets reflected on the balance sheet referred to in Section 2.14 except for such properties and assets as have been disposed of since the date of said balance sheet as no longer used or useful in the conduct of its business or as have been disposed of in the ordinary course of the business. All such properties and assets are free and clear of all Liens, except as otherwise permitted or required by the provisions of this Mortgage or the other Security Documents.

SECTION 2.17 Solvency

Immediately prior to and immediately following the execution of this Mortgage and the consummation of the transactions contemplated herein, the Mortgagor is and will be solvent and able to pay its debts as they mature, will have capital and assets sufficient to carry on its businesses and all businesses in which it is engaged and will have assets that will have a present fair saleable value significantly greater than the amount of its outstanding indebtedness. The instruments, documents and agreements executed by the Mortgagor in connection with this Mortgage were executed and delivered to the Lender by the Mortgagor in good faith and the obligations incurred thereunder were incurred and granted in exchange for fair equivalent value. The Mortgagor does not intend to incur, and does not have reason to believe it will incur, debts beyond its ability to pay such debts as they mature. The Mortgagor does not contemplate filing a petition in bankruptcy or for reorganization under the Federal Bankruptcy Code, and the Mortgagor does not have any knowledge of any threatened bankruptcy or insolvency proceedings against it.

III. COVENANTS AND AGREEMENTS OF MORTGAGOR

The Mortgagor covenants and agrees that, until the Liabilities are paid in full and this Mortgage is satisfied in writing by the Lender:

SECTION 3.01 Payment of Taxes and Other Assessments

The Mortgagor will pay when due all taxes, assessments and other governmental, municipal or other public dues, charges, fines or impositions imposed or levied upon the Property or on the interests created by this Mortgage or with respect to the filing of this Mortgage, and any tax or excise on rents or other tax, however described, assessed or levied by any state, federal or local taxing authority as a substitute, in whole or in part, for taxes assessed or imposed on the Property or on the lien and other interests created by this Mortgage, and at least ten days before said taxes, assessments and other governmental charges are due the Mortgagor will deliver receipts therefor to the

Lender, or, in the case of mortgage filing privilege taxes, pay to the Lender an amount equal to such taxes. The Mortgagor may, at the Mortgagor's own expense, in good faith contest any such taxes, assessments and other governmental charges and, in the event of any such contest, may permit the taxes, assessments or other governmental charges so contested to remain unpaid during the period of such contest and any appeal therefrom, provided that during such period enforcement of such contested items shall be effectively stayed. If any tax or assessment (other than state and federal income taxes) is levied, assessed or imposed by any governmental authority on the Lender as a legal holder of the Note, any interest in this Mortgage or any of the other Loan Documents (as hereinafter defined), then unless all such taxes and assessments are paid by the Mortgagor as they become due and payable, but in any case before they become delinquent (and in the opinion of counsel for the Lender, such payment by the Mortgagor is lawful and does not place the Lender in violation of any law), the Lender may, at its option, declare an Event of Default under this Mortgage.

SECTION 3.02 Insurance

(a) The Mortgagor shall keep or cause to be kept the Property insured against loss or damage by flood (if the Property is located in a flood-prone area) fire, windstorm, extended coverage perils, vandalism, malicious mischief and such other hazards, casualties or other contingencies as from time to time may be required by the Lender in such manner and in such companies and amounts as the Lender may approve. All such policies shall name the Lender as a named insured and provide that any losses payable thereunder shall (pursuant to loss payable clauses, in form and content acceptable to the Lender, to be attached to each policy) be payable to the Lender, subject to the rights of the holders of any prior mortgages, and provide that the insurance provided thereby, as to the interest of the Lender, shall not be invalidated by any act or neglect of the Mortgagor, nor by the commencement of any proceedings by or against the Mortgagor in bankruptcy, insolvency, receivership or any other proceedings for the relief of a debtor, nor by any foreclosure, repossession or other proceedings relating to the property insured, nor by any occupation of such property or the use of such property for purposes more hazardous than permitted in the policy. The Mortgagor shall cause duplicate originals of any and all such insurance policies to be deposited with the Lender. At least ten days prior to the date the premiums on each such policy or policies shall become due and payable, the Mortgagor shall furnish to the Lender evidence of the payment of such premiums. The Mortgagor will cause each insurer under each of the policies to agree (either by endorsement upon such policy or by letter addressed to the Lender) to give the Lender at least thirty business days' prior written notice of the cancellation of such policies in whole or in part or the lapse of any coverage thereunder. The Mortgagor agrees that the Mortgagor will not take any action or fail to take any action, which action or inaction would result in the invalidation of any insurance policy required hereunder.

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(b) With respect to all such insurance policies, subject to the rights of the holders of any prior mortgages, the Lender is hereby authorized, but not required, on behalf of the Mortgagor, to collect for, adjust or compromise any losses under any such insurance policies and to apply, at its option, the loss proceeds (less expenses of collection) on the Liabilities, in any order and amount, and whether or not due, or hold such proceeds as a cash collateral reserve against the Liabilities or apply such proceeds to the restoration of the Property, or to release the same to the Mortgagor, but no such application, holding in reserve or release shall cure or waive any default by the Mortgagor. In case of a sale pursuant to the foreclosure provisions hereof, or any conveyance of all or any part of the Property in extinguishment of the Liabilities, complete title to all insurance policies held by the Lender and the unearned premiums with respect thereto shall pass to and vest in the purchaser or grantee of the Property.

SECTION 3.03 Utilities; Waste, Demolition, Alteration or Replacement

The Mortgagor shall pay or cause to be paid all bills for utilities and other materials and services used on or in connection with the Property. The Mortgagor shall cause the Property and every part thereof to be maintained, preserved and kept in safe and good repair, working order and condition, shall not commit or permit waste thereon, shall not remove, demolish or alter the design or structural character of any building now or hereafter erected on the Real Estate without the express prior written consent of the Lender, and shall from time to time make all necessary and proper repairs, renewals, additions and restorations thereto so that the value and efficient use thereof shall be fully preserved and maintained. The Mortgagor agrees not to remove any of the fixtures or Personal Property included in the Property without the express prior written consent of the Lender and unless the same is immediately replaced with like property of at least equal value and utility.

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SECTION 3.05 Sale, Lease or Transfer, etc.

Except as provided under Section 5.16 of this Mortgage, neither the Real Estate or the Improvements, nor any part thereof, nor any interest therein, shall be (a) sold, assigned, transferred, conveyed, leased with an option to purchase, exchanged or otherwise disposed of, nor shall the Mortgagor contract with any person or entity for any of the foregoing, or grant an option to any person or entity for any of the foregoing, without the Lender's prior written consent; or (b) subject to any additional lien, mortgage or other encumbrance, either voluntarily or involuntarily, without the Lender's prior written consent. Upon the occurrence of any such sale, assignment, transfer, conveyance, lease with an option to purchase, exchange, other disposition (or contract or option therefor), lien, mortgage or encumbrance, this Mortgage shall be deemed to be in default at the option of the Lender and the Lender may, at its sole option: (i) declare the Liabilities immediately due and payable in full; or (ii) require the payment, after the date of such occurrence, of a higher rate of interest on the unpaid principal portion of the Liabilities as a condition to not exercising such option to accelerate the Liabilities, whether such rights be exercised by the Lender to obtain a higher rate of interest on the Liabilities or to protect the security of this Mortgage. Mortgagor further covenants and agrees that without the prior written consent of the Lender, the Mortgagor shall not be dissolved, liquidated or terminated, whether by operation of law or otherwise. Any such dissolution, liquidation or termination, without the Lender's prior written consent, shall constitute a default hereunder. The Mortgagor expressly covenants and agrees, and acknowledges the Lender's express reliance hereon, that any sale, pledge, encumbrance, contract to sell, assignment or other transfer of any stock of the Mortgagor, if a corporation, or any partnership interest in the Mortgagor, if a partnership or joint venture, or any other transaction whereby the legal or beneficial ownership of the Mortgagor is changed, including, without limitation, the sale of additional stock or partnership interests, the liquidation or dissolution of the Mortgagor, or the merger or consolidation of the Mortgagor with any other entity, shall be treated as a transfer of the Real Estate and the Improvements for purposes of this section.

SECTION 3.06 Zoning, Governmental Compliance, etc.

Without the prior written consent of the Lender, the Mortgagor will not seek, make or consent to any change in the zoning or conditions of use of the Property. The Mortgagor shall comply with and make all payments required under all Environmental Laws and other laws, ordinances, regulations, rules, covenants, conditions, restrictions, licenses and permits now or hereafter affecting the Property or any part thereof or the business or activity conducted or to be conducted thereon. The Mortgagor shall not commit, suffer, permit or allow any act to be done in or on the Property in violation of any such law, ordinance, regulation, rule, covenant, condition, restriction, license or permit, and the Mortgagor shall not permit any lien, charge or encumbrance to exist on the Property, or any part thereof, in favor of any federal,

state or local governmental authority or other person or organization under any of the same that might have priority over this Mortgage. The Mortgagor shall comply with all existing and future requirements of all governmental authorities having jurisdiction over the Property.

SECTION 3.07 Environmental Compliance

The Mortgagor shall (a) not permit any Hazardous Substances to be brought on to the Property or any other real property now or hereafter owned by the Mortgagor; (b) if any Hazardous Substances are brought or found on the Property or any such other real property, immediately remove and properly dispose thereof and diligently undertake all cleanup procedures required under applicable Environmental Laws; (c) promptly give notice to the Lender in writing if the Mortgagor should receive notice of any investigation, claim or threatened claim under any Environmental Law, or any notice of violation under any Environmental Law, involving the Mortgagor, the Property or any other real property heretofore, now or hereafter owned by the Mortgagor; and (d) permit the Lender from time to time to inspect the Property and observe the Mortgagor's operations thereon and to perform tests (including soil and ground water tests) for Hazardous Substances on the Property. (Nothing contained in this Section shall be deemed to impose any obligations on the Lender with respect to Hazardous Substances or otherwise.)

IV. DEFEASANCE, DEFAULT AND REMEDIES

SECTION 4.01 Defeasance

If the Individuals or the Mortgagor shall: (a) pay in full (i) all of the Liabilities (as defined herein), including but not limited to all sums (principal, interest and charges) payable under the Note and any and all extensions and renewals of the same and the Lender shall have no obligation to extend further credit to the Mortgagor under the Note or any extension or renewal thereof; and (ii) all sums becoming due and payable by the Mortgagor under the terms of this Mortgage, including but not limited to advancements made by the Lender pursuant to the terms and conditions of this Mortgage; and (b) have kept and performed each and every obligation, covenant, duty, condition and agreement herein imposed on or agreed to by the Mortgagor; then this conveyance and the grants and conveyances contained herein shall become null and void, and the Property shall revert to the Mortgagor, and the entire estate, right, title and interest of the Lender will thereupon cease; and the Lender in such case shall, upon the request of the Mortgagor and at the Mortgagor's cost and expense, deliver to the Mortgagor proper instruments acknowledging satisfaction of this instrument; otherwise, this Mortgage shall remain in full force and effect.

SECTION 4.02 Events of Default

The happening of any of the following events or conditions, or the happening of any other event of default as defined elsewhere in this

Mortgage (hereinafter collectively referred to as "Events of Default") shall constitute a default under this Mortgage:

(a) any representation or warranty made herein or in any loan agreement related to any of the Liabilities or in any other document or instrument evidencing or securing any of the Liabilities (any such loan agreement and any such other document or instrument evidencing or securing any of the Liabilities being hereinafter collectively referred to as the "Loan Documents") shall prove to be false or misleading in any material respect; or

(b) any report, certificate, financial statement or other instrument furnished in connection with any of the Liabilities or any Loan Document shall prove to be false or misleading in any material respect; or

(c) default shall be made in the prompt payment of the principal of and interest payable on the Note or any of the other Liabilities, as and when due and payable; or

(d) default shall be made with respect to any indebtedness (other than the Liabilities) of the Mortgagor when due or the performance of any other obligation incurred in connection with any indebtedness for borrowed money of the Mortgagor, if the effect of such default is to accelerate the maturity of such indebtedness or to permit the holder thereof to cause such indebtedness to become due prior to its stated maturity; or any such indebtedness shall not be paid when due; or

(e) default shall be made in the due observance or performance of any other covenant, condition or agreement on the part of the Mortgagor to be observed or performed pursuant to the terms of any Loan Document or any other event of default shall occur under this Mortgage or any other Loan Document; or

(f) the Mortgagor or any maker, endorser, surety or guarantor of the Note (the Mortgagor and any such maker, endorser, surety or guarantor being hereinafter individually called an "Obligor") shall (i) die or apply for or consent to the appointment of a receiver, trustee, liquidator or custodian of any such Obligor or of any of such Obligor's properties or assets, (ii) admit in writing any such Obligor's inability to pay such Obligor's debts as they mature, (iii) make a general assignment for the benefit of creditors, (iv) have an order for relief entered against such Obligor in any proceeding under the federal Bankruptcy Code, or (v) file a voluntary petition in bankruptcy, or a petition or an answer seeking reorganization or an arrangement with creditors, or to take advantage of any bankruptcy, reorganization, insolvency, readjustment of debts, dissolution or liquidation law or statute, or file an answer admitting the material allegations of a petition filed against such Obligor in any proceeding under any such law or statute, or if corporate, partnership or other action shall be taken by any Obligor for the purpose of effecting any of the foregoing; or

(g) a petition shall be filed, without the application, approval or consent of any Obligor in any court of competent jurisdiction, seeking reorganization, rearrangement, dissolution or liquidation of such Obligor or of all or a substantial part of the properties or assets of such Obligor, or seeking any other relief under any law or statute of the type referred to in clause (v) of paragraph (f) above against such Obligor, or the appointment of a receiver, trustee or liquidator or custodian of such Obligor, or of all or a substantial part of such Obligor's properties or assets, and such petition shall not be dismissed within 30 days after the filing thereof; or

(h) final judgment for the payment of money in excess of an aggregate of \$50,000 (which judgment is not adequately covered by insurance) shall be rendered against any Obligor, and the same shall remain undischarged for a period of 30 days during which execution shall not be effectively stayed; or

(i) a default or event of default, or an event which upon notice or lapse of time or both would constitute an event of default under any prior mortgage on the Real Estate, or part thereof, shall occur and be continuing; or

(j) the interest of the Lender in the Property shall become endangered by reason of the enforcement of any prior lien or encumbrance thereon; or

(k) any of the stipulations contained in this Mortgage is declared invalid or inoperative by any court of competent jurisdiction.

SECTION 4.03 Rights and Remedies of the Lender Upon Default

(a) Acceleration of Liabilities. Upon occurrence of an Event of Default or at any time thereafter, the Lender may at its option and without demand or notice to the Mortgagor, declare all or any part of the Liabilities immediately due and payable, whereupon all such Liabilities shall forthwith become due and payable, without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by the Mortgagor, and the Lender may immediately enforce payment of all such amounts and may exercise any or all of its rights and remedies under this Mortgage, the Note, any of the other Loan Documents and applicable law. The Mortgagor also waives any and all rights the Mortgagor may have to a hearing before any judicial authority prior to the exercise by the Lender of any of its rights under this Mortgage, the Note, any of the other Loan Documents and applicable law.

(b) Operation of Property by Lender. Upon the occurrence of an Event of Default, or at any time thereafter, in addition to all other rights herein conferred on the Lender, the Lender (or any person, firm or corporation designated by the Lender) may, but shall not be obligated to, enter upon and take possession of any or all of the Property, exclude the Mortgagor therefrom, and hold, use, administer, manage and operate the same to the extent that the Mortgagor could do so, without any liability to the Mortgagor resulting therefrom; and the Lender may collect, receive

and receipt for all proceeds accruing from such operation and management, make repairs and purchase needed additional property, and exercise every power, right and privilege of the Mortgagor with respect to the Property.

(c) Judicial Proceedings: Right to Receiver. Upon the occurrence of an Event of Default, the Lender, in lieu of or in addition to exercising the power of sale hereinafter given, may proceed by suit to foreclose its lien on, security interest in, and assignment of, the Property, to sue the Mortgagor for damages on account of or arising out of said default or breach, or for specific performance of any provision contained herein, or to enforce any other appropriate legal or equitable right or remedy. The Lender shall be entitled, as a matter of right, upon bill filed or other proper legal proceedings being commenced for the foreclosure of this Mortgage, to the appointment by any competent court or tribunal, without notice to the Mortgagor or any other party, of a receiver of the rents, issues and profits of the Property, with power to lease and control the Property and with such other powers as may be deemed necessary.

(d) Foreclosure Sale. Upon the occurrence of any Event of Default, or at any time thereafter, this Mortgage shall be subject to foreclosure and may be foreclosed as now provided by law in case of past due mortgages, and the Lender shall be authorized, at its option, whether or not possession of the Property is taken, after giving 21 days' notice by publication once a week for three consecutive weeks of the time, place and terms of each such sale by publication in some newspaper published in the county wherein the Property (or any portion thereof to be sold) is located, to sell the Property (or such portion thereof as the Lender may from time to time elect to sell) in front of the courthouse door of any county in which the Mortgaged Property (or any portion thereof to be sold) is located, at public outcry, to the highest bidder for cash. The Lender, its successors and assigns, may bid at any sale or sales had under the terms of this Mortgage and may purchase the Property, or any portion thereof, if the highest bidder therefor. The purchaser at any such sale or sales shall be under no obligation to see to the proper application of the purchase money. At any foreclosure sale, any portion or all of the Property, real, personal or mixed, may be offered for sale in parcels or en masse for one total price, the proceeds of any such sale en masse to be accounted for in one account without distinction between the items included therein or without assigning to them any proportion of such proceeds, the Mortgagor hereby waiving the application of any doctrine of marshalling or like proceeding. In case the Lender, in the exercise of the power of sale herein given, elects to sell the Property in portions or parcels, sales thereof may be held from time to time, and the power of sale granted herein shall not be fully exercised until all of the Property not previously sold shall have been sold or all the Liabilities secured hereby shall have been paid in full.

(e) Personal Property and Fixtures. On the happening of any Event of Default or at any time thereafter, the Lender shall have and may exercise with respect to the Personal Property and fixtures included in the Property (the "Collateral") all rights, remedies and powers of a secured party under the Alabama Uniform Commercial Code with reference to

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the Collateral or any other items in which a security interest has been granted herein, including without limitation the right and power to sell at public or private sale or sales or otherwise dispose of, lease or utilize the Collateral and any part or parts thereof in any manner to the fullest extent authorized or permitted under the Alabama Uniform Commercial Code after default hereunder, without regard to preservation of the Collateral or its value and without the necessity of a court order. The Lender shall have, among other rights, the right to take possession of the Collateral and to enter upon any premises where the same may be situated for the purpose of repossessing the same without being guilty of trespass and without liability for damages occasioned thereby and to take any action deemed appropriate or desirable by the Lender, at its option and its sole discretion, to repair, restore or otherwise prepare the Collateral for sale, lease or other use or disposition. At the Lender's request, the Mortgagor shall assemble the Collateral and make the Collateral available to the Lender at any place designated by the Lender. To the extent permitted by law, the Mortgagor expressly waives any notice of sale or any other disposition of the Collateral and any rights or remedies of the Lender with respect to, and the formalities prescribed by law relative to, the sale or disposition of the Collateral or to the exercise of any other right or remedy of the Lender existing after default. To the extent that such notice is required and cannot be waived, the Mortgagor agrees that if such notice is given to the Mortgagor in accordance with the provisions of Section 5.14 below, at least five days before the time of the sale or other disposition, such notice shall be deemed reasonable and shall fully satisfy any requirement for giving said notice.

The Mortgagor agrees that the Lender may proceed to sell or dispose of both the real and personal property comprising the Property in accordance with the rights and remedies granted under this Mortgage with respect to the real property covered hereby. The Mortgagor hereby grants the Lender the right, at its option after default hereunder, to transfer at any time to itself or its nominee the Collateral or any part thereof and to receive the monies, income, proceeds and benefits attributable to the same and to hold the same as Collateral or to apply it on the Liabilities in such order and amounts and manner as the Lender may elect. The Mortgagor covenants and agrees that all recitals in any instrument transferring, assigning, leasing or making other disposition of the Collateral or any part thereof shall be full proof of the matters stated therein and no other proof shall be required to establish the legal propriety of the sale or other action taken by the Lender and that all prerequisites of sale shall be presumed conclusively to have been performed or to have occurred.

(f) Foreclosure Deeds and Bills of Sale. The Mortgagor hereby authorizes and empowers the Lender or the auctioneer at any foreclosure or other sale had hereunder, for and in the name of the Mortgagor, to execute and deliver to the purchaser or purchasers of any of the Property sold good and sufficient deeds of conveyance or bills of sale thereto.

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(g) Order of Application of Proceeds. All payments received by the Lender as proceeds of the Property, or any part thereof, as well as any and all amounts realized by the Lender in connection with the enforcement of any right or remedy under or with respect to this Mortgage, shall be applied by the Lender as follows: (i) to the payment of all necessary expenses incident to the execution of any foreclosure sale or sales or other remedies under this Mortgage, including reasonable attorneys' fees, as provided herein and in the other Loan Documents, appraisal fees, title search fees and foreclosure notice costs, (ii) to the payment of all sums advanced or expended by the Lender under the terms of this Mortgage and the other Loan Documents, together with interest thereon to the extent provided herein or therein, (iii) to the payment in full of any of the other Liabilities that is then due and payable (including without limitation principal, accrued interest and all other sums secured hereby), all in such order as the Lender may elect in its sole discretion, (iv) to a cash collateral reserve fund to be held by the Lender in an amount equal to, and as security for, any of the other Liabilities that is not then due and payable, and (v) the remainder, if any, shall be paid to the Mortgagor or such other person or persons appearing of record to be entitled thereto by law, after deducting therefrom the cost of ascertaining their identity.

(h) Multiple Sales. Upon the occurrence of any Event of Default or at any time thereafter, the Lender shall have the option to proceed with foreclosure, either through the courts or by proceeding with foreclosure as provided for in this Mortgage, but without declaring the whole Liabilities due. Any such sale may be made subject to the unmatured part of the Liabilities secured by this Mortgage, and such sale, if so made, shall not in any manner affect the unmatured part of the Liabilities secured by this Mortgage, but as to such unmatured part of the Liabilities this Mortgage shall remain in full force and effect as though no sale had been made under the provisions of this paragraph. Several sales may be made under the provisions of this paragraph without exhausting the right of sale for any remaining part of the Liabilities whether then matured or unmatured, the purpose hereof being to provide for a foreclosure and sale of the Property for any matured part of the Liabilities without exhausting any power of foreclosure and the power to sell the Property for any other part of the Liabilities, whether matured at the time or subsequently maturing.

(i) Waiver of Appraisement Laws. The Mortgagor waives, to the fullest extent permitted by law, the benefit of all laws now existing or hereafter enacted providing for (i) any appraisement before sale of any portion of the Property (commonly known as appraisement laws), or (ii) any extension of time for the enforcement of the collection of the Liabilities or any creation or extension of a period of redemption from any sale made in collecting the Liabilities (commonly known as stay laws and redemption laws).

(j) Prerequisites of Sales. In case of any sale of the Property as authorized by this Section, all prerequisites to the sale shall be presumed to have been performed, and in any conveyance given hereunder all statements of facts, or other recitals therein made, as to the nonpayment of any of the Liabilities or as to the advertisement of sale, or the time,

place and manner of sale, or as to any other fact or thing, shall be taken in all courts of law or equity as prima facie evidence that the facts so stated or recited are true.

V. MISCELLANEOUS PROVISIONS

SECTION 5.01 Collection Costs

The Mortgagor agrees to pay all costs, including reasonable attorneys' fees, incurred by the Lender in collecting any monies due the Lender hereunder, or in defending or attempting to defend the priority of this Mortgage against any Lien on the Property, unless this Mortgage is herein expressly made subject to any such Lien; and/or all costs incurred in the foreclosure of this Mortgage, either under the power of sale contained herein, or by virtue of the decree of any court of competent jurisdiction. The full amount of such costs incurred by the Lender shall be a part of the Liabilities, shall be obligations of the Mortgagor as well as the Individuals, shall bear interest at the rate provided for in the Note (including any default rate), or the highest rate permitted by law and shall be secured by this Mortgage.

SECTION 5.02. No Obligations of Lender; Indemnification

The Lender shall not by virtue of this Mortgage or otherwise assume any duties, responsibilities, liabilities or obligations with respect to Leases, the Improvements, the Personal Property, the Real Estate or any of the other Property (unless expressly assumed by the Lender under a separate agreement in writing), and this Mortgage shall not be deemed to confer on the Lender any duties or obligations that would make the Lender directly or derivatively liable for any person's negligent, reckless or wilful conduct. The Mortgagor agrees to defend, indemnify and save harmless the Lender from and against any and all claims, causes of action, judgments and other loss, cost and expense (collectively called "claims and losses") relating to or arising out of any default in the Mortgagor's performance of its representations, warranties, covenants, agreements, duties, responsibilities and obligations under this Mortgage or under the Leases and with respect to the Real Estate, the Improvements, the Personal Property, or any of the other Property. The provisions of this Section shall survive the payment of the Liabilities in full and the termination, satisfaction, release (in whole or in part) and foreclosure of this Mortgage with respect to claims and losses asserted against or suffered by the Lender. Without limiting the generality of the foregoing, the Mortgagor agrees that the Mortgagor's obligation to defend, indemnify and save harmless the Lender set forth in this Section shall specifically include all claims and losses asserted against or suffered by the Lender that are related to or arise out of (i) any representations or warranty set forth in Section 2.03 hereof that shall prove to be false or untrue in any material respect, (ii) any default in the performance or nonperformance of the Mortgagor's covenants and agreements set forth in Section 3.07 hereof, and (iii) any clean up or removal of, or other remedial action with respect to, any Hazardous Substances now or hereafter located on or included in the

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Property, or any part thereof, that may be required by any Environmental Law or governmental authority.

SECTION 5.03 Construction of Mortgage

This mortgage is and may be construed as a mortgage, deed of trust, chattel mortgage, conveyance, assignment, security agreement, pledge, financing statement, hypothecation or contract, or any one or more of them, in order fully to effectuate the lien hereof and the assignment and security interest created hereby and the purposes and agreements herein set forth.

SECTION 5.04 Successors and Assigns

All covenants and agreements herein made by the undersigned shall bind the undersigned and the heirs, personal representatives, successors and assigns of the undersigned; and every option, right and privilege herein reserved or secured to the Lender shall inure to the benefit of the Lender's successors and assigns.

SECTION 5.05 Waiver and Election

The exercise by the Lender of any option given under the terms of this Mortgage shall not be considered as a waiver of the right to exercise any other option given herein, and the filing of a suit to foreclose the lien, security interest and assignment granted by this Mortgage, either on any matured portion of the Liabilities or for the whole of the Liabilities, shall not be considered an election so as to preclude foreclosure under power of sale after a dismissal of the suit; nor shall the publication of notices for foreclosure preclude the prosecution of a later suit thereon. No failure or delay on the part of the Lender in exercising any right, power or remedy under this Mortgage shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy hereunder or thereunder. The remedies provided in this Mortgage and in the other Loan Documents are cumulative and not exclusive of any remedies provided by law. No amendment, modification, termination or waiver of any provisions of this Mortgage or any of the Loan Documents, nor consent to any departure by the Mortgagor therefrom, shall be effective unless the same shall be in writing and signed by an executive officer of the Lender, and then such waiver or consent shall be effective only in this specific instance and for the specific purpose for which given. No notice to or demand on the Mortgagor in any case shall entitle the Mortgagor to any other or further notice or demand in similar or other circumstances. The Mortgagor hereby waives the right to trial by jury in any action arising out of or related to the Liabilities, this Mortgage, any of the other Loan Documents, or any of the transactions contemplated thereby.

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SECTION 5.06 Landlord-Tenant Relationship

Any sale of the Property under this Mortgage shall, without further notice, create the relationship of landlord and tenant at sufferance between the purchaser and the Mortgagor.

SECTION 5.07 Enforceability

If any provision of this Mortgage is now or at any time hereafter becomes invalid or unenforceable, the other provisions hereof shall remain in full force and effect, and the remaining provisions hereof shall be construed in favor of the Lender to effectuate the provisions hereof.

SECTION 5.08 Application of Payments

If the lien, assignment or security interest created by this Mortgage is invalid or unenforceable as to any part of the Liabilities or is invalid or unenforceable as to any part of the Property, the unsecured or partially secured portion of the Liabilities shall be completely paid prior to the payment of the remaining secured or partially secured portion of the Liabilities, and all payments made on the Liabilities, whether voluntary or under foreclosure or other enforcement action or procedures, shall be considered to have been first paid on and applied to the full payment of that portion of the Liabilities that is not secured or not fully secured by the Lien created by this Mortgage.

SECTION 5.09 Other Mortgages Encumbering the Real Estate

The Mortgagor hereby authorizes the holder of any other mortgage encumbering the Real Estate to disclose to the Lender from time to time and at any time the following information: (a) the amount of indebtedness secured by such mortgage; (b) the amount of such indebtedness that is unpaid; (c) whether such indebtedness is or has been in arrears; (d) whether there is or has been any default with respect to such mortgage or the indebtedness secured thereby; and (e) any other information regarding such mortgage or the indebtedness secured thereby that the Lender may request from time to time.

The Mortgagor expressly agrees to comply with the terms of any other mortgage encumbering the Real Estate or any of the Improvements and agrees not to consent to or permit any amendment or modification thereof without the prior written consent of the Lender. The Mortgagor further agrees that if default should be made in the payment of principal, interest or any other sum secured by any other mortgage encumbering the Real Estate or any of the Improvements, the Lender may (but shall not be required to) pay all or any part of such amount in default, without notice to the Mortgagor. The Mortgagor agrees to repay any such sum advanced upon demand, with interest from the date such advance is made at the rate provided for in the Note (including any default rate), or the highest rate permitted by law, whichever shall be less, and any sum so advanced with interest shall be a part of the Liabilities secured by this Mortgage.

The Mortgagor expressly agrees that, if any holder of any mortgage or security interest encumbering the Property forecloses such mortgage or security interest and receives at the foreclosure sale or otherwise consideration in an amount in excess of the indebtedness secured by the mortgage or security interest being foreclosed, the holder of such mortgage or security interest shall pay such excess to the Lender to be applied against the Liabilities in such order as the Lender in its discretion directs.

SECTION 5.10 Meaning of Particular Terms

Whenever used, the singular number shall include the plural and the plural the singular, and pronouns of one gender shall include all genders; and the words "Mortgagor" and "Lender" shall include their respective heirs, personal representatives, successors and assigns. The term "Mortgagor" as used in this Mortgage refers to each of the undersigned, jointly and severally, whether one or more natural persons, partnerships, corporations, associations, trusts or other entities or organizations.

SECTION 5.11 Advances by Lender

If the Mortgagor shall fail to comply with the provisions hereof with respect to the securing of insurance, the payment of utilities, taxes, assessments and other charges, the keeping of the Property in repair, the performance of the Mortgagor's obligations under any Lease, the payment or performance of any prior mortgages, the compliance with Environmental Laws, or the performance of or compliance with any other term or covenant herein contained, the Lender may (but shall not be required to) make advances to pay, perform or comply with the same, and where necessary enter the Property for the purpose of performing or complying with any such term or covenant. The Mortgagor agrees to repay all such sums advanced upon demand, with interest from the date such advances are made, at the rate provided for in the Note (including any default rate), or the highest rate permitted by law, whichever shall be less, and all sums so advanced with interest shall be a part of the Liabilities and shall be secured hereby. The making of any such advances shall not be construed as a waiver by the Lender of any Event of Default resulting from the Mortgagor's failure to pay the amounts paid.

SECTION 5.12 Release or Extension by Lender

The Lender, without notice to the Mortgagor and without in any way affecting the rights of the Lender hereunder as to any part of the Property not expressly released, may release any part of the Property or any person liable for any of the Liabilities and may agree with any party with an interest in the Property to extend the time for payment of all or any part of the Liabilities or to waive the prompt and full performance of any term, condition or covenant of the Note or any of the other Loan Documents.

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SECTION 5.13 Partial Payments

Acceptance by the Lender of any payment of less than the full amount due on the Liabilities shall be deemed acceptance on account only, and the failure of the Mortgagor to pay the entire amount then due shall be and continue to constitute an Event of Default, and at any time thereafter and until the entire amount due on the Liabilities has been paid, the Lender shall be entitled to exercise all rights conferred on it by the terms of this Mortgage in case of the occurrence of an Event of Default.

SECTION 5.14 Addresses for Notices

All notices, requests, demands and other communications provided for hereunder shall be in writing or by telex, telegram or cable and mailed or sent or delivered to the applicable party at its address indicated on the first page of this Mortgage or at such other address as shall be designated by such party in a written notice to the other parties thereto.

SECTION 5.15 Titles

All section, paragraph, subparagraph or other titles contained in this Mortgage are for reference purposes only, and this Mortgage shall be construed without reference to said titles.

SECTION 5.16 Release of Lots

So long as no Event of Default shall have occurred and be continuing, any of the lots included in the Real Estate shall be released from the Lien of this Mortgage upon the written request of the Mortgagor and provided that the unpaid balance of the Note secured by this Mortgage shall not, after such release, exceed 80% of the appraised value of the lots remaining under this Mortgage, as such appraisal values are set forth on Exhibit D attached hereto or, at the Lender's sole option, are shown by any appraisal prepared by a certified appraiser acceptable to the Lender in its sole discretion. In the event that the release of any lot or lots would cause the unpaid balance of the Note secured by this Mortgage to exceed 80% of the appraised value of the lots remaining under this Mortgage, Mortgagor, upon release of any such lot, shall pay to Lender a sum equal to the amount necessary to reduce the unpaid balance of the Note to 80% of the appraised value of the remaining lots under this Mortgage (the "Lot Release Price"). In the event that, after release of any of the lots, an appraisal reveals that the unpaid balance of the Note secured by this Mortgage exceeds 80% of the appraised value of the lots remaining under this Mortgage, Mortgagor shall immediately pay to Lender a sum equal to the amount necessary to reduce the unpaid balance of the Note to 80% of the appraised value of the remaining lots under this Mortgage. Mortgagor agrees to pay the costs of any and all appraisals that the Lender reasonably deems necessary to assure Lender that the unpaid balance of the Note secured by this Mortgage does not exceed 80% of the fair market value of the lots remaining under this Mortgage.

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Upon payment to the Lender of the Lot Release Price with respect to any lot, the Lender shall promptly deliver to the party paying said price a partial release of said lot from the Lien of this Mortgage, and the Lender shall apply said release price to the reduction of the Liabilities secured hereby in such order as the Lender in its sole discretion may elect. The right to obtain such release shall be suspended during such time as an Event of Default, or circumstance that with notice or lapse of time or both could constitute an Event of Default exists, subject to reinstatement only if the Event of Default or circumstance is cured in its entirety. The right to obtain such releases shall be extinguished by the acceleration of the due date of the Loan. In no event shall the right to obtain such releases survive foreclosure.

SECTION 5.17 Arbitration: Dispute Resolution: Preservation of Foreclosure Remedies

This Mortgage is subject to and expressly incorporates all provisions for arbitration of disputes and preservation of remedies set forth in the Note.

IN WITNESS WHEREOF, the Mortgagor has executed this instrument on the day and year first above written.

EAGLE POINT ASSOCIATES,
an Alabama general partnership

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By: EAGLE POINT ASSOCIATES, INC., an
Alabama Corporation - General Partner

By: John A. Mann, Jr.
Its President

By: ARLINGTON PROPERTIES, INC., an
Alabama Corporation - General Partner

By: W. C. G.
Its Chairman

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned authority, a Notary Public in and for said
County in said State, hereby certify that John A. Mann, Jr., whose
name as President of Eagle Point Associates, Inc., an Alabama corporation,
a general partner of Eagle Point Associates, an Alabama general
partnership, 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
said 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 and official seal, this the 5th day
of June, 1991.

Kay H. Tyler
Notary Public

AFFIX SEAL

My commission expires: November 6, 1992

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that William C. Hulsey, whose name as Chairman of Arlington Properties, Inc., an Alabama corporation, a general partner of Eagle Point Associates, an Alabama general partnership, 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 said 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 and official seal, this the 5th day of June, 1991.


Notary Public

AFFIX SEAL

My commission expires: November 6, 1992

This instrument was prepared by:

Deborah J. Long
MAYNARD, COOPER, FRIERSON & GALE, P.C.
1901 Sixth Avenue North
2400 AmSouth/Harbert Plaza
Birmingham, Alabama 35203
(205) 254-1000

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EXHIBIT A

(Real Estate Description)

Entire Survey of Eagle Point, First Sector, Phase I, EXCEPT Lots 1, 7 and 8, as recorded in Map Book 14, page 114, in the Probate Office of Shelby County, Alabama.

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EXHIBIT B

(Existing Leases)

None

EXHIBIT C

(Permitted Encumbrances)

1. The lien for ad valorem taxes on the Property so long as such taxes are not delinquent.

2. The exceptions set forth in Schedule [B 5.2] of the Mortgagee's title insurance policy issued or to be issued pursuant to that certain Commitment to Issue Title Insurance No. [14652] prepared by [Chicago Title Insurance Co.], having an effective date of [June 5, 1911], at ~~_____~~ ~~_____~~ ~~_____~~, to the extent only that such exceptions refer expressly to instruments recorded against, or otherwise specifically affect, the Property and not to any general, standard or similar exceptions that may appear in said policy.

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EXHIBIT "D"

<u>Lot #</u>	<u>Appraised Value</u>
2	\$62,500.00
3	52,500.00
4	62,500.00
5	62,500.00
6	62,500.00
9	62,500.00
10	62,500.00
11	57,500.00
12	52,500.00
13	52,500.00
14	52,500.00
15	42,500.00
16	52,500.00
17	52,500.00
18	52,500.00
19	52,500.00
20	47,500.00
21	42,500.00
22	42,500.00
23	42,500.00
24	42,500.00
25	42,500.00
26	37,500.00
27	37,500.00
28	32,500.00
29	50,000.00
30	50,000.00
31	52,500.00
32	52,500.00
33	52,500.00
34	52,500.00
35	52,500.00
36	47,500.00
85	47,500.00
86	47,500.00
87	47,500.00
88	52,500.00
89	52,500.00
90	52,500.00

1. Dead Tax	0
2. Ad. Tax	23,547.00
3. Real. Prop.	83.50
4. Int. Tax	3.10
5. State Tax	0
6. Local Tax	1.20
Total	23,634.80

STATE OF ALA. DEPT. OF REVENUE
I CERTIFY THIS
INSTRUMENT WAS FILED

91 JUN -6 AM 8:12

John W. Thompson Jr.
JUDGE OF PROBATE

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