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[EXECUTION COPY]

STATE OF ALABAMA)

JEFFERSON COUNTY)

**MORTGAGE, SECURITY AGREEMENT
AND ASSIGNMENT OF RENTS AND LEASES**

This Mortgage, Security Agreement and Assignment of Rents and Leases (hereinafter, with all amendments hereto, called "this Mortgage") dated as of February 19, 1992, is made and entered into by and between ALABASTER INDUSTRIES, INC., a Delaware corporation (the "Borrower"), whose address is 501 Industrial Road, Alabaster, Alabama 35007, and AMSOUTH BANK N.A., a national banking association (the "Lender"), whose address is AmSouth-Sonat Tower, 1900 Fifth Avenue North, Birmingham, Alabama 35203.

Recitals

A. The Borrower and the Lender have entered into a Loan Agreement of even date herewith (the "Loan Agreement"), pursuant to which the Lender has agreed to (i) make a loan to the Borrower in the principal amount of Seven Million Seven Hundred Fifty Thousand Dollars (\$7,750,000) (the "\$7,750,000 Loan"), the proceeds of the \$7,750,000 Loan to be used by the Borrower to fund a \$7,750,000 loan to Daniel A. Norris, in his capacity as trustee (the "Trustee") of the Alabaster Industries, Inc. Employee Stock Ownership Plan Trust Agreement effective as of January 1, 1992, pursuant to the terms of a Loan and Security Agreement of even date herewith between the Borrower and the Trustee (the "ESOP Loan Agreement"), (ii) make a loan to the Borrower in the principal amount of Two Hundred Fifty Thousand Dollars (\$250,000) (the "\$250,000 Loan"), the proceeds of the \$250,000 Loan to be used by the Borrower for its general working capital needs, and (iii) extend to the Borrower a revolving line of credit (the "Line of Credit") not to exceed \$500,000 in aggregate principal amount at any one time outstanding.

B. The \$7,750,000 Loan is evidenced by the Borrower's promissory note in the principal amount of \$7,750,000 (the "\$7,750,000 Note") dated as of even date herewith, which \$7,750,000 Note bears interest as provided therein and is payable in full on March 31, 1999.

C. The \$250,000 Loan is evidenced by the Borrower's promissory note in the principal amount of \$250,000 (the "\$250,000 Note") dated as of even date herewith, which \$250,000 Note bears interest as provided therein and is payable in full on March 31, 1999.

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D. The Line of Credit is evidenced by the Borrower's promissory note in the principal amount of \$500,000 (the "Line of Credit Note") dated as of even date herewith.

E. To secure the \$7,750,000 Loan and the \$250,000 Loan (but not the Line of Credit) and to induce the Lender to extend credit to the Borrower under the Loan Agreement on the strength of the security provided by this Mortgage, the Borrower has agreed to execute and deliver this Mortgage to the Lender.

Agreement

NOW, THEREFORE, in consideration of the premises, and to induce the Lender to make the \$7,750,000 Loan and \$250,000 Loan to the Borrower and to extend credit to the Borrower under the Line of Credit, the Borrower hereby agrees with the Lender as follows:

I. DEFINITIONS AND RULES OF CONSTRUCTION

SECTION 1.01. Rules of Construction. For the purposes of this Mortgage, except as otherwise expressly provided or unless the context otherwise requires:

(a) Words of masculine, feminine or neuter gender shall mean and include the correlative words of other genders, and words importing the singular number shall mean and include the plural number, and vice versa.

(b) All references herein to a separate instrument are to such separate instrument as the same may be amended or supplemented from time to time pursuant to the applicable provisions thereof.

(c) All references herein to designated "Articles," "Sections" and other subdivisions or to lettered Exhibits are to the designated Articles, Sections and subdivisions hereof and the Exhibits annexed hereto unless expressly otherwise designated in context. All Article, Section, other subdivision and Exhibit captions herein are used for reference only and in no way limit or describe the scope or intent of, or in any way affect, this Mortgage.

(d) The terms "include," "including," and similar terms shall be construed as if followed by the phrase "without being limited to."

(e) The terms "herein," "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, other subdivision or Exhibit.

(f) The term "person" shall include any individual, corporation, partnership, joint venture, association, trust, sole proprietorship, unincorporated organization and any Governmental Authority.

(g) All recitals set forth in, and all Exhibits to, this Agreement are hereby incorporated in this Agreement by reference.

(h) All obligations of the Borrower hereunder shall be performed and satisfied by or on behalf of the Borrower at the Borrower's sole cost and expense.

(i) No inference in favor of or against any party shall be drawn from the fact that such party or its counsel has drafted any portion hereof.

SECTION 1.02. Definitions. As used in this Agreement the following terms shall have the respective meanings attributed to them as follows:

"\$7,750,000 Loan" shall have the meaning attributed to that term in Recital A above.

"\$7,750,000 Note" shall have the meaning attributed to that term in Recital B above.

"\$250,000 Loan" shall have the meaning attributed to that term in Recital A above.

"\$250,000 Note" shall have the meaning attributed to that term in Recital C above.

"Capital Lease" shall mean any lease of property (whether real, personal or mixed) by the Borrower as lessee which, in conformity with generally accepted accounting principles, is or should be accounted for as a capital lease on the balance sheet of the Borrower.

"CERCLA" shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sections 9601 et seq.

"Debt" of the Borrower shall mean (i) all indebtedness, whether or not represented by bonds, debentures, notes or other securities, for the repayment of borrowed money, including each of the Term Loans and the Line of Credit, (ii) all deferred indebtedness for the payment of the purchase price of property or assets purchased, (iii) all obligations under Capital Leases and (iv) all indebtedness secured by any mortgage or pledge of, or Lien on, property of the Borrower, whether or not the indebtedness secured thereby or any part thereof shall have been assumed by the Borrower.

"Environmental Law" shall mean and include any Governmental Requirement (including CERCLA) relating to pollution or protection of human health or the environment, including any relating to Hazardous Substances.

"Existing Tenant Leases" shall have the meaning attributed to that term in Section 2.02(e).

"Fee Property" shall have the meaning attributed to that term in Section 2.02(a).

"Governmental Authority" shall mean any federal, state, county, municipal or other government, domestic or foreign, and any agency, authority, department, commission, bureau, board, court or other instrumentality thereof.

"Governmental Requirements" shall mean all laws, rules, regulations, ordinances, judgments, decrees, codes, orders, decrees, injunctions, notices and demand letters of any Governmental Authority applicable to any Obligor or any of the Collateral.

"Hazardous Substances" shall mean and include all pollutants, contaminants, toxic or hazardous wastes and other substances (including asbestos, urea formaldehyde foam insulation and materials containing either petroleum or any of the substances referenced in Section 101(14) of CERCLA), the removal of which is required or the manufacture, use, maintenance and 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 public or the occupants of the property on which it is located or the occupants of the property adjacent thereto.

"Impositions" shall mean all taxes, assessments, dues, fines, rents, levies, fees, permits and other governmental and quasi-governmental charges imposed or levied upon the Property (or any part thereof), the use or occupancy thereof, the Liens or other interests created by this Mortgage, the filing or recording of this Mortgage or the Obligations.

"Improvements" shall have the meaning attributed to that term in Section 2.02(c).

"Land" shall have the meaning attributed to that term in Section 2.02(c).

"Lease" shall have the meaning attributed to that term in Section 2.02(b).

"Leasehold Property" shall have the meaning attributed to that term in Section 2.02(b).

"Liabilities" shall mean (i) all amounts of principal becoming due and payable on each of the Term Notes in accordance with the terms thereof and of the Loan Agreement, whether on demand, at stated maturity, as an installment, by notice of optional prepayment, declaration of acceleration or otherwise; (ii) all amounts of interest becoming due and payable on each of the Term Notes in accordance with the terms thereof and of the Loan Agreement, including interest on any overdue principal and (to the extent permitted by applicable law) on any overdue interest; (iii) all other amounts payable by the Borrower with respect to each of the Term Loans under the terms of the Loan Agreement or any of the other Loan Documents; and (iv) all renewals, extensions and modifications of any and all of the obligations referred to in (i) through (iii) above, whether or not any renewal, extension or modification agreement is executed in connection therewith.

"Lien" shall mean any mortgage, pledge, assignment, charge, encumbrance, lien, security interest or other preferential arrangement of any kind or nature whatsoever.

"Line of Credit" shall have the meaning attributed to that term in Recital A above.

"Line of Credit Note" shall have the meaning attributed to that term in Recital D above.

"Loan Agreement" shall have the meaning attributed to that term in Recital A above.

"Loan Documents" shall mean the Loan Agreement, each of the Term Notes, the Line of Credit Note, this Mortgage, the other Security Documents, and all other documents now or hereafter executed or delivered in connection with either of the Term Loans, the Line of Credit or any of the foregoing documents, or to evidence or secure either of the Term Loans or the Line of Credit, and all amendments thereto.

"Obligations" shall have the meaning attributed to that term in Section 2.01.

"Obligor" shall mean and include the Borrower and any other maker, endorser, surety, or guarantor of either of the Term Notes or any of the other Obligations.

"Permitted Encumbrances" shall mean any Liens and other matters affecting title to the Property that are described in Exhibit B.

"Personal Property" shall have the meaning attributed to that term in Section 2.02(d).

"Property" shall have the meaning attributed to that term in Section 2.02.

"Real Property" shall have the meaning attributed to that term in Section 2.02(c).

"Rents" shall have the meaning attributed to that term in Section 2.02(e).

"Security Agreement" shall mean the Security Agreement or even date herewith executed by the Borrower in favor of the Lender as security for the Obligations, and all amendments thereto.

"Security Documents" shall mean this Mortgage, the Security Agreement and any other documents now or hereafter executed by any Obligor or any other person in favor of the Lender as security for the Obligations, and all amendments thereto.

"Tenant Leases" shall have the meaning attributed to that term in Section 2.02(e).

"Tenants" shall have the meaning attributed to that term in Section 2.02(e).

"Term Loans" shall mean the \$7,750,000 Loan and the \$250,000 Loan, collectively.

"Term Notes" shall mean the \$7,750,000 Note and the \$250,000 Note, collectively.

II. OBLIGATIONS, GRANTING CLAUSES, ASSIGNMENTS, ETC.

SECTION 2.01. Obligations. This Mortgage is given to secure and shall secure the following (collectively, the "Obligations"):

(a) the payment of all amounts now or hereafter becoming due and payable under each of the Term Notes, including the principal of each of the Term Loans, and all interest thereon and all other fees, charges and costs (including reasonable attorneys' fees) payable in connection therewith;

(b) the payment of any and all other fees, charges and other sums now or hereafter becoming due and payable by the Borrower to the Lender under the terms of the other Loan Documents (not including, however, the Line of Credit Note);

(c) the payment of all other Liabilities of the Borrower to the Lender of every kind and description whatsoever;

(d) the payment of any and all sums now or hereafter becoming due and payable by the Borrower under the terms of this Mortgage, including advancements made by the Lender pursuant to the terms and conditions of this Mortgage;

(e) all renewals, extensions, modifications and amendments of any or all of the obligations described in clauses (a) through (d) of this Section 2.01, whether or not any renewal, extension, modification or amendment agreement is executed in connection therewith; and

(f) the full and complete performance of and compliance with all of the stipulations, covenants, agreements, representations, warranties and conditions contained in this Mortgage and the other Loan Documents.

Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents:

(a) This Mortgage does not and shall not secure the Line of Credit or any advances thereunder or any indebtedness evidenced by the Line of Credit Note.

(b) The aggregate maximum principal amount of Obligations secured by this Mortgage shall not exceed \$3,000,000 (the "Maximum Principal Amount"), but such limitation shall only apply to the principal indebtedness secured by this Mortgage and shall not limit the amount of interest, fees, expenses, indemnified amounts or other indebtedness (except principal indebtedness) secured hereby.

(c) The Maximum Principal Amount of Obligations secured by this Mortgage shall be deemed to be the first principal indebtedness to be advanced and the last principal indebtedness to be repaid.

(d) The security afforded by this Mortgage for the Obligations shall not be reduced by any payments or other sums applied to the reduction of the Obligations so long as the total amount of outstanding principal Obligations exceeds the Maximum Principal Amount, and thereafter shall be reduced only to the extent that any payments and other sums are actually applied by the Lender to reduce the outstanding principal of the Obligations to an amount not less than the Maximum Principal Amount.

SECTION 2.02. Granting Clauses. As security for the Obligations the Borrower does hereby grant, bargain, sell, mortgage, assign and convey unto the Lender, its successors and assigns, and does grant to the Lender, its successors and assigns, a security interest in, the following property and interests in property (collectively, the "Property"):

(a) Fee Property. All those certain lot(s), piece(s) or parcel(s) of land located in Shelby County, Alabama more particularly described in Exhibit A, as the description of the same may be amended or supplemented from time to time, and all and singular the reversions and remainders in and to said land and the tenements, hereditaments, easements, rights-of-way or use, rights (including mineral and mining rights, and all water, oil and gas rights), privileges, royalties and appurtenances to said land, now or hereafter belonging or in anyway appertaining thereto, including any right, title, interest in, to or under any agreement or right granting, conveying or creating, for the benefit of said land, any easement, right or license in any way affecting other property and in, to or under any streets, ways, alleys, vaults, gores or strips of land adjoining said land or any parcel thereof, or in or to the air space over said land, all rights of ingress and egress by motor vehicles to parking facilities on or within said land, and all claims or demands of Borrower either at law or in equity, in possession or expectancy of, in or to the same (all of the foregoing hereinafter collectively called the "Fee Property").

(b) Rights Under Lease. (i) That certain lease dated as of October 1, 1979, between Farris Land Company, Inc., as lessor, and the Borrower, as lessee, as amended (hereinafter called the "Lease"), and the Borrower's leasehold estate and ~~interest~~ under the Lease in and to all those certain lot(s), piece(s) or parcel(s) of land described in the Lease and located in Shelby County, Alabama more particularly described in Exhibit C, as the description of the same may be amended or supplemented from time to time, and all and singular the reversions and remainders in and to said land and the tenements, hereditaments, easements, rights-of-way or use, rights (including mineral, water, oil and gas rights), privileges, royalties and appurtenances to said land, now or hereafter belonging or in anyway appertaining thereto, including any right, title, interest of the Borrower in, to or under the Lease in any agreement or right granting, conveying or creating, for the benefit of said land, any easement, right or license in any way affecting other property and in, to or under any streets, ways, alleys, vaults, gores or strips of land adjoining said land or any parcel thereof, or in or to the air space over said land, all rights of ingress and egress by motor vehicles to parking facilities on or within said land, and all claims or demands of Borrower either at law or in equity, in possession or expectancy of, in or to the same (all of the foregoing hereinafter collectively called the "Leasehold Property"); (ii) all other rights, titles and privileges under the Lease in and to the Leasehold Property, or any part thereof, including any reversions and remainders in and to the Borrower's interest in the

Leasehold Property; and (iii) any and all right, title and interest of the Borrower in and to (A) all modifications, extensions, renewals, supplements and restatements of the Lease; (B) all credits and deposits made thereunder; (C) all options and rights to renew or extend the same, including, but not limited to, the options contained in the Lease; (D) all options and rights to purchase or of first refusal with respect to the Leasehold Property and, or any part thereof, including, but not limited to, the options and rights contained in the Lease; and (E) all other, further or additional title, estate, options, privileges, interest or rights that the Borrower may now or hereafter acquire in and to the Leasehold Property and and the Lease.

(c) Improvements. All buildings, structures, facilities and other improvements now or hereafter located on the the Fee Property and the Leasehold Property (collectively, the "Land"), and all building material, building equipment and fixtures of every kind and nature now or hereafter located on the Land or attached to, contained in, or used in connection with, any such buildings, structures, facilities or other improvements, and all appurtenances and additions thereto and betterments, renewals, substitutions and replacements thereof, owned by the Borrower or in which the Borrower has or shall acquire an interest (all of the foregoing hereinafter collectively called the "Improvements," and together with the Land called the "Real Property").

(d) Personal Property. All chattels and other articles of personal property and fixtures, both tangible and intangible (including appurtenances, additions and accessions thereto and replacements, substitutions, betterments and renewals thereof), of every kind or character now owned or hereafter constructed, created or acquired by the Borrower and attached to the Real Property; or placed on the Real Property and used or useful in connection with, or in any way appertaining or relating to, the Real Property (or the operations of the Borrower thereon) though not attached to the Real Property; or for which the proceeds of either of the Term Loans have been or may be advanced, wherever the same may be located, (the "Personal Property").

(e) Tenant Leases and Rents. (i) All leases, subleases, lettings and licenses, and other use and occupancy agreements, written or oral, covering any of the Real Property or Personal Property with respect to which the Borrower is the lessor, licensor or sublessor, including any of the same now in existence (all of the foregoing hereinafter collectively called the "Existing Tenant Leases"), and any and all other such agreements hereafter made or entered into (all of the foregoing hereinafter collectively called the "Tenant Leases"); (ii) any and all guaranties of the performance of the lessee, licensee, sublessee or occupant (all of the foregoing hereinafter collectively called the "Tenants") under any of the Tenant Leases; (iii) the immediate and continuing right to collect and receive all of the rents, income, receipts, revenues, issues and profits now due or that may become due or to which the Borrower 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 Tenant Leases, the Real Property, the Personal Property, or any part thereof, including 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 Tenant upon the exercise of any cancellation privilege provided for in any of the Tenant 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 Property or Personal Property, together with any and all rights and claims of any kind that the Borrower may have against any Tenant (all such moneys, rights and claims described in this Section 2.02(d)(iii) hereinafter collectively referred to as the "Rents"); provided, however, that so long as no Event of Default has occurred, the Borrower shall have the right under a license granted hereby (but limited as set forth in Section 5.03(f)(1)(A) hereof) to collect, receive and retain the Rents, but no Rents shall be collected prior to the due date thereof; and (iv) any award, dividend or other payment made hereafter to the Borrower in any court procedure involving any of the Tenants in any bankruptcy, insolvency or reorganization proceedings before any Governmental Authority and any and all payments made by Tenants in lieu of rent. The Borrower hereby appoints the Lender as the Borrower's irrevocable attorney-in-fact to appear in any action and to collect any such award, dividend or other payment.

(f) Insurance Policies. Each and every policy of hazard insurance now or hereafter in effect which insures the Improvements, the Personal Property, or any part thereof, together with all right, title and interest of the Borrower in and to each and every such policy, including any premiums paid on each such policy and rights to returned premiums.

(g) Condemnation Awards. Any and all judgments, damages, settlements, awards, payments and compensation, including all interest thereon, together with the right to receive the same, that may be made to the Borrower or any subsequent owner of any of the Real Property, the Personal Property or any other property or rights conveyed or encumbered hereby, as a result of (i) the exercise of the right of eminent domain or condemnation, (ii) the alteration of the grade or of any street or (iii) any other injury to or decrease in value of the Real Property or the Personal Property.

(h) General Intangibles and Agreements. (i) All general intangibles relating to the development or use of the Real Property, the Personal Property, or any other property or rights conveyed or encumbered hereby, or the management and operation of any business of the Borrower thereon, including all patents, patent applications, trade names, trademarks, trademark applications, knowledge and process, licensing arrangements, blueprints, technical specifications, manuals and other trade secrets; (ii) the good will of any business conducted or operated on the Real Property, all governmental permits relating to the operation thereof, and all names under or by which the same may at any time be operated or known and all rights to carry on business under any such names or any variant thereof; and (iii) and all contracts and agreements (including leasing, management, operating and concession agreements) affecting the Real Property, the Personal Property or any other property conveyed or encumbered by this Mortgage, or used or useful in connection therewith, whether now or hereafter entered into;

(i) Supplemental Documents. All changes, additions, supplements, modifications, amendments, extensions, renewals, revisions and guaranties to, of or for any agreement or instrument included in the foregoing.

(j) Proceeds. All proceeds (including insurance proceeds) of any of the foregoing, or of any part thereof.

(k) Other Property. Any and all other real or personal property, rights, titles and interests 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 Borrower, or by anyone on behalf of, or with the written consent of, the Borrower.

SUBJECT, HOWEVER, to 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.

III. REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Lender that:

SECTION 3.01. Valid Title, etc. (i)(A) The Borrower is lawfully seized in fee simple of the Fee Property, (B) the Borrower is the tenant with respect to the leasehold estate in the Leasehold Property under the Lease and (C) the Borrower is the lawful owner of, and has good title to, the Personal Property and the remainder of the Property and has good right to mortgage, assign and grant a security interest in the Property as aforesaid; (ii) the Property is free of all Liens other than Permitted Encumbrances; (iii) the Borrower has and will have full power and lawful authority to encumber and convey the Property as provided herein; (iv) this Mortgage is and will remain a valid and enforceable first priority lien on, and security interest in, the Property, subject only to Permitted Encumbrances; and (v) the Borrower will forever warrant and defend the title to the Property unto the Lender against the lawful claims of all persons whomsoever, except those claiming under Permitted Encumbrances.

SECTION 3.02. Rents and Tenant Leases. (i) The Borrower has duly and punctually performed all and singular the terms, covenants, conditions and warranties of the Existing Tenant Leases on the Borrower's part to be kept, observed and performed; (ii) except for Permitted Encumbrances, the Borrower has not previously sold, assigned or transferred or granted or permitted any Lien on the Tenant Leases or the Rents, whether now due or hereafter to become due; (iii) 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; (iv) the Borrower has not received any funds or deposits from any Tenant in excess of one month's rent for which credit has not already been made on account of accrued rents; and (v) to the best of the Borrower's knowledge, the Tenants under the Existing Tenant Leases are not in default under any of the terms thereof.

SECTION 3.03. Environmental Compliance. Except as set forth on Schedule 3.03, to the best knowledge of the Borrower, (i) the Property has not been used by the Borrower, and has never been used by any other person, to generate, manufacture, refine, transport, treat, store, handle or dispose of any Hazardous Substance; (ii) the Property is not now, and has never been, in violation of any applicable Environmental Law; (iii) the Property does not contain, and has never contained, any Hazardous Substance; (iv) there are no pending investigations, claims, or threats of claims with respect to the Property by any Governmental Authority or other person relating to any Environmental Law; (v) there are no Hazardous Substances present on property adjacent to the Property that could migrate to, through or under the Property; (vi) the past, current and intended uses of the Property comply and will comply with all Environmental Laws; and (vii) the Borrower has obtained all certificates, licenses, authorizations, registrations, permits and other approvals of Governmental Authorities required by Environmental Laws; provided, however, notwithstanding anything to the contrary contained herein, the Borrower may store on and apply to the Property pesticides and herbicides in accordance with applicable Environmental Laws and the manufacturers' recommendations.

SECTION 3.04. Other Governmental Compliance, etc. (i) The Property, the Project and the use and operation thereof contemplated by the Loan Agreement comply with all material and applicable Governmental Requirements; and (ii) no Lien exists on the Property, or any part thereof, in favor of any Governmental Authority or other person under any Governmental Requirement that might have priority over this Mortgage.

SECTION 3.05. Bankruptcy. The Borrower is, and after giving effect to the transactions provided for under the Loan Agreement will be, solvent, and no bankruptcy, insolvency or similar proceeding is pending or contemplated by or against the Borrower.

SECTION 3.06. Existing Default. There is no existing default by the Borrower under the Loan Documents or the Permitted Encumbrances, and no event has occurred that, with notice or the passage of time or both, would constitute or result in such a default.

SECTION 3.07. Certificates and Permits. (i) The Borrower has obtained all material certificates, licenses, authorizations, registrations, permits and other approvals of Governmental Authorities necessary for the operation of any of the Property and the conduct of the Borrower's business at the Real Property, including all required zoning, building, land use, environmental, occupancy, fire and other approvals, (ii) the use and occupancy of the Property do not conflict with or violate any of the same, and (iii) the Borrower, promptly upon request by the Lender, shall deliver to the Lender copies of all of the same.

SECTION 3.08. Statements, etc. Correct. All reports, statements, certificates and other data furnished by or on behalf of the Borrower to the Lender in connection with the Loan Documents or the transactions contemplated thereunder, and all representations and warranties made by or on behalf of the Borrower in the other Loan Documents, or any certificate or other instrument delivered in connection therewith, are true and correct in all material respects and do not omit to state any material fact or circumstance necessary to make the statements contained

therein, in light of the circumstances under which they were made, not misleading as of the date of such information, reports, statements or certificates.

SECTION 3.09. The Lease. (i) To the best of the Borrower's knowledge and belief, subject to matters that would be disclosed by an accurate survey, the Lease is a valid and subsisting lease of the Leasehold Property for the term therein set forth, and the Lease is in full force and effect and unmodified except as hereinabove expressly stated; (ii) all rents (including minimum rents, additional rents, percentage rents, common area maintenance charges and other charges) reserved in the Lease have been paid to the extent payable prior to the date hereof; and (iii) there is no existing default under the provisions of the Lease or in the observance of any of the terms, covenants, conditions or warranties thereof on the part of the Borrower to be observed and performed.

IV. COVENANTS AND AGREEMENTS OF MORTGAGOR

The Borrower covenants and agrees that, until the Obligations are paid and this Mortgage is satisfied in writing by the Lender:

SECTION 4.01. Payment of Impositions. Unless the Borrower is making monthly deposits pursuant to Section 4.06 hereof, the Borrower will pay or cause to be paid all Impositions and will deliver receipts therefor to the Lender at least ten days before the Impositions are due, or at the Lender's request will pay to the Lender an amount equal to such Impositions. The Borrower may, at the Borrower's own expense, in good faith contest any such Impositions and, in the event of any such contest, may permit the Impositions 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.

SECTION 4.02. Insurance.

(a) **Insurance Carriers.** All insurance coverages required by this Mortgage must be provided by insurance companies acceptable to the Lender that are rated "A" or better by Best's Insurance Guide and Key Ratings. The aggregate amount of coverage provided by a single company must not exceed 5% of the company's policyholders' surplus. Any reinsurance endorsements must be approved by the Lender in writing. Reinsurance endorsements must stipulate that the Lender will receive 10 days' advance notice of any change in or cancellation of the reinsurance agreement. All insurance companies must be licensed and qualified to do business in the state where the insured Property is located.

(b) **Terms of Policies.** All such policies of insurance shall name the Lender as a named insured and shall 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. The deductible amount under each insurance policy must not exceed \$50,000. Each policy must provide that, insofar as the Lender's interests under the policy are concerned,

the coverage afforded thereby shall not lapse or be terminated, cancelled or modified by reason of (i) any act or negligence, or breach of any condition, declaration or warranty contained in any such policy, by the Borrower or any third party, (ii) the occupation, operation or use of the Property for purposes more hazardous than those permitted by the terms of the policy, (iii) any foreclosure or other proceeding or notice of sale relating to the Property, (iv) any change in the title to or ownership of all or any portion of the Property or (v) any proceedings by or against the Borrower under any bankruptcy, insolvency, receivership or similar law or statute. Each insurance policy must (A) provide primary insurance without right of contribution from any other insurance carried by the Lender, (B) contain an express waiver by the insurer of any right of subrogation, setoff or counterclaim against any insured party thereunder, (C) permit the Lender to pay premiums at the Lender's discretion and (D) provide that no claims in excess of \$100,000 thereunder shall be adjusted or settled without the prior written consent of the Lender, which consent shall not be unreasonably withheld or delayed by the Lender. The Borrower shall cause each insurer under a policy required by this Section to agree (either by endorsement upon such policy or by letter addressed to the Lender) to give the Lender at least 30 days' prior written notice of the amendment, modification or cancellation of such policies in whole or in part or the lapse or termination of any coverage thereunder.

(c) Types of Insurance. The Borrower shall obtain and maintain insurance against liability for bodily injury and property damage and against loss or damage by fire and other hazards and casualties arising or occurring with respect to the Property, with such limits and coverage as the Lender may from time to time reasonably require, including the following amounts and types of insurance:

(i) Hazard. Insurance against loss or damage to the Property (including plate glass breakage) due to fire, lightning, water, wind, theft, vandalism, malicious mischief, plate glass breakage, and other risks commonly insured against by the persons or using like premises in Shelby County, Alabama, together with uniform standard "extended coverage" and "all-risk" endorsements, under which endorsements any loss is valued on a replacement cost basis, to the extent of the full insurable value of the Property, but in any event providing coverage in an amount not less than the Lender, in its reasonable judgment, determines to be the fair market value of the Property;

(ii) Boiler. Boiler and machinery insurance covering all boilers, machinery, air conditioning, pressure vessels, and similar type equipment commonly covered under a broad form boiler and machinery policy, in an amount satisfactory to the Lender;

(iii) Flood. If the Property is located in a flood hazard area designated as such under the national flood insurance program, flood insurance in the amount of the lesser of (i) \$3,000,000 or (ii) the maximum limit of coverage made available with respect to the Property under said program;

(iv) Liability. Comprehensive general liability insurance covering claims for bodily injury to or death of persons and for damage to or loss of property occurring on or about the Real Property or in any way related to the condition or operation of the Real Property, in the minimum amounts of \$1,000,000 for death of or bodily injury to any one person, \$2,000,000 for all death and bodily injury claims resulting from any one accident, and \$2,000,000 for property damage; and

(v) Business Interruption. Rental or business interruption insurance in an amount sufficient (in the opinion of the Lender) to compensate the Borrower for at least 12 months' lost earnings and rents, written in an "all risks" form either as an endorsement to the insurance required by Section 4.02(c)(1) or as a separate policy.

(d) Policies and Certificates. The Borrower shall furnish to the Lender insurance certificates, in form and substance satisfactory to the Lender, evidencing compliance by the Borrower with the terms of this Section and, upon request by the Lender at any time, the Borrower shall furnish the Lender with photostatic copies of the policies required by this Section, each of which copies shall if requested by the Lender be certified as a "true" copy by a duly authorized agent for the insurance company.

(e) Payment of Premiums. Unless the Borrower is making monthly payments pursuant to Section 4.06 hereof, at least ten days prior to the date the premiums on each required insurance policy becomes due and payable, the Borrower shall furnish to the Lender evidence of the payment of such premiums. The Borrower agrees that the Borrower 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.

(f) Separate Insurance. The Borrower shall not ~~obtain or~~ carry separate insurance concurrent in form or contributing in the event of loss with that required in this Section 4.02 to be furnished by the Borrower unless the Lender is included therein as a named insured, with loss payable as in this Mortgage provided. The Borrower shall immediately notify the Lender whenever any such separate insurance is obtained and shall deliver to the Lender the policies or certificates evidencing the same.

(g) Blanket Policies. Anything contained in this Section 4.02 to the contrary notwithstanding, any and all insurance that the Borrower is obligated to carry pursuant to this Section 4.02 may be provided pursuant to a general coverage floater policy, master insurance policy or so-called "blanket" policy, provided that such policy allocates to the Property the coverage required herein, without possibility of reduction or coinsurance by reason of, or damage to, any other property (real or personal) owned by the Borrower or the Borrower's affiliates by reason of the inclusion of such insurance under a policy containing aggregate loss limits.

(h) No Duties of Lender. The Lender shall have no duties in connection with any insurance required hereunder other than (i) to receive the policies, or certified copies thereof to be delivered and (ii) to receive and apply, in accordance with the provisions of this Mortgage, any insurance monies paid to the Lender.

(i) Foreclosure, etc. Upon foreclosure of this Mortgage or other transfer of title or assignment of the Property in extinguishment, in whole or in part, of the Obligations, all right, title and interest of the Borrower in and to all policies of insurance required under this Section or otherwise then in force with respect to the Property and all proceeds payable thereunder and unearned premiums thereon shall immediately vest in the purchaser or other transferee of the Property.

SECTION 4.03. Damage and Destruction.

(a) Borrower's Obligations. In the event of any damage to or loss or destruction of the Property, the Borrower shall (i) promptly notify the Lender of such event and take such steps as shall be necessary to preserve any undamaged portion of the Property and (ii) unless otherwise instructed by the Lender shall promptly, regardless whether the insurance proceeds, if any, shall be sufficient for the purpose or shall be otherwise applied by the Lender as provided herein, commence and diligently pursue to completion the restoration, replacement or rebuilding of the Property as nearly as possible to the value, condition and character thereof immediately prior to such damage, loss or destruction and in accordance with plans and specifications reasonably approved, and with other reasonable provisions for the preservation of the security hereunder established, by the Lender.

(b) Lender's Rights; Application of Proceeds. If any portion of the Property is so damaged, destroyed or lost, and such damage, destruction or loss is covered, in whole or in part, by insurance described in Section 4.02, then (i) the Lender may, but shall not be obligated to, make proof of loss if proof of loss is not made promptly by the Borrower, and is hereby authorized and empowered by the Borrower to settle, adjust or compromise any claims for damage, destruction or loss thereunder, (ii) each insurance company concerned is hereby authorized and directed to make payment therefor directly to the Lender, and (iii) except as provided in Section 4.03(c), the Lender shall have the right to apply the insurance proceeds, first, to reimburse the Lender for all reasonable costs and expenses, including all attorneys' fees and disbursements, incurred in connection with the collection of such proceeds, and second, the remainder of such proceeds shall be applied, at the Lender's option, (A) in payment of all or any part of the Obligations in the order and manner determined by the Lender in its sole discretion (provided that the remainder of the Obligations shall continue in full force and effect and the Borrower shall not be excused in the payment hereof), (B) to the cure of any then-current default hereunder, or (C) to the repair, restoration, or replacement, in whole or in part, of the portion of the Property so damaged, destroyed or lost. The Borrower expressly assumes all risk of loss, including a decrease in the use, enjoyment or value, of the Property from any casualty whatsoever, whether or not insurable or insured against.

(c) Availability of Proceeds for Restoration. If the Lender by reason of any damage or destruction receives any insurance proceeds for loss or damage, then so long as no Event of Default shall have occurred and be continuing, such amount shall be paid over wholly or in part to the Borrower for the repair of Improvements located on the Property or for the erection of new Improvements in their place, as is necessary to restore the Property as nearly as possible to the condition, character and value thereof existing immediately prior to such damage or destruction, but only upon satisfaction of each of the following conditions:

(i) The Borrower shall furnish evidence satisfactory to the Lender that (A) the restoration can be completed within 9 months; and (B) the amount of business interruption insurance to be paid during the restoration period shall equal or exceed the loss in rental income from the Property during the period required for restoration;

(ii) If the estimated costs of restoration (as reasonably estimated by an architect approved by the Lender) shall exceed the insurance proceeds available, the Borrower shall either deposit with the Lender the amount of such deficit or furnish a satisfactory bond of completion or other evidence satisfactory to the Lender of the Borrower's ability to meet such excess costs;

(iii) The Lender shall be furnished, for its approval (in its sole discretion) with (A) an estimate for its approval of the cost of restoration of the Improvements, accompanied by the architect's certification as to such costs and appropriate final plans and specifications for such restoration; and (B) evidence that all Improvements to be so restored and their contemplated use will, when completed, fully comply with all zoning, environmental, building laws, ordinances and regulations and other Governmental Requirements;

(iv) Disbursement of the proceeds during the course of reconstruction shall be upon the architect's certification as to the cost of materials furnished and work done and evidence that such work and materials are free and clear of Liens; no payment made prior to the final completion of the work shall exceed ninety percent (90%) of the value of the work performed or materials furnished and incorporated into the structure from time to time, and at all times the undisbursed balance of said proceeds, together with all amounts deposited, bonded or otherwise funded pursuant to this Section 4.03(c), shall at least be sufficient to pay for the cost of completion of the work, free and clear of Liens; and

(v) Final payment shall be made upon receipt by the Lender of a certification by the architect as to the completion substantially in accordance with the approved plans and specifications, the issuance of a permanent certificate of occupancy (or local equivalent) and the expiration of the period provided under the laws of Alabama for the filing of mechanic's and materialmen's liens or receipt by the Lender of proof, to the reasonable satisfaction of the Lender, of final payment in full of all mechanics, materialmen or any other persons who have provided services in connection with the restoration.

If any of the foregoing conditions is not satisfied, then all insurance proceeds may be retained and applied by the Lender toward payment of all or part of the Obligations in such order as the Lender may determine in its sole discretion. If all or a portion of the insurance proceeds are paid to the Borrower, the Lender shall not be obligated to see to the proper application of any amount paid to the Borrower.

SECTION 4.04. Condemnation.

(a) Borrower's Obligations: Proceedings. The Borrower, immediately upon obtaining knowledge thereof, will notify the Lender of any pending or threatened proceedings for the condemnation of the Property or any part thereof or of the exercise of any right of eminent domain with respect thereto, or of any other pending or threatened proceedings arising out of injury or damage to the Property or any part thereof. The Lender may participate in any such proceedings, and the Borrower from time to time will execute and deliver to the Lender all instruments requested by the Lender to permit such participation. The Borrower shall, at its expense, diligently prosecute any such proceedings, deliver to the Lender copies of all papers served in connection therewith and consult and cooperate with the Lender, its attorneys and agents, in carrying on and defense of any such proceedings, provided that no settlement of any such proceedings shall be made by the Borrower without the Lender's consent, not to be unreasonably withheld.

(b) Lender's Rights to Proceeds. All proceeds of condemnation awards or proceeds of sale in lieu of condemnation, and all judgments, decrees and awards for injury or damage to the Property shall be paid to the Lender. The Borrower authorizes the Lender to collect and receive the same, to give receipts and acquittances therefor, and to appeal from any such judgment, decree or award. The Lender shall in no event be liable or responsible for failure to collect, or exercise diligence in the collection of, any of the same.

(c) Application of Proceeds. The Lender shall have the right to apply any proceeds, judgments, decrees or awards referred to in subsection (b) of this Section 4.04 first, to reimburse the Lender for all reasonable costs and expenses, including attorneys' fees, incurred in connection with the proceeding in question or the collection of such amounts, and second, the remainder thereof in the same manner as provided in Section 4.03(b) with respect to insurance proceeds held by the Lender. Notwithstanding the provisions of the first sentence of this Section 4.04(c), if the Property may be restored to an economically viable property having a value of not less than 95% of its value prior to such taking and the income, revenues and profits from the Property are not materially decreased by reason of such condemnation, then any such condemnation proceeds or award received by the Lender shall be paid over wholly or in part to the Borrower for the restoration of the Improvements located on the Property in the manner provided in Section 4.03(c), provided that the conditions set forth in Section 4.03(c) are satisfied.

SECTION 4.05. Liens and Liabilities.

(a) Discharge of Liens. Within twenty (20) days after the Borrower has knowledge thereof, the Borrower will pay, bond or otherwise discharge, from time to time when the same shall become due, all lawful claims and demands of mechanics, materialmen, laborers and others which, if unpaid, might result in, or permit the creation of, a Lien on the Property, or any part thereof, and in general, the Borrower shall do, or cause to be done, at the Borrower's sole cost and expense, everything necessary to fully preserve the Lien and priority of this Mortgage.

(b) Creation of Liens. The Borrower will not, without the Lender's consent, create, place or permit to be created or placed, or through any act or failure to act acquiesce in the placing of, or allow to remain, any voluntary or involuntary Lien, whether statutory, constitutional or contractual, against or covering the Property, prior to, on a parity with or subordinate to the Lien of this Mortgage, other than Permitted Encumbrances. If any such Lien becomes attached to the Property without such consent, the Borrower will promptly commence and diligently proceed to cause the same to be discharged and released.

(c) No Consent. Nothing in the Loan Documents shall be deemed or construed in any way as constituting the consent or request by the Lender, express or implied, to any contractor, subcontractor, laborer, mechanic or materialman for the performance of any labor or the furnishing of any material for any improvement, construction, alteration or repair of the Property. The Borrower further agrees that the Lender does not stand in any fiduciary relationship to the Borrower by reason of the transactions contemplated by the Loan Documents.

SECTION 4.06. Tax and Insurance Deposits. At any time during the term of this Mortgage after an Event of Default shall have occurred and be continuing, upon demand by the Lender, the Borrower shall deposit with the Lender a sum that bears the same relation to the annual insurance premiums for all insurance required by the terms hereof and Impositions assessed against the Property for the insurance period or tax year then in effect, as the case may be, as the number of months elapsed as of the date of such demand since the last preceding installment of said premiums or Impositions shall have become due and payable bears to twelve (12). For the purpose of this computation, the month in which such last preceding installment of premiums or Impositions became due and payable and the month in which such demand is given shall be included and deemed to have elapsed. On the first day of the month next succeeding the month in which such demand is given, and thereafter on the first day of each and every month during the term of this Mortgage, the Borrower shall deposit with the Lender a sum equal to one-twelfth of such insurance premiums and such Impositions for the then-current annual insurance period and tax year, so that as each installment of such premiums and Impositions shall become due and payable, the Borrower shall have deposited with the Lender a sum sufficient to pay the same. All such deposits shall be received and held by the Lender, and shall be applied to the payment of each installment of such premiums and Impositions as they shall become due and payable. The Lender shall, upon demand, furnish evidence to the Borrower of the making of each such payment. If the amount of such premiums and Impositions has not been definitely ascertained at the time when any such monthly deposits are required to be made, the Borrower shall make such deposits based upon the amount of such premiums and Impositions for the preceding year, subject to adjustment as and when the amount of such

premiums and Impositions are ascertained. If at any time when any installment of such premiums and such Impositions becomes due and payable the Borrower shall not have deposited a sum sufficient to pay the same, the Borrower shall, within ten days after demand, deposit any deficiency with the Lender. Upon payment in full of the Obligations secured by this Mortgage, any remaining amount on deposit with the Lender shall be repaid to the Borrower. The Borrower shall deliver to the Lender all insurance and tax bills promptly following receipt during any period when such monthly deposits are to be made with the Lender in such order as the Lender in its sole discretion may elect. If the Obligations shall be accelerated as herein provided, all funds so deposited may, at the Lender's option, be applied to the Obligations in the order determined by the Lender or to cure said Event of Default or to the payment of insurance premiums and Impositions as provided in this Section.

SECTION 4.07. Operations; Utilities; Waste; Demolition; Alteration or Replacement. The Borrower will operate the Improvements in accordance with sound business practices, and will not engage in any activity that would diminish the value of the Property or decrease the income from the Property. The Borrower 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 Borrower 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 Improvements erected on the Land without the express prior written consent of the Lender (provided that the Borrower may make changes in its Improvements in the ordinary course of business that do not materially diminish or adversely affect the value of said Improvements or any of the other Property); 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 Borrower 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 are immediately replaced with like property of at least equal value and utility.

SECTION 4.08. Rents and Tenant Leases. The Borrower shall: (i) observe and perform each obligation and condition provided for under the terms of the Tenant Leases to be observed and performed by the Borrower, and shall give prompt notice to the Lender in the event the Borrower fails to observe and perform the same; (ii) enforce or secure in the name of the Lender the observance and performance of each and every obligation and condition to be observed and performed by any Tenant under the terms of the Tenant Leases; (iii) appear in and defend any action or proceeding arising under, occurring out of, or in any manner connected with the Tenant Leases or the obligations, duties or liabilities of the Borrower and any Tenant thereunder, and, upon request by the Lender to do so in the name and on behalf of the Lender but at the expense of the Borrower, and to pay all costs and expenses of the Lender, including reasonable attorneys' fees, in any action or proceeding in which the Lender may appear; (iv) not receive or collect any Rents from any present or future Tenant for a period of more than one month in advance, or pledge, transfer, mortgage or otherwise grant or permit any Lien on future payments of the Rents; (v) not waive, excuse, condone, discount, set off, compromise, or in any manner release or discharge any Tenant of and from any obligations and conditions by said

Tenant to be kept, observed and performed, including the obligation to pay rent in the manner and at the place and time specified in any Tenant Lease; (vi) not enter into any Tenant Leases except on a form approved by the Lender, nor cancel, terminate or consent to any surrender of any Tenant Lease, or modify or in any way alter the terms thereof without, in each such instance, the prior written consent of the Lender; (vii) not renew or otherwise extend the term of the Existing Tenant Leases; provided, however, that nothing herein contained shall prevent the Borrower, upon expiration of the now-current term (or other expiration or termination) of the Existing Tenant Leases, from leasing the property covered thereby to the Tenant thereunder by a lease or leases expressly subject and fully subordinate to the Liens of this Mortgage; (viii) promptly upon the execution by the Borrower of any future Tenant Lease, (A) furnish the Lender with the name and address of the Tenant thereunder, the term of such Tenant Lease and a description of the premises covered thereby and, upon request of the Lender, a copy of such Tenant Lease, and (B) execute all such further assignments of such Tenant Lease and the Rents therefrom as the Lender may require; (ix) not, without the prior written approval of the Lender, execute any management or leasing agreements affecting any of the Property; and (x) if required by the Lender, cause each Tenant Lease to provide, in a manner approved by the Lender, that the Tenant Lease is junior and subordinate to the Liens of this Mortgage and that the Tenant will recognize, as lessor, the Lender or any person succeeding to the interest of the Lender upon any foreclosure of this Mortgage.

SECTION 4.09. Sale, Lease or Transfer, etc. The Borrower covenants and agrees that neither the Real Property, nor any part thereof, nor any interest therein, shall be (i) sold, assigned, transferred, conveyed, leased with an option to purchase, exchanged or otherwise disposed of, nor shall the Borrower contract with any person for any of the foregoing, without the Lender's prior written consent; or (ii) subject to any additional Lien, 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, contract or Lien, this Mortgage shall be deemed to be in default at the option of the Lender and the Lender may, at its sole option: (A) declare the Obligations immediately due and payable in full and exercise the remedies on default hereunder; or (B) require the payment, after the date of such occurrence, of a higher rate of interest on the unpaid principal portion of the Obligations as a condition to not exercising such option to accelerate the Obligations and other remedies, whether such rights and remedies be exercised by the Lender to obtain a higher rate of interest on the Obligations or to protect the security of this Mortgage. The Borrower further covenants and agrees that without the prior written consent of the Lender, the Borrower 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 Borrower 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 equity interest in the Borrower, or any other transaction whereby the legal or beneficial ownership of the Borrower is changed, including the sale of additional stock or other equity interests, the liquidation or dissolution of the Borrower, or the merger or consolidation of the Borrower with any other person, shall be treated as a transfer of the Real Property for purposes of this section; provided, however, notwithstanding anything

contained herein to the contrary, the Borrower may maintain a key employee stock incentive plan in form substantially as that furnished to or approved by the Lender, in its sole discretion.

SECTION 4.10. Use, Governmental Compliance, etc. The Borrower will use the Property solely as a manufacturing facility for plastic housewares and for no other purpose. The Borrower shall maintain all material certificates, licenses, authorizations, registrations, permits and other approvals of Governmental Authorities necessary for the operation of any of the Property and the conduct of the Borrower's business at the Real Property, including all required zoning, building, land use, environmental, occupancy, fire and other approvals. The Borrower shall comply with and make all payments required under all Governmental Requirements now or hereafter affecting the Property or any part thereof or the business or activity conducted or to be conducted thereon. The Borrower shall not commit, suffer, permit or allow any act to be done in or on the Property in violation of any such Governmental Requirements or that constitutes a public or private nuisance, or that makes void, voidable or cancelable, or increases the premium of, any insurance then in force with respect thereto. The Borrower shall not permit any Lien to exist on the Property, or any part thereof, in favor of any Governmental Authority or other person under any Governmental Requirement that might have priority over this Mortgage.

SECTION 4.11. Zoning; Title Matters. The Borrower will not, without the Lender's consent, (i) initiate or support any zoning reclassification of the Property, seek any variance under existing zoning ordinances applicable to the Property or use or permit the use of the Property in a manner that would result in such use becoming a non-conforming use under, or violate, applicable zoning ordinances, (ii) modify, amend or supplement any Permitted Encumbrances in any manner that would materially increase the obligations or decrease the rights of the Borrower or adversely affect the rights of the Lender under the Loan Documents; (iii) subject the Property to any restrictive covenants or encumbrances (other than the Permitted Encumbrances), execute or file any subdivision plat affecting the Property or consent to the annexation of the Property to any municipality or (iv) permit or suffer the Property to be used by the public or any person in such manner as might make possible a claim of adverse usage or possession or of any implied dedication easement or easement by prescription.

SECTION 4.12. Environmental Compliance. Except as set forth on Schedule 3.03, the Borrower shall (i) not, and shall not permit any Tenant or other person to, bring any Hazardous Substances on to the Property; (ii) if any Hazardous Substances are brought or found on the Property, immediately remove and properly dispose thereof in accordance with applicable Environmental Laws; (iii) cause the Property and the operations conducted thereon (including all operations conducted thereon by Tenants and other persons) to comply with all Environmental Laws; (iv) permit the Lender from time to time to inspect the Property and observe the Borrower's operations thereon and to perform tests (including soil and ground water tests) for Hazardous Substances on the Property; (v) undertake any and all preventive, investigatory and remedial action (including emergency response, removal, clean up, containment and other remedial action) that is (A) required by any applicable Environmental Law or (B) necessary to prevent or minimize any property damage (including damage to any of the Property), personal

injury or harm to the environment, or the threat of any such damage or injury, by releases of or exposure to Hazardous Substances in connection with the Property or the operations of the Borrower on the Property; (vi) promptly give notice to the Lender in writing if the Borrower should become aware of (A) any spill, release or disposal of any Hazardous Substances, or imminent threat thereof, at the Property, in connection with the operations on the Property, or at any adjacent property that could migrate to, through or under the Property, (B) any violation of Environmental Laws regarding the Property or operations on the Property, and (C) any investigation, claim or threatened claim under any Environmental Law, or any notice of violation under any Environmental Law, involving the Borrower or the Property; and (vii) deliver to the Lender, at the Lender's request, copies of any and all documents in the Borrower's possession or to which the Borrower has access relating to Hazardous Substances or Environmental Laws and the Property, and the operations on the Property, including laboratory analyses, site assessments or studies, environmental audit reports and other environmental studies and reports; provided, however, notwithstanding anything to the contrary contained herein, the Borrower may store on and apply to the Property pesticides and herbicides in accordance with applicable Environmental Laws and manufacturers' recommendations. If the Lender at any time reasonably believes that the Borrower is not complying with all applicable Environmental Laws or the requirements of this Mortgage regarding the same, or that a material spill, release or disposal of Hazardous Substances has occurred on or under the Property, the Lender may require the Borrower to furnish to the Lender an environmental audit or site assessment reasonably satisfactory to the Lender with respect to the matters of concern to the Lender. Such audit or assessment shall be performed at the Borrower's expense by a qualified consultant approved by the Lender.

SECTION 4.13. Maintenance of Lien Priority. The Borrower shall take all steps necessary to preserve and protect the perfection, validity and priority of the Liens on the Property created hereby. The Borrower shall execute, acknowledge, deliver, file and record such additional instruments as the Lender may deem necessary in order to perfect, preserve, protect, continue, extend or maintain the Liens created hereby as first priority Liens on the Property, subject to Permitted Encumbrances, or to subject after-acquired property of the Borrower or proceeds to such Liens. If the Liens, validity or priority of this Mortgage, or if title to any of the rights of the Borrower or the Lender in or to the Property shall be endangered or questioned, or shall be attacked directly or indirectly, or if any action or proceeding is instituted against the Borrower or the Lender with respect thereto, the Borrower will promptly notify the Lender thereof and will diligently endeavor to cure any defect that may be developed or claimed, and will take all necessary and proper steps for the defense of such action or proceeding, including the employment of counsel, the prosecution or defense of the litigation, and subject to the Lender's approval, the compromise, release or discharge of any and all adverse claims other than Permitted Encumbrances. The Lender (whether or not named as a party to such actions or proceedings) is authorized and empowered (but shall not be obligated) to take such additional steps as it may reasonably deem necessary or proper for the defense of any such action or proceeding or the protection of the Liens, validity or priority of this Mortgage or of such title or rights, including the employment of counsel, the prosecution or defense of litigation, the compromise, release or discharge of such adverse claims, and the

removal of prior Liens. The Borrower shall, on demand, reimburse the Lender for all expenses (including attorneys' fees and disbursements) reasonably incurred by the Lender in connection with any of the foregoing matters.

SECTION 4.14. Certificates. The Borrower, within ten days after request therefor by the Lender, shall furnish to the Lender a written statement, duly acknowledged, certifying to the Lender or the Lender's designee as to (i) the amount of the Obligations then owing under this Mortgage, (ii) the terms of payment and maturity date of the Obligations, (iii) the date to which interest has been paid under this Mortgage, (iv) whether any offsets or defenses exist against the Obligations and, if any are alleged to exist, a detailed description thereof, (v) the representations and warranties of the Borrower set forth herein being true and correct on the date of such certification, (vi) the Loan Documents being valid, in full force and effect and unmodified (except as may be specifically noted therein) on the date of such certification, and (vii) whether there are any defaults under the Loan Documents, and to the best knowledge of the Borrower, whether any event has occurred or any condition or state of facts exist which constitute, or with the giving of notice or the lapse of time or both would constitute a default under the Loan Documents. Such certificate shall be binding upon the Borrower and its successors and assigns, and may be relied upon by any prospective assignee of the Loan Documents.

SECTION 4.15. Performance of Lease. The Borrower shall (i) at all times promptly and faithfully keep and perform, or cause to be kept and performed, all the terms, covenants and conditions contained in the Lease by the lessee therein to be kept and performed and in all respects conform to and comply with the terms and conditions of the Lease; (ii) not do or permit anything to be done, the doing of which, or refrain from doing anything, the omission of which, would impair or tend to impair the security of this Mortgage or would be grounds for declaring a forfeiture or termination of the Lease; (iii) at least six months prior to the last day upon which the Borrower, as lessee, may validly exercise any option to renew or extend the term of the Lease, (A) exercise such option in such manner as will cause the term of said Lease to be effectively renewed or extended for the period provided by such option, and (B) give immediate written notice thereof to the Lender; it being expressly agreed that, in the event of the failure of the Borrower so to do, the Lender shall have, and is hereby granted, the irrevocable right to exercise any such option either in its own name and behalf or in the name and behalf of a designee or nominee of the Lender or in the name and behalf of the Borrower, as the Lender shall in its sole discretion determine; provided, however, that if Borrower shall prepay in full the Term Loans and the other Obligations in accordance with the provisions of the Term Notes at least six months prior to the last day upon which the Borrower, as such lessee, may validly exercise any option to renew or extend the term of the Lease, the Borrower will not be obliged to exercise any such option of renewal or extension, nor will the Lender have any right to exercise any such option.

SECTION 4.16. No Modification, etc. of Lease. The Borrower shall not modify, extend or in any way alter the terms of the Lease or cancel or surrender the Lease, or waive, excuse, condone or in any way release or discharge the lessor(s) thereunder of or from the obligations, covenants, conditions and agreements by said lessor(s) to be done and performed;

and the Borrower does hereby expressly release, relinquish and surrender unto Lender all its right, power and authority to cancel, surrender, terminate, release, amend, modify or alter in any way the terms and provisions of the Lease, and any attempt on the part of the Borrower to exercise any such right without the express prior written consent of the Lender shall constitute a default under the terms hereof.

SECTION 4.17. Notice of Default in Lease, etc. The Borrower shall (a) give immediate notice to the Lender of any default under the Lease; (b) furnish to the Lender immediately any and all information which it may request concerning the performance by the Borrower of the covenants of the Lease; (c) permit the Lender or its representatives at all reasonable times to make investigation or examination concerning the performance by the Borrower of the covenants of the Lease or of this Mortgage; and (d) promptly deposit with the Lender an original executed copy of the Lease and each amendment thereto and any and all documentary evidence requested by the Lender showing compliance by the Borrower with the provisions of the Lease and an exact copy of any notice, communication, plan, specification or other instrument or document received or given by it in any way relating to or affecting the Lease that may concern or affect the estate of the lessor(s) or lessee in or under the Lease or in the Leasehold Property.

V. DEFEASANCE, DEFAULT AND REMEDIES

SECTION 5.01. Defeasance. This Mortgage is made upon the condition that if the Borrower (a) pays the Obligations, as defined in this Mortgage (which Obligations include all of the debt described in Section 2.01 of this Mortgage), including (i) the payment of all amounts now or hereafter becoming due and payable under each of the Term Notes, including the principal of each of the Term Loans, and all interest thereon and all other fees, charges and costs (including reasonable attorneys' fees), payable in connection therewith and (ii) the payment of any and all other fees, charges, costs (including attorneys' fees as provided therein) and other sums now or hereafter becoming due and payable by the Borrower to the Lender under the terms of the Loan Agreement, this Mortgage and the other Loan Documents, (b) reimburses the Lender for any amounts the Lender has paid in respect of Liens, Impositions, prior mortgages, insurance premiums, keeping the Property in repair, performing the Borrower's obligations under any Tenant Lease, complying with Environmental Laws or the other provisions of Section 4.12 hereof, and any other advancements hereunder, and interest thereon, and (c) fulfills all of its other obligations under this Mortgage, and if the Lender has no obligation to extend any further credit to or for the account of the Borrower, and if there is in existence no contingent liability of the Borrower that is secured by this Mortgage, and if any other conditions set forth in Section 6.15 hereof are fulfilled, this conveyance shall be null and void upon the filing by the Lender of the written instrument of termination described in Section 6.15.

SECTION 5.02. Events of Default. The happening of any one or more of the following events, or the happening of any other event of default as specified elsewhere in this Mortgage (collectively, "Events of Default"), shall constitute a default under this Mortgage:

(a) any representation or warranty made herein or in any of the other Loan Documents shall prove to be false or misleading in any material respect; or

(b) any report, certificate, financial statement or other instrument (but specifically excluding any projections, pro forma financial statements or other nonfactual information furnished by the Borrower to the Lender) furnished in connection with this Mortgage or any of the other Loan Documents or the borrowings thereunder shall prove to be false or misleading in any material respect; or

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

(d) default shall be made with respect to any Debt of the Borrower when due or the performance of any other obligation incurred in connection with any such Debt of the Borrower, if the effect of such default is to accelerate the maturity of such Debt or if the holder thereof causes such Debt to become due prior to its stated maturity, or any such Debt shall not be paid when due; or

(e) default shall be made in the due observance or performance of any covenant, condition or agreement on the part of the Borrower to be observed or performed pursuant to the terms of Article X of the Loan Agreement, and such default shall continue unremedied for 5 days; or

(f) default shall be made in the due observance or performance of any other covenant, condition or agreement on the part of the Borrower to be observed or performed pursuant to the terms of the Loan Agreement or any of the other Loan Documents, and such default shall continue unremedied for 20 days; or

(g) the Borrower shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator or other custodian of or for itself or any of its properties or assets, (ii) fail or admit in writing its inability to pay its debts generally as they become due, (iii) make a general assignment for the benefit of creditors, (iv) suffer or permit an order for relief to be entered against it in any proceeding under the federal Bankruptcy Code, or (v) file a voluntary petition in bankruptcy, or a petition or an answer seeking an arrangement with creditors or to take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law or statute, or if action shall be taken by the Borrower for the purpose of effecting any of the foregoing; or

(h) a petition shall be filed, without the application, approval or consent of the Borrower, in any court of competent jurisdiction, seeking bankruptcy, reorganization, rearrangement, dissolution or liquidation of the Borrower or of all or a substantial part of its properties or assets or seeking any other relief under any law or statute of the type referred to in clause (v) of paragraph (g) above against the Borrower, or the appointment of a receiver,

trustee, liquidator or other custodian of the Borrower or of all or a substantial part of the Borrower's properties or assets, and such petition shall not have been dismissed within 90 days after the filing thereof; or

(i) any final judgment for the payment of money in an amount in excess of \$50,000 shall be rendered against the Borrower and not effectively stayed within 30 days from the date of entry or fully covered by valid and collectible insurance; or

(j) the interest of the Lender, as mortgagee or secured party, in any of the Property shall become endangered by reason of the enforcement of any prior Lien thereon; or

(k) any of the material stipulations contained in any of the Loan Documents shall be declared invalid or inoperative by any court of competent jurisdiction; or

(l) the Borrower shall convey or further encumber all or part of the Property as prohibited by Section 4.09 hereof; or

(m) any Lien, statement of Lien or suit to enforce a Lien shall be filed against any of the Property and the Borrower shall fail to have such Lien satisfied or suit dismissed or to secure the payment of the amount claimed by such Lien, statement of Lien or suit by a bond, letter of credit or other security satisfactory to the Lender within 30 days of the day such Lien or statement of Lien is filed in the office of the Judge of Probate of the County in which the Land is located or such suit is filed in court; or

(n) any law shall be passed imposing, or authorizing the imposition of, any specific tax upon this Mortgage or the Obligations or permitting or authorizing the deduction of any such tax from the principal of, or interest on, the Obligations, or by virtue of which any tax, Lien or assessment upon the Property shall be chargeable against the ~~owner~~ of this Mortgage; or

(o) the Borrower shall fail to pay or perform any of the Borrower's obligations under the Lease, or any default or event of default (or any event, which upon the giving of notice or the lapse of time or both, would become a default or event of default under the Lease) shall occur under the Lease.

SECTION 5.03. Rights and Remedies of Lender Upon Default.

(a) Acceleration of Obligations. Upon the occurrence of an Event of Default or at any time thereafter, the Lender may at its option and without demand or notice to the Borrower, declare all or any part of the Obligations immediately due and payable, whereupon all such Obligations 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 Borrower, 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, each of the Term Notes, any of the other Loan Documents and applicable law. The Borrower also waives any and all rights the Borrower may

have to a hearing before any Governmental Authority prior to the exercise by the Lender of any of its rights under this Mortgage or 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 designated by the Lender) may, but will not be obligated to, (i) enter upon and take possession of any or all of the Property, exclude the Borrower therefrom, and hold, use, administer, manage and operate the same to the extent that the Borrower could do so, without any liability to the Borrower resulting therefrom; (ii) collect, receive and receipt for all proceeds accruing from the operation and management of the Property; (iii) make repairs and purchase needed additional property; (iv) insure or reinsure the Property; (v) maintain and restore the Property; (vi) have utilities and other materials and services used on or in connection with the Property furnished to the Property; and (vii) exercise every power, right and privilege of the Borrower with respect to the Property.

(c) Judicial Proceedings: Right to Receiver. Upon the occurrence of an Event of Default or at any time thereafter, 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 the Property, to sue the Borrower 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 Borrower 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) Power of 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, to sell the Property (or such part or parts thereof as the Lender may from time to time elect to sell) under the power of sale which is hereby given to the Lender, at public outcry, to the highest bidder for cash, at the front or main door of the courthouse of the county in which the Land to be sold, or a substantial and material part thereof, is located, after first giving notice by publication once a week for three successive weeks of the time, place and terms of such sale, together with a description of the Property to be sold, by publication in some newspaper published in the county or counties in which the Land to be sold is located. If there is Land to be sold under this Mortgage in more than one county, publication shall be made in all counties where the Land to be sold is located, but if no newspaper is published in any such county, the notice shall be published in a newspaper published in an adjoining county for three successive weeks. The sale shall be held between the hours of 11:00 a.m. and 4:00 p.m. on the day designated for the exercise of the power of sale hereunder. 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 part 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 part 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 Borrower 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 parts 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 Obligations 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 all other 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, 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 Borrower 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 Borrower expressly waives any notice of, and any other formalities prescribed by law with respect to, any sale or other disposition of the Collateral or exercise of any other right or remedy of the Lender after ~~default~~. To the extent that such notice is required and cannot be waived, the Borrower agrees that if such notice is given to the Borrower in accordance with the provisions of Section 6.14 below, at least five days before the time of the sale or other disposition of Collateral or exercise of such other right or remedy, such notice shall be deemed reasonable and shall fully satisfy any requirement for giving said notice.

The Borrower 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 Borrower 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 Obligations in such order and amounts and manner as the Lender may elect. The Borrower 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) Rents and Tenant Leases. Upon the occurrence of an Event of Default or at any time thereafter:

(i) The Lender, at its option, shall have the right, power and authority to exercise and enforce any or all of the following rights and remedies with respect to Rents and Tenant Leases:

(A) to terminate the license granted to the Borrower in Section 2.02(d)(iii) hereof to collect the Rents, and, without taking possession, in the Lender's own name to demand, collect, receive, sue for, attach and levy the Rents, to give proper receipts, releases and acquittances therefor, and to apply the proceeds thereof as set forth in Section 5.03(h);

(B) without regard to the adequacy of the security, with or without any action or proceeding, through any person or by agent, or by a receiver to be appointed by court, to enter upon, take possession of, manage and operate the Property or any part thereof for the account of the Borrower, make, modify, enforce, cancel or accept surrender of any Tenant Lease, remove and evict any Tenant, increase or reduce rents, decorate, clean and make repairs, and otherwise do any act or incur any cost or expenses the Lender shall deem proper to protect the security hereof, as fully and to the same extent as the Borrower could do if in possession, and in such event to apply any funds so collected to the operation and management of the Property (including payment of reasonable management, brokerage and attorney's fees) and as set forth in Section 5.03(h);

(C) to take whatever legal proceedings may appear necessary or desirable to enforce any obligation or covenant or agreement of the Borrower under this Mortgage.

(ii) The collection of the Rents and application thereof (or holding thereof in reserve) as aforesaid or the entry upon and taking possession of the Property or both shall not cure or waive any default or waive, modify or affect any notice of default under this Mortgage, or invalidate any act done pursuant to such notice, and the enforcement of such right or remedy by the Lender, once exercised, shall continue for so long as the Lender shall elect, notwithstanding that the collection and application aforesaid of the Rents may have cured the original default. If the Lender shall thereafter elect to discontinue the exercise of any such right or remedy, the same or any other right or remedy hereunder may be reasserted at any time and from time to time following any subsequent default.

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

(h) 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 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 in full of any of the Obligations that are then due and payable (including principal, accrued interest and all other sums secured hereby) and to the payment of attorneys' fees as provided herein and in the other Loan Documents, all in such order as the Lender may elect in its sole discretion, (iii) to a cash collateral reserve fund to be held by the Lender in an amount equal to, and as security for, any of the Obligations that are not then due and payable, and (iv) the remainder, if any, shall be paid to the Borrower or such other persons as may be entitled thereto by law, after deducting therefrom the cost of ascertaining their identity.

(i) 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 power of sale foreclosure as provided for in this Mortgage, but without declaring the whole Obligations due. Any such sale may be made subject to the unmatured part of the Obligations secured by this Mortgage, and such sale, if so made, shall not in any manner affect the unmatured part of the Obligations secured by this Mortgage, but as to such unmatured part of the Obligations 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 Obligations 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 Obligations without exhausting any power of foreclosure and the power to sell the Property for any other part of the Obligations, whether matured at the time or subsequently maturing.

(j) Waiver of Appraisement Laws. The Borrower 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 Obligations or any creation or extension of a period of redemption from any sale made in collecting the Obligations (commonly known as stay laws and redemption laws).

(k) Prerequisites of Sales. In case of any sale of the Property as authorized by this Section 5.03, 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 Obligations 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 rebuttably presumptive evidence that the facts so stated or recited are true.

VI. MISCELLANEOUS

SECTION 6.01. Collection Costs. The Borrower agrees to pay all costs, including reasonable attorneys' fees, incurred by the Lender in collecting or securing, or attempting to collect or secure, the Obligations, or any part thereof, 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 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 Obligations.

SECTION 6.02. 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 the Lease, any Tenant Lease, the Improvements, the Personal Property, the Land 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 Borrower 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 Borrower's performance of its representations, warranties, covenants, agreements, duties, responsibilities and obligations under this Mortgage or any of the other Loan Documents and with respect to any of the Property. The provisions of this Section 6.02 shall survive the payment of the Obligations 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 Borrower agrees that the Borrower'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 warranties set forth in Section 3.03 hereof that shall prove to be false or untrue in any material respect, (ii) any default in the performance or nonperformance of the Borrower's covenants and agreements set forth in Section 4.07 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 Property, or any part thereof, that may be required by any Environmental Law or Governmental Authority.

SECTION 6.03. 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 Liens created hereby and the purposes and agreements herein set forth.

SECTION 6.04. Successors and Assigns. All covenants and agreements herein made by the undersigned shall bind the undersigned and the 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 6.05. 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 Liens granted by this Mortgage, either on any matured portion of the Obligations or for the whole of the Obligations, 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 under power of sale 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 other Loan Documents, nor consent to any departure by the Borrower 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 Borrower in any case shall entitle the Borrower to any other or further notice or demand in similar or other circumstances.

SECTION 6.06. 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 Borrower.

SECTION 6.07. 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 6.08. Application of Payments. If the Liens created by this Mortgage are invalid or unenforceable as to any part of the Obligations or are invalid or unenforceable as to any part of the Property, the unsecured or partially secured portion of the Obligations shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the Obligations, and all payments made on the Obligations, 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 Obligations that are not secured or not fully secured by said Liens created hereby.

SECTION 6.09. Other Mortgages Encumbering the Land. The Borrower hereby authorizes the holder of any other mortgage encumbering any of the Real Property to disclose

to the Lender from time to time and at any time the following information: (i) the amount of debt secured by such mortgage; (ii) the amount of such debt that is unpaid; (iii) whether such debt is or has been in arrears; (iv) whether there is or has been any default with respect to such mortgage or the debt secured thereby; and (v) any other information regarding such mortgage or the debt secured thereby that the Lender may request from time to time. The Borrower expressly agrees to comply with the terms of any other mortgage encumbering any of the Real Property and agrees not to consent to or permit any amendment or modification thereof without the prior written consent of the Lender. The Borrower further agrees that if default should be made in the payment of principal, interest or any other sum secured by any other mortgage encumbering any of the Real Property, the Lender may (but shall not be required to) pay all or any part of such amount in default, without notice to the Borrower. The Lender will use its best efforts to notify the Borrower before making any such payment but shall have no liability to the Borrower for failure to give such notice. The Borrower agrees to repay any such sum advanced upon demand, with interest from the date such advance is made at the highest rate provided for in the Term Notes, or the highest rate permitted by law, whichever is less, and any sum so advanced with interest shall be a part of the Obligations.

SECTION 6.10. Meaning of Particular Terms. The words "Borrower" and "Lender" shall include their respective successors and assigns.

SECTION 6.11. Advances by the Lender. If the Borrower shall fail to comply with the provisions hereof with respect to the securing of insurance, the payment of Liens or Impositions, the keeping of the Property in repair, the performance of the Borrower's obligations under the Lease, any Tenant Lease, the payment or performance of any prior mortgages, the compliance with Environmental Laws or the other provisions of Section 4.12 hereof, or the performance of any other term or covenant herein contained, the Lender may (but shall not be required to) make advances to perform the same, and where necessary enter the Property for the purpose of performing any such term or covenant. The Lender will use its best efforts to notify the Borrower before making any such payment but shall have no liability to the Borrower for failure to give such notice. The Borrower agrees to repay all such sums advanced upon demand, with interest from the date such advances are made; at (a) the higher of the rate of interest applicable to the Term Loans or the rate of interest applicable to the Line of Credit, in each case as then in effect under the Loan Agreement, or (b) the highest rate permitted by law, whichever of (a) or (b) shall be less, and all sums so advanced, with interest, shall be a part of the Obligations. The making of any such advances shall not be construed as a waiver by the Lender of any Event of Default resulting from the Borrower's failure to pay the amounts paid.

SECTION 6.12. Release or Extension by the Lender. The Lender, without notice to the Borrower 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 Obligations 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 Obligations or to waive the prompt and full performance of any term, condition or covenant of either of the Term Notes or any of the other Loan Documents.

SECTION 6.13. Partial Payments. Acceptance by the Lender of any payment of less than the full amount due on the Obligations shall be deemed acceptance on account only, and the failure of the Borrower 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 Obligations 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 6.14. Addresses for Notices. When any notice is required or permitted to be given in connection with this Mortgage, such notice shall be given by delivering it to the other party at the address set forth below or by depositing it in the United States mail (either certified mail or registered mail), postage prepaid and addressed as follows, or to such other address of which either party may give the other notice as provided herein:

(a) If to the Borrower, at: Alabaster Industries, Inc., 501 Industrial Road, Alabaster, Alabama 35007; Attention: President; and

(b) If to the Lender, at: AmSouth Bank N.A., AmSouth-Sonat Tower, 1900 Fifth Avenue North, Birmingham, Alabama 35203; Attention: Commercial Banking Services.

SECTION 6.15. Termination of Mortgage. This Mortgage and the Lender's Lien under this Mortgage in the Property will not be terminated until a written mortgage satisfaction instrument executed by one of the Lender's officers is filed for record in the county in which the Land is located. Even if the Borrower should pay all of the Obligations owing to the Lender at any one time, this Mortgage will continue to secure any Obligations the Borrower should later owe the Lender until the mortgage satisfaction instrument referred to above has been executed by the Lender. Except as otherwise expressly provided in this Mortgage, no satisfaction of this Mortgage shall in any way affect or impair the representations, warranties, agreements, covenants, obligations, duties and liabilities of the Borrower or the powers, rights and remedies of the Lender under this Mortgage with respect to any transaction or event occurring prior to such satisfaction, all of which shall survive such satisfaction. In no event shall the Lender be obligated to satisfy its Lien under this Mortgage or return or release the Property or any portion thereof to the Borrower (i) until payment in full of the Obligations then outstanding and the expiration of the applicable period for avoiding or setting aside such payment under bankruptcy or insolvency laws or (ii) if the Lender is obligated to extend credit to the Borrower.

SECTION 6.16. Right of Lender to Cure Lease, etc. Upon the occurrence of any default or event of default under the Lease (or any event which, upon the giving of notice or the lapse of time, or both, would constitute such a default or event of default), the Lender shall have the right, but shall be under no obligation, to pay any amount, to perform any other act or to take such action as may be appropriate to cure or prevent such default or event of default under the Lease, to the end that the Borrower's rights in, to and under the Lease shall be kept unimpaired and free from default. Subject to the rights of Tenants, in any such event, the Lender and any person designated by the Lender shall have, and is hereby granted, the right to enter upon the Leasehold Property at any time and from time to time for the purpose of paying

any such amount, performing any such act or taking any such action, and all moneys expended by the Lender in connection therewith (including reasonable attorneys' fees and disbursements), together with interest thereon at the rate of interest set forth in the Term Notes, or such lesser rate as shall be the maximum amount permitted by law, shall be payable by the Borrower to the Lender forthwith upon demand by the Lender, and shall constitute part of the Obligations; and the Lender shall have, in addition to any other right or remedy of the Lender, the same rights and remedies in the event of non-payment of any such sums by the Borrower as in the case of a default by the Borrower in the payment of any installment of principal or interest due and payable under the Term Notes. In the event of any failure by the Borrower to pay, observe or perform any covenant on the part of the Borrower to be paid, observed and performed under the Lease, the payment or performance by the Lender in behalf of the Borrower of said Lease covenant shall not remove or waive, as between the Borrower and the Lender, the corresponding default under the terms hereof, and any such failure aforesaid shall be subject to all of the rights and remedies of the Lender hereunder available on account of any Event of Default.

SECTION 6.17. No Merger. Unless the Lender shall otherwise expressly consent in writing, fee title to the Leasehold Property and the Borrower's leasehold estate under the Lease shall not merge but shall always remain separate and distinct, notwithstanding that both of said estates may at any time be held by the Borrower or by any third party by purchase or otherwise.

IN WITNESS WHEREOF, the undersigned the Borrower has caused this instrument to be executed by its duly authorized officer on the date first written above.

ALABASTER INDUSTRIES, INC.

By: Daniel A. Naves
Its: President

ATTEST:

By: Jerry D. Haul
Its: Secretary

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STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Daniel Morris, whose name as President of Alabaster Industries, Inc., a Delaware corporation, is signed to the foregoing Mortgage, Security Agreement and Assignment of Rents and Leases and who is known to me, acknowledged before me on this day that, being informed of the contents of said Mortgage, Security Agreement and Assignment of Rents and Leases, 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 14th day of February, 1992.

D. Paul Hinman
Notary Public

AFFIX SEAL

My commission expires: 11-20-95

This instrument prepared by:

Mark L. Drew

MAYNARD, COOPER, FRIERSON & GALE, P.C.

1901 Sixth Avenue North

2400 AmSouth/Harbert Plaza

Birmingham, Alabama 35203-2602

(205) 254-1000

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EXHIBIT A

(Fee Property Description)

Part of the NE $\frac{1}{4}$ of Section 35, Township 20 South, Range 3 West, Shelby County, Alabama, being more particularly described as follows:

From the Southwest corner of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$, run North 90 degrees 00 minutes East along the South line of said $\frac{1}{4}$ - $\frac{1}{4}$ Section for a distance of 29.39 feet to a Point "A"; thence turn an angle to the right of 65 degrees 04 minutes 35 seconds and run in a Southeasterly direction for a distance of 821.06 feet, more or less, to the centerline of an existing Buck Creek being the point of beginning; thence turn an angle to the right of 180 degrees 00 minutes and run in a Northwesterly direction for a distance of 821.06 feet, more or less, to the aforementioned Point "A"; thence continue in a Northwesterly direction along last described course for a distance of 658.59 feet to an existing iron pin being on the South right-of-way line of Industrial Road; thence turn an angle to the left (62 degrees 01 minutes to tangent) and run in a Northwesterly direction along the South line of said Industrial Road right-of-way line and along the arc of a curve (having a central angle of 3 degrees 20 minutes 35 seconds and a radius of 2,824.98 feet) for a distance of 164.83 feet to the end of said curve; thence continue in a Westerly direction along the South line of said Industrial Road right-of-way for a distance of 277.53 feet to an existing iron pin being on the Northeast line of an existing Alabama Power Company right-of-way; thence turn an angle to the left of 114 degrees 38 minutes 25 seconds and run in a Southeasterly direction along said Northeast line of said Alabama Power Company right-of-way for a measured distance of 1848.81 feet, more or less, to the center line of the meanderings of Buck Creek; thence turn an angle to the left and run in a generally Northeasterly direction along the centerline of the meanderings of Buck Creek for a distance of 480 feet, more or less, to the point of beginning. According to survey of Laurence D. Weygand, RLS #10373, dated February 6, 1992.

Situated in Shelby County, Alabama.

EXHIBIT B

(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-2 of the mortgagee's title insurance policy issued or to be issued pursuant to that certain Commitment to Issue Title Insurance No. V-6034 prepared by Lawyers Title Insurance Corporation, having an effective date of January 24, 1992, at 8:00 a.m., 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 C

(Leasehold Property Description)

That certain parcel of land lying adjacent and west of the Alabaster Industries, Inc. building, the same being a parcel of land 100 feet in width extending in a westerly direction from said building's south line if extended westerly and being 500 feet running in a northerly direction, together with a 30 feet entrance, the east line of which extends northerly from the northeast corner of the lot being leased to Industrial Road; subject to Alabama Power Company transmission line permit; situated in Shelby County, Alabama.

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Schedule 3.03

(Environmental Matters)

The Borrower has recently (February 6, 1992) undergone a Phase 1 Environmental Site Assessment (the "Assessment") performed by ATEC Associates, Inc. with respect to its operating facilities located in Alabaster, Alabama. The results of such audit, and the Borrower's comments in response to it, have been furnished to the Lender and are incorporated by reference herein, including without limitation the following:

1. As set forth in the Assessment, the Borrower maintains an inventory of Hazardous Materials, including without limitation paint cans and miscellaneous chemicals used in its manufacturing process, located at the Borrower's manufacturing facility, which Hazardous Materials the Borrower agrees to store and use in accordance with applicable Environmental Laws.
2. The Borrower has one underground storage tank ("UST"), for which UST the Borrower agrees to obtain a permit from the Alabama Department of Environmental Affairs by August 30, 1992.
3. Certain floor tiles located in the Borrower's manufacturing plant contain asbestos, which floor tiles the Borrower agrees to remove in accordance with applicable Environmental Laws if requested to do so by the Lender.
4. The Borrower maintains a hydraulic oil recycling system which has overflowed and the Borrower agrees to clean up or remediate this site if requested to do so by the Lender; provided, however, in any event the Borrower agrees to store each aboveground storage tank ("AST") on an impermeable pad and to have each AST properly bermed to prevent the migration of spills or leaks from each respective AST.

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ALL ALA. SHERIFFS
I CERTIFY THIS
DOCUMENT WAS FILED

92 FEB 20 AM 9:27

JUDGE OF PROBATE

1. Deed Tax	\$	4,500.00
2. Mtg. Tax	\$	100.00
3. Recording Fee	\$	3.00
4. Indexing Fee	\$	1.00
5. No Tax Fee	\$	
6. Certified Fee	\$	
Total	\$	4,604.00