

STATE OF ALABAMA)
JEFFERSON COUNTY)

ABSOLUTE ASSIGNMENT OF RENTS AND LEASES

THIS ABSOLUTE ASSIGNMENT OF RENTS AND LEASES (hereinafter, with all amendments thereto, "this Assignment"), made and entered into on April 8, 1993 by HONTZAS PROPERTIES, an Alabama general partnership, (the "Assignor"), whose address is 112 21st Street North, Birmingham, Alabama 35203, in favor of NATIONAL BANK OF COMMERCE OF BIRMINGHAM, a national banking association (the "Lender"), whose address is 1927 First Avenue North, Birmingham, Alabama 35203.

Recitals

A. George Hontzas, a general partner of the Assignor who owns 66 2/3% of the Assignor (the "Borrower"), is indebted to the Lender, directly or indirectly, with respect to four different loans, and presently is in default with respect to each of these loans.

B. Firstly, the Borrower is a general partner in Hontzas Brothers, an Alabama general partnership ("Hontzas Brothers"). Hontzas Brothers is indebted to the Lender with respect to the Commercial Development Authority of the City of Birmingham, First Mortgage Revenue Bond (Hontzas Brothers Project), Series 1985 in the original principal amount of \$1,500,000 (the "Hontzas Brothers' Indebtedness"), the proceeds of which were used to acquire and renovate the Drennen Building located in Birmingham, Alabama (the "Drennen Building"). The Drennen Building is presently owned by the Commercial Development Authority of the City of Birmingham (the "Commercial Development Authority") which has leased such building to Hontzas Brothers pursuant to the term of a Lease Agreement dated as of August 1, 1985 (the "Drennen Lease"). To secure the obligation with respect to the Hontzas Brothers' Indebtedness, the Commercial Development Authority delivered unto the Lender a Mortgage and Trust Indenture dated August 1, 1985. Additionally, the Borrower and James Hontzas ("J. Hontzas") executed a Guaranty Agreement in favor of the Lender with respect to the Hontzas Brothers' Indebtedness dated as of August 1, 1985 (the "Guaranty Agreement"). The principal balance and accrued interest of the Hontzas Brothers' Indebtedness is \$901,051.75 as of the date of this Assignment.

C. Secondly, as of April 1, 1981, the Commercial Development Authority issued its \$500,000 Commercial Development Revenue Bond (Hontzas Project) dated as of that date, which bond was purchased by the Lender (the "Hontzas Properties' Indebtedness"). The Hontzas Properties' Indebtedness was incurred pursuant to the terms of a Mortgage and Indenture of Trust dated as of April 1, 1981, which Mortgage encumbered the building where John's Restaurant is located in Birmingham, Alabama (the "John's Property"). Hontzas Properties entered into a Lease Agreement dated as of April 1, 1981, with the Commercial Development Authority with respect to the John's Property (the "John's Lease"). Additionally,

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Hontzas Properties and each of its general partners as guarantors, including the Borrower and J. Hontzas, entered into a Bond Guaranty Agreement dated as of April 1, 1981 (the "Bond Guaranty Agreement"). As of the date of this Assignment, the remaining principal balance and accrued interest due with respect to the Hontzas Properties' Indebtedness is \$116,740.06.

D. Thirdly and fourthly, the Borrower is justly indebted to the Lender with respect to the following two promissory notes: (i) that certain promissory note of the Borrower to the Lender in the original principal amount of \$75,261.55, dated December 26, 1990, payable in accordance with its terms (the "First Note"), which note has a remaining principal balance and accrued interest of \$15,109.04 as of the date of this Assignment, and (ii) that certain promissory note of the Borrower to the Lender in the original principal amount of \$131,595.83, dated September 29, 1992, payable in accordance with its terms (the "Second Note"), which note has a remaining principal balance and accrued interest of \$130,981.37 as of the date of this Assignment (the First Note and the Second Note are sometimes collectively referred to herein as the "Prior Notes"). (The Hontzas Brothers' Indebtedness, the Hontzas Properties' Indebtedness, and the indebtedness evidenced by the Prior Notes shall hereinafter be referred to as the "Prior Debt.")

E. In addition, the Lender has agreed to make two term loans to the Borrower and the Corporation (as defined herein), as co-borrowers, in the original principal amounts of \$300,000 and \$59,592.20 (the "New Debt"), respectively, which indebtedness shall be evidenced by (i) that certain promissory note of the Borrower and the Corporation to the Lender in the principal amount of \$300,000 dated of even date herewith, payable in accordance with its terms and having a final maturity date of September 30, 1993 (the "\$300,000 Note"), and (ii) that certain promissory note of the Borrower and the Corporation to the Lender in the principal amount of \$59,592.20 dated of even date herewith, payable in accordance with its terms and having a final maturity date of September 30, 1993 (the "\$59,592.20 Note", the \$300,000 Note and the \$59,592.20 Note are sometimes collectively referred to herein as the "New Notes"). (The Hontzas Brothers' Indebtedness, the Hontzas Properties' Indebtedness, the Prior Debt and the New Debt shall be sometimes collectively referred to herein as the "Indebtedness".)

F. In order to secure the Indebtedness, and in consideration for the Lender's forbearance with respect to defaults on the Prior Debt, and in order to induce the Lender to extend additional credit to the Borrower on the strength of the security provided by this Mortgage, the Assignor has agreed to execute and deliver this Assignment.

Agreement

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

1. Assignment. The Assignor does hereby sell, assign, transfer and set over to the Lender, its successors and assigns, and does hereby grant to the Lender, its successors and assigns a two-thirds (66 2/3 %) interest in the following (collectively, the "Assigned Property"):

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(a) That certain Sublease Agreement (including any extensions, renewals and modifications thereof) dated of even date herewith entered into by the Assignor, as the lessor, and G.P.G., Inc., as the lessee, and all other agreements for use or occupancy of any portion of the property more particularly described in Exhibit A attached hereto and made a part hereof and commonly known as the John's Property (the "Real Estate") or any improvements, buildings, structures and fixtures now or hereafter located thereon (the "Improvements") (the Real Estate and the Improvements being hereinafter sometimes together called the "Property") (the "Existing Leases"), any and all extensions and renewals of said leases and agreements and any and all further leases or agreements, now existing or hereafter made, including subleases thereunder, upon or covering the use or occupancy of all or any part of the Real Estate or the Improvements, all such leases, subleases, agreements and tenancies heretofore mentioned (including but not limited to the Existing Leases) being hereinafter collectively referred to as the "Leases";

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

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

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

SUBJECT, HOWEVER, to the encumbrances, if any, described on Exhibit B hereto ("Permitted Encumbrances").

2. **Representations and Warranties.** The Assignor represents and warrants to the Lender that, except for any Permitted Encumbrances:

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

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

(c) The Assignor has not previously sold, assigned, transferred, mortgaged or pledged the Leases or the Rents, whether now due or hereafter to become due.

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

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

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

3. **Covenants of Assignor.** The Assignor covenants and agrees that the Assignor shall:

(a) observe, perform and discharge all obligations, covenants and warranties provided for under the terms of the Leases to be kept, observed and performed by the Assignor, and shall give prompt notice to the Lender in the event the Assignor fails to observe, perform and discharge the same;

(b) enforce or secure in the name of the Lender the performance of each and every obligation, term, covenant, condition and agreement to be performed by any lessee under the terms of the Leases;

(c) appear in and defend any action or proceeding arising under, occurring out of, or in any manner connected with the Leases or the obligations, duties or liabilities of the Assignor and any lessee 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 Assignor, 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;

(d) not receive or collect any Rents from any present or future lessee of the Real Estate or any of the Improvements, or any part thereof, for a period of more than one month

in advance, or pledge, transfer, mortgage or otherwise encumber or assign future payments of the Rents;

(e) not waive, excuse, condone, discount, set off, compromise, or in any manner release or discharge any lessee of the Real Estate or any of the Improvements of and from any obligations, covenants, conditions and agreements by said lessee to be kept, observed and performed, including the obligation to pay rent in the manner and at the place and time specified in any Lease;

(f) not enter into any Leases except on a form approved by the Lender, nor cancel, terminate or consent to any surrender of any Lease, or modify or in any way alter the terms thereof without, in each such instance, the prior written consent of the Lender;

(g) not renew or otherwise extend the term of any of the Existing Leases; provided, however, that nothing herein contained shall prevent the Assignor, upon expiration of the now-current term (or other expiration or termination) of any of the Existing Leases, from leasing the property covered thereby to the lessee thereunder by a lease or leases expressly subject and fully subordinate to the lien of this Assignment;

(h) promptly upon the execution by the Assignor of any future Lease, (i) furnish the Lender with the name and address of the lessee thereunder, the term of such Lease and a description of the premises covered thereby and, upon request of the Lender, a copy of such Lease, and (ii) execute all such further assignments of such Lease and the Rents therefrom as the Lender may require;

(i) not, without the prior written approval of the Lender, execute any management or leasing agreements affecting any of the Property; and

(j) if required by the Lender, cause each Lease to provide, in a manner approved by the Lender, that the Lease is junior and subordinate to the lien of this Assignment and that the Lessee will recognize as lessor, Lender or any person succeeding to the interest of the Borrower, upon any foreclosure of this Assignment.

4. **Events of Default.** The happening of any of the following events or conditions, or the happening of any other event of default as defined elsewhere in this Assignment (hereinafter collectively referred to as "Events of Default") shall constitute a default under this Assignment:

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

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

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

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

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

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

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

5. **Rights and Remedies of the Lender Upon Default.** Upon the occurrence of an Event of Default or at any time thereafter:

(a) **Operation of Property by Lender.** In addition to all other rights herein conferred on the Lender, the Lender (or any person, firm or corporation designated by the Lender) may, but shall not be obligated to, enter upon and take possession of any or all of the Property, exclude the Assignor therefrom, and hold, use, administer, manage and operate the same to the extent that the Assignor could do so, without any liability to the Assignor resulting therefrom; and the Lender may collect, receive and receipt for all proceeds accruing from such operation and management, make repairs and purchase needed additional property, and exercise every power, right and privilege of the Assignor with respect to the Property.

(b) **Right to Receiver.** The Lender shall be entitled, as a matter of right, to the appointment by any competent court or tribunal, without notice to the Assignor 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.

(c) **Rents and Leases.** The Lender at its option, shall have the right, power and authority without the need to take possession of the Property or to obtain the appointment of a receiver, to exercise and enforce any or all of the following rights and remedies with respect to Rents and Leases:

(i) to terminate the license granted to the Assignor in Section 1(c) hereof to collect the Rents, to notify the tenants under the Leases or any other parties in possession of the Property, or any part thereof, to pay all Rents directly to the Lender 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;

(ii) 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 Assignor, make, modify, enforce, cancel or accept surrender of any Lease, remove and evict any lessee or sublessee, 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 Assignor could do if in possession; and

(iii) to take whatever legal proceedings may appear necessary or desirable to enforce any obligation or covenant or agreement of the Assignor under this Assignment.

The Assignor hereby releases any claims against any tenants under the Leases or any other parties in possession of the Property, or any part thereof, for any Rents or other sums paid to the Lender in accordance with this Assignment. The collection of the Rents and application thereof 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 Assignment, 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.

(d) **Application of Proceeds.** All amounts realized by the Lender in connection with the enforcement of any right or remedy under or with respect to this Assignment, shall be applied by the Lender to the following (collectively, the "Liabilities") in such order and proportions as the Lender, in its sole discretion, may elect: (i) the Indebtedness, all interest thereon and all other fees and charges payable thereunder; (ii) all sums becoming due and payable by the Assignor or the Borrower under the terms of any of the Loan Documents, including sums advanced by the Lender pursuant to the terms of any of the Loan Documents; (iii) all other indebtedness, obligations and liabilities of the Assignor and the Borrower to the Lender (including obligations of performance) of every kind and description whatsoever, arising directly between the Assignor or the Borrower and the Lender or acquired outright, as a participation or as collateral security from another by the Lender, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter incurred, contracted or arising, joint or several, liquidated or unliquidated, regardless of how they arise or by what agreement or instrument they may be evidenced or whether they are evidenced by agreement or instrument, and whether incurred as maker, endorser, surety, guarantor, member of a partnership, syndicate, joint venture, association or other group, or otherwise, and any and all extensions, renewals,

modifications and amendments of any of the same; (iv) any and all extensions, renewals and modifications of any of the items described in (i) through (iii) above; and (v) the compliance with all of the stipulations, covenants, agreements, representations, warranties and conditions contained in the Loan Documents.

6. **Enforcement Costs.** The Assignor agrees to pay (i) all costs, including reasonable attorneys' fees, incurred by the Lender in enforcing the terms and conditions of the Lease, including without limitation the rents payable thereunder; (ii) two-thirds of all costs, including reasonable attorneys' fees, incurred by the Lender in defending or attempting to defend the priority of this Assignment against any lien or encumbrance on the Property or any of the Assigned Property, unless this Assignment is herein expressly made subject to any such lien; and (iii) two-thirds of all costs incurred in the enforcement of the rights and remedies of the Lender under this Assignment that are not included within subsection (i) above.

7. **No Obligations of Lender; Indemnification.** The Lender shall not by virtue of this Assignment or otherwise assume any duties, responsibilities, liabilities or obligations with respect to Leases, the Property or any of the Assigned Property (unless expressly assumed by the Lender under a separate agreement in writing), and this Assignment 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 Assignor 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 Assignor's performance of its representations, warranties, covenants, agreements, duties, responsibilities and obligations under this Assignment or under the Leases and with respect to the other Property and the Assigned Property. The provisions of this Section 7 shall survive the payment of the Liabilities in full and the termination of this Assignment with respect to claims and losses asserted against or suffered by the Lender.

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

9. **Waiver and Election.** The exercise by the Lender of any option given under the terms of this Assignment shall not be considered as a waiver of the right to exercise any other option given herein. No failure or delay on the part of the Lender in exercising any right, power or remedy under this Assignment 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 rights and remedies provided in this Assignment and in the other Loan Documents are cumulative and not exclusive of any remedies provided by law. Without limiting the generality of the foregoing, the rights and remedies of the Lender under this Assignment are cumulative and in addition to the rights and remedies of the Lender under any of the Loan Documents. No amendment, modification, termination or waiver of any provisions of this Assignment or any of the Loan

Documents, nor consent to any departure by the Assignor or 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 Assignor in any case shall entitle the Assignor to any other or further notice or demand in similar or other circumstances.

10. **Enforceability.** If any provision of this Assignment 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.

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

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

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

14. **Absolute Assignment.** The assignment of the Assigned Property under this Assignment is intended to be an absolute assignment from the Assignor to the Lender and not merely a conditional assignment or security interest. The Assigned Property is intended to be, and hereby is, assigned absolutely by the Assignor to the Lender, subject only to the license granted to the Assignor under Section 1(c), which license is terminable by the Lender upon the occurrence of an Event of Default under Section 5(c)(i).

15. **Damage or Destruction.**

(a) **Assignor's Obligations.** In the event of any damage to or loss or destruction of the Property, the Assignor 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, 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, 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 Assignor, and is hereby authorized and empowered by the Assignor 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 15(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 Liabilities in the order and manner determined by the Lender in its sole discretion (provided that the remainder of the Liabilities shall continue in full force and effect and the Borrower shall not be excused in the payment thereof), (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 Assignor 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 with respect to the Hontzas Properties Indebtedness shall have occurred and be continuing, such amount shall be paid over wholly or in part to the Assignor 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 Assignor shall furnish evidence satisfactory to the Lender that (A) the restoration can be completed prior to six months after the occurrence of the damage or destruction;

(ii) If the estimated costs of restoration shall exceed the insurance proceeds available, the Assignor 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 Assignor's ability to meet such excess costs;

(iii) The Lender shall be furnished, for its approval (in its sole discretion) (A) with an estimate for its approval of the cost of restoration of the Improvements, and appropriate final plans and specifications for such restoration; and (B) with 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 Assignor's certification as to the cost of materials furnished and work done and evidence that such work and materials are free and clear of any 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 15(c), shall at least be sufficient to pay for the cost of completion of the work, free and clear of Liens; and

(5) Final payment shall be made upon receipt by the Lender of a certification by the Assignor 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 Liabilities 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 Assignor, the Lender shall not be obligated to see to the proper application of any amount paid to the Assignor.

16. Miscellaneous. Notwithstanding anything to the contrary contained herein, if the Lender, upon the exercise of any remedies provided to the Lender hereunder, collects any monies with respect to the Existing Lease (including insurance proceeds), one-third of any such amounts, less any costs and expenses (including reasonable attorney's fees) incurred by the Lender to collect such monies, shall be paid to the Estate of James Hontzas or its designee.

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


HONTZAS PROPERTIES, an Alabama partnership

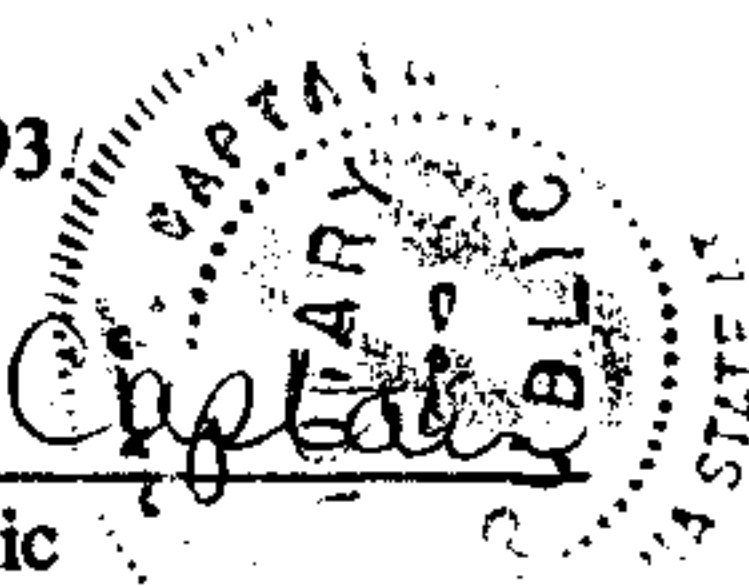
By: 
Its: General Partner

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that George Nontzas, whose name as general partner of Hontzas Properties, an Alabama general partnership, is signed to the foregoing Assignment of Rents and Leases and who is known to me, acknowledged before me on this day that, being informed of the contents of said Assignment of Rents and Leases, he, as such general partner and with full authority, executed the same voluntarily for and as the act of said partnership.

Given under my hand and official seal this the 8th day of April, 1993


Notary Public

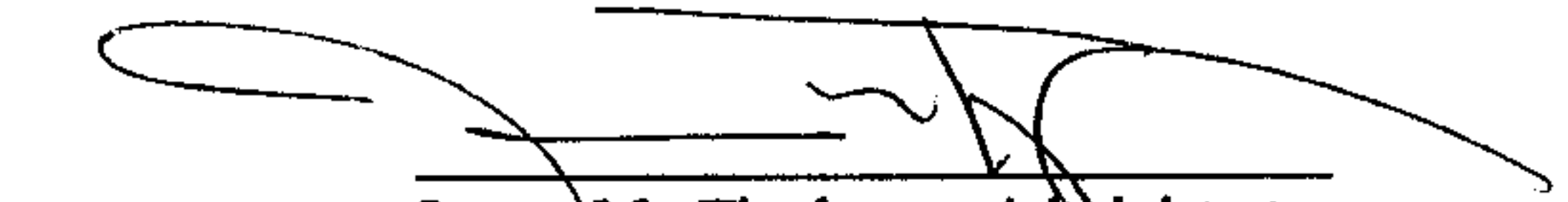


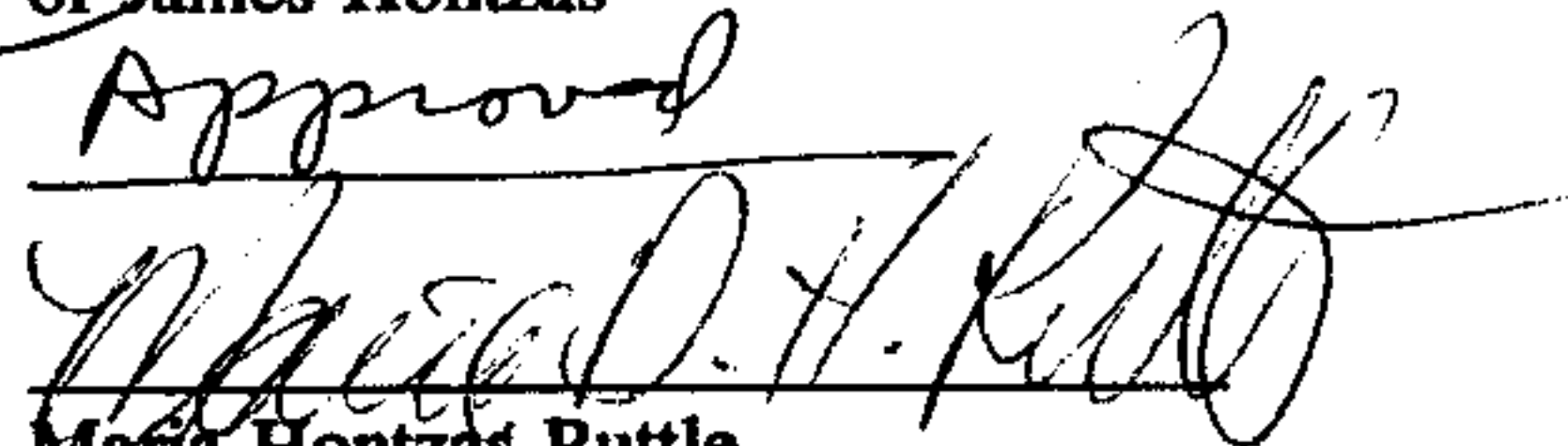
AFFIX SEAL

My commission expires: 7-2-96

The undersigned, constituting all of the general partners of Hontzas Properties (the "Partnership"), hereby consent to the execution of the foregoing Assignment of Rents and Leases by the Partnership and agree that, upon the occurrence of an event of default or any other event that with notice or lapse of time or both would constitute an event of default under the Existing Lease, other than an action for non-payment of rent against either G.P.G., Inc. or George Hontzas personally, neither the Partnership nor the undersigned may pursue any remedies against G.P.G., Inc. or its successor-in-interest under the Existing Lease without the prior written consent of the Lender.


George Hontzas


James M. Tingle, as Administrator
with the Will annexed of the Estate
of James Hontzas

Approved

Maria Hontzas Ruttle

This instrument was 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

EXHIBIT A

(Real Estate Description)

Lot 1, Block 100, the West one-half of Lot 2, Block 100, and Lot 3,
Block 100 of the Elyton Company Survey of Birmingham.

EXHIBIT B**(Permitted Encumbrances)**

1. The Lien for ad valorem taxes on the Property so long as such taxes are not delinquent.
2. The leasehold interest of G.P.G., Inc. under the Existing Lease.
3. 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. 2960-DD prepared by Commonwealth Land Title Insurance Company having an effective date of April 5, 1993, 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.

STATE OF ALABAMA
JEFFERSON COUNTY
I, THE UNDERSIGNED, AS JUDGE OF THE
COURT OF PROBATE AND FOR SAID
COUNTY, IN WITNESS WHEREOF, I HAVE
HEREBY CERTIFIED THAT THE
INSTRUMENT IS A TRUE
AND CORRECT COPY OF THE
ORIGINAL INSTRUMENT AS
APPEARS IN MY OFFICE
ON _____
PAGE _____
AND OFFICIAL SEAL OF THE
COURT OF PROBATE
OF _____
110699.02/59/0003-0649

STATE OF ALA. JEFFERSON CO.
I CERTIFY THIS INSTRUMENT
WAS FILED ON

1993 MAY -6 AM 11:24

RECORDED - \$ _____
DEED TAX HAS BEEN PD. ON THIS INSTRUMENT

George R. Reynolds
JUDGE OF PROBATE

Inst # 1993-12896

05/06/1993-12896
02:15 PM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE
016 MCD 44.00

**STATE OF ALABAMA
JEFFERSON COUNTY**

I, THE UNDERSIGNED, AS JUDGE OF THE
COURT OF PROBATE, IN AND FOR SAID
COUNTY, IN SAID STATE, HEREBY CERTIFY
THAT THE FOREGOING IS A FULL, TRUE
AND CORRECT COPY OF THE INSTRUMENT
WITH THE FILING OF SAME AS
APPEARS OF RECORD IN THIS OFFICE
IN VOL. 4545 RECORD OF ON
PAGE 066. GIVEN UNDER MY HAND
AND OFFICIAL SEAL, THIS THE 16th DAY
OF May, 19 88.

George A. Reynolds
JUDGE OF PROBATE