

STATE OF ALABAMA)

SHELBY COUNTY)

MORTGAGE

THIS MORTGAGE is made and entered into on May 26, 1993, by Albert L. Scott, Jr., and Patricia J. Scott, husband and wife, (hereinafter both are collectively referred to as the "Mortgagor") in favor of AmSouth Bank N.A. (the "Mortgagee").

WITNESSETH, That

WHEREAS, Albert L. Scott, Jr., is justly indebted to the Mortgagee in the amount of Five Hundred Fifty-four Thousand Nine Hundred Seventy-two Dollars and 42/100 (\$554,972.42) as of June 9, 1992, as evidenced by that Continuing Guaranty Agreement dated March 11, 1988 (the "Guaranty"), which guaranteed payment of the indebtedness of Memphis Countryside Associates, Ltd. ("Memphis Countryside"), to the Mortgagee.

WHEREAS, pursuant to an Interim Settlement and Forbearance Agreement dated September 16, 1993, the Mortgagor has agreed to execute and deliver this Mortgage and convey the property described herein to the Mortgagee as hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and in order to secure the prompt payment of the following (hereinafter sometimes referred to collectively as the "Indebtedness"):

(1) Any and all sums, principal, interest and agreed charges, due and payable, or becoming due and payable, by Albert L. Scott, Jr., pursuant to the Guaranty;

(2) Any and all sums becoming due and payable by the Mortgagor to the Mortgagee under the terms of this Mortgage; and

(3) All renewals and extensions of any or all of the obligations of the Mortgagor described in (1) and (2) above, whether or not any renewal or extension agreement is executed in connection therewith;

and also to secure the full and complete performance of each and every obligation, covenant, duty and agreement of the Mortgagor contained in this Mortgage.

Inst # 1993-15573

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05/28/1993-15573
04:05 PM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE

014 MCD 872.50

I. GRANTING CLAUSES

The Mortgagor has bargained and sold and does hereby grant, bargain, sell and convey to the Mortgagee, its successors and assigns, the property and interests in property described in the following Granting Clauses A, B and C:

- A. The real estate described on Exhibit A attached hereto and made a part hereof (the "Real Estate");
- B. All improvements, structure and fixtures now or hereafter located on the Real Estate; and
- C. All easements, rights-of-way and permits related to the Real Estate or the improvements located thereon.

All of the property described in the foregoing Granting Clauses A, B and C is herein sometimes together referred to as the "Mortgaged Property".

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

II. ASSIGNMENT OF CONDEMNATION AWARDS

As further security for the Indebtedness and the full and complete performance of each and every obligation, covenant, agreement and duty of the Mortgagor contained herein, and to the extent of the full amount of the Indebtedness secured hereby and of the costs and expenses (including reasonable attorneys' fees) incurred by the Mortgagee in the collection of any award or payment, the Mortgagor hereby assigns to the Mortgagee any and all awards or payments, including all interest thereon, together with the right to receive the same, that may be made to the Mortgagor with respect to the Mortgaged Property as a result of (A) the exercise of the right of eminent domain, (B) the alteration of the grade or of any street or (C) any other injury to or decrease in value of the Mortgaged Property. All such awards or payments shall be paid directly to the Mortgagee and placed into an escrow account. Any such awards or payments (after payment of collection costs including reasonable attorneys' fees) shall be disbursed for repair or restoration of the Mortgaged Property pursuant to the Mortgagee's standard construction loan practices, or the Mortgagee, at its election, may release the funds to the Mortgagor. Any funds remaining after repair or restoration may be applied on the Indebtedness in any order and whether or not then due. Said

application or release shall not cure or waive any default of the Mortgagor.

III. MORTGAGOR'S REPRESENTATIONS AND WARRANTIES

In order to induce the Mortgagee to extend credit to the Mortgagor, the Mortgagor represents and warrants that:

A. Valid Title, etc. The Mortgagor is lawfully seized of an indefeasible estate in fee simple of an undivided one-fifth (1/5) interest in and to the Mortgaged Property; it has a good right to sell and mortgage the Mortgaged Property; the Mortgaged Property is subject to no liens, encumbrances or security interests other than the liens, encumbrances and security interests more particularly described in Exhibit B attached hereto and made a part hereof ("Permitted Encumbrances"); and the Mortgagor will forever warrant and defend the title to the Mortgaged Property unto the Mortgagee against the claims of all persons whomsoever, except those claiming under Permitted Encumbrances.

B. Maintenance of Lien Priority. The Mortgagor shall take all steps necessary to preserve and protect the validity and priority of the liens on and security interest in the Mortgaged Property created hereby. The Mortgagor shall execute, acknowledge and deliver such additional instruments as the Mortgagee may deem necessary in order to preserve, protect, continue, extend or maintain the liens and security interests created hereby as first liens on and security interests in the Mortgaged Property, except as otherwise permitted under the terms of this Mortgage. All costs and expenses incurred in connection with the protection, preservation, continuation, extension or maintaining of the liens and security interests hereby created shall be paid by the Mortgagor.

IV. COVENANTS OF MORTGAGOR

The Mortgagor covenants and agrees that, until the Indebtedness is paid in full:

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

therefor to the Mortgagee. The Mortgagor may, at its own expense, in good faith contest any such taxes, assessments and other governmental charges and, in the event of any such contest, may permit the taxes, assessments or other governmental charges so contested to remain unpaid during the period of such contest and any appeal therefrom, provided that during such period enforcement of such contested items shall be effectively stayed. If any tax or assessment is levied, assessed or imposed by any governmental authority on the Mortgagee as a legal holder of the Note or any interest in this Mortgage or in any other documents securing the Note, then unless all such taxes and assessments are paid by the Mortgagor as they become due and payable (and in the opinion of counsel for the Mortgagee, such payment by the Mortgagor is lawful and does not place the Mortgagee in violation of any law), the Mortgagee may, at its option, declare the Indebtedness immediately due and payable.

B. Insurance. The Mortgagor shall keep or cause to be kept the Mortgaged Property insured against loss or damage by fire, windstorm, extended coverage perils, vandalism, malicious mischief and such other hazards, casualties or other contingencies as from time to time may be required by the Mortgagee, in such amounts, in such manner and in such companies as the Mortgagee may approve. All such policies shall provide that any losses payable thereunder shall (pursuant to standard mortgagee clauses, without contribution, to be attached to each policy) be payable to the Mortgagee. The Mortgagor shall cause duplicate originals of any and all such insurance policies to be deposited with the Mortgagee. At least ten days prior to the date the premiums on each such policy or policies shall become due and payable, the Mortgagor shall furnish to the Mortgagee evidence of the payment of such premiums. Each of such policies shall contain an agreement by the insurer that the same shall not be cancelled without at least ten days' prior written notice to Mortgage. With respect to all such insurance policies, the Mortgagee is hereby authorized, but not required, on behalf of the Mortgagor, to collect for, adjust or compromise any losses under any such insurance policies. Any loss proceeds (after payment of collection expenses including attorneys' fees) shall be placed in an escrow account with the Mortgagee and will be disbursed for repair or restoration of the Mortgaged Property pursuant to its standard construction loan practices, or the Mortgagee, at its election, may release the proceeds to the Mortgagor. Any proceeds remaining after repair or restoration may be applied on the Indebtedness, in any order and whether due or not. Any such application or release shall not cure or waive any default by the Mortgagor. In case of a sale pursuant to the foreclosure provisions hereof, or any conveyance of all or any part of the Mortgaged Property in extinguishment of the Indebtedness, complete title to all insurance policies held by the Mortgagee and the unearned premiums with respect thereto shall pass to and vest in the purchaser or grantee of the Mortgaged Property.

C. Waste, Demolition, Alteration or Replacement. The Mortgagor will cause the Mortgaged Property and every part thereof to be maintained, preserved and kept in safe and good repair, working order and condition, will not commit or permit waste thereon, will not remove, demolish or alter the design or structural character of any building now or hereafter erected thereon without the express prior written consent of the Mortgagee, will comply with all laws and regulations of any governmental authority with reference to the Mortgaged Property and the manner and use of the same, and will 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.

V. DEFEASANCE

If the Mortgagor shall pay in full: (A) all of the Indebtedness (as defined herein), including but not limited to, all sums (principal, interest and charges) payable under the Guaranty and any and all extensions and renewals of the same (or the indebtedness of Memphis Countryside Associates, Ltd., to the Mortgagee shall be satisfied); and (B) all sums becoming due and payable by the Mortgagor under the terms of this Mortgage; and (C) the Mortgagor shall have kept and performed each and every obligation, covenant, duty, condition and agreement herein imposed on or agreed to by the Mortgagor; then this conveyance and the grants and conveyances contained herein shall become null and void, and the Mortgaged Property shall revert to the Mortgagor, and the entire estate, right, title and interest of the Mortgagee will thereupon cease; and the Mortgagee in such case shall, upon the request of the Mortgagor and at the Mortgagor's cost and expense, deliver to the Mortgagor proper instruments acknowledging satisfaction of this instrument; otherwise, this Mortgage shall remain in full force and effect.

VI. EVENTS OF DEFAULT

The Mortgagor shall be in default under this Mortgage upon the happening of any of the following events or conditions, or the happening of any other event of default as defined elsewhere in this Mortgage (hereinafter collectively referred to as "Events of Default"):

- (a) any representation or warranty made herein shall prove to be false or misleading in any material respect;
- (b) the Guaranty shall be in default;
- (c) default shall be made in the due observance or performance of any covenant, condition or agreement on

the part of the Mortgagor to be observed or performed pursuant to the terms of this Mortgage; provided, however, that a default shall not be declared under this subparagraph until the Mortgager has been provided written notice of the breach of any such covenant, condition, or agreement, and has failed to remedy the breach within thirty (30) days after dispatch of the notice;

- (d) the Mortgagor fails to pay its debts generally as they become due, or if a receiver, trustee, liquidator or other custodian is appointed for the Mortgagor or for any of the property of the Mortgagor, or if a petition in bankruptcy (whether for liquidation, reorganization, arrangement, wage-earner's plan or otherwise) is filed by or against the Mortgagor, or if the Mortgagor applies for the benefits of, or takes advantage of, any law for the relief of debtors, or enters into an arrangement or composition with, or makes an assignment for the benefit of, creditors; or
- (e) the interest of the Mortgagee in the Mortgaged Property shall become endangered by reason of the enforcement of any prior lien or encumbrance thereon, so as to endanger the Indebtedness.

VII. RIGHTS OF MORTGAGEE UPON DEFAULT

A. Acceleration of Indebtedness. Upon occurrence of an Event of Default or at any time thereafter, the Mortgagee may at its option and without demand or notice to the Mortgagor, declare the Indebtedness, all or any part thereof, immediately due and payable. Unless otherwise provided herein and to the extent permitted by law, the Mortgagor hereby waives demand, presentment for payment, protest, notice of protest, dishonor and default, notice of intent to declare the Indebtedness immediately due and payable and notice of declaration that the Indebtedness is immediately due and payable, and any and all rights it may have to a hearing before any judicial authority prior to the exercise by the Mortgagee of any of its rights under this Mortgage or any other agreements securing or executed in connection with the Indebtedness.

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

liability to the Mortgagor resulting therefrom; and the Mortgagee may collect, receive and receipt for all proceeds accruing from such operation and management, make repairs and purchase needed additional property, and exercise every power, right and privilege of the Mortgagor with respect to the Mortgaged Property. When and if the expenses of such operation and management have been paid and the Indebtedness has been paid, the Mortgaged Property shall be returned to the Mortgagor, provided there has been no foreclosure sale. This provision is a right created by this Mortgage and is cumulative of, and shall in no way affect, the right of the Mortgagee to the appointment of a receiver given the Mortgagee by law.

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

D. Foreclosure Sale. Upon the occurrence of any Event of Default, or at any time thereafter, this Mortgage shall be subject to foreclosure and may be foreclosed as now provided by law in case of past due mortgages, and the Mortgagee shall be authorized, at its option, whether or not possession of the Mortgaged Property is taken, after giving 21 days' notice by publication once a week for three consecutive weeks of the time, place and terms of each such sale by publication in some newspaper published in the county wherein the Mortgaged Property or part thereof is located, to sell the Mortgaged Property (or such part or parts thereof as the Mortgagee may from time to time elect to sell) in front of such county's courthouse door, at public outcry, to the highest bidder for cash. The Mortgagee, its successors and assigns, may bid at any sale or sales had under the terms of this Mortgage and may purchase the Mortgaged 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 Mortgaged Property, real, personal or mixed, may be offered for sale in parcels or en masse for one total price, the proceeds of any such sale en masse to be accounted for in one account without distinction between the items included therein or

without assigning to them any proportion of such proceeds, the Mortgagor hereby waiving the application of any doctrine of marshalling or like proceeding. In case the Mortgagee, in the exercise of the power of sale herein given, elects to sell the Mortgaged 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 Mortgaged Property not previously sold shall have been sold or all the Indebtedness secured hereby shall have been paid in full.

E. Mortgagor's Warranties after Sale. The Mortgagor hereby authorizes and empowers the Mortgagee or the auctioneer at any foreclosure sale had hereunder, for and in the name of the Mortgagor, to execute and deliver to the purchaser or purchasers of any of the Mortgaged Property sold at foreclosure good and sufficient deeds of conveyance or bills of sale thereto, and the title of such purchaser or purchasers when so made by the Mortgagee or such auctioneer, the Mortgagor binds itself to warrant and forever defend to the extent of the right, title and interest therein of the Mortgagor.

F. Application of Proceeds. The proceeds of any and all foreclosure sales of the Mortgaged Property shall be applied as follows: (i) to the payment of all necessary expenses incident to the execution of said sale or sales, (ii) to the payment of the Indebtedness, to the amount of the accrued interest and principal legally due thereon and all other sums secured hereby and to the payment of attorneys' fees as provided in the Guaranty, and (iii) the remainder, if any, shall be paid to the Mortgagor or such other person or persons as may be entitled thereto by law.

G. Multiple Sales. Upon the occurrence of any Event of Default or at any time thereafter, the Mortgagee shall have the option to proceed with foreclosure, either through the courts or by proceeding with foreclosure as provided for in this Mortgage, but without declaring the whole Indebtedness due, and provided that if any sale is made because of such Event of Default, such sale may be made subject to the unmatured part of the Indebtedness secured by this Mortgage, and such sale, if so made, shall not in any manner affect the unmatured part of the Indebtedness secured by this Mortgage, but as to such unmatured part of the Indebtedness 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 Indebtedness whether then matured or unmatured, the purpose hereof being to provide for a foreclosure and sale of the Mortgaged Property for any matured part of the Indebtedness without exhausting any power of foreclosure and the power to sell the Mortgaged Property for any other part of the Indebtedness, whether matured at the time or subsequently maturing.

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

I. The mother of Albert L. Scott, Jr., Mrs. Caroline Bailie Scott, currently resides on the Mortgaged Property. So long as she resides there, the Mortgagee shall not exercise any of its remedies against the property.

VIII. OBLIGATIONS OF PATRICIA J. SCOTT

Patricia J. Scott is not indebted to Mortgagee and has not been conveyed an interest in the Mortgaged Property except perhaps by operation of law. She has executed this mortgage merely to transfer any interest she might have in the property through operation of law. Accordingly, Patricia J. Scott has no duties as a Mortgagor unless and except to the extent that she has an interest in the property by operation of law.

IX. MISCELLANEOUS PROVISIONS

A. Waiver and Election. The exercise by the Mortgagee of any option given under the terms of this Mortgage shall not be considered as a waiver of the right to exercise any other option given herein, and the filing of a suit to foreclose the lien and security interest granted by this Mortgage, either on any matured portion of the Indebtedness or for the whole of the Indebtedness, 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 or necessary notices for foreclosure, as provided in this Mortgage, preclude the prosecution of a later suit thereon.

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

C. 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 Mortgagee to effectuate the provisions hereof.

D. Application of Payments. If the lien or the security interest created by this Mortgage is invalid or unenforceable as to any part of the Indebtedness or is invalid or

unenforceable as to any part of the Mortgaged Property, the unsecured or partially secured portion of the Indebtedness shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the Indebtedness, and all payments made on the Indebtedness, 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 Indebtedness which is not secured or not fully secured by said lien or security interest created hereby.

E. Meaning of Particular Terms. Whenever used, the singular number shall include the plural and the plural the singular, and the words "the Mortgagor" and "the Mortgagee" shall include their respective successors and assigns.

F. Advances by the Mortgagee. If the Mortgagor shall fail to comply with the provisions hereof with respect to the securing of insurance, the payment of taxes, assessments and other charges, the keeping of the Mortgaged Property in repair, or any other term or covenant herein contained, the Mortgagee may (but shall not be required to) make advances to perform the same, and where necessary enter the Mortgaged Property for the purpose of performing any such term or covenant. The Mortgagor agrees to repay all sums advanced upon demand, with interest from the date such advances are made, determined on the same basis as the principal in the Note (to the fullest extent permitted by applicable law), and all sums so advanced with interest shall be secured hereby.

G. Release or Extension by the Mortgagee. The Mortgagee, without notice, may release any part of the Mortgaged Property or any person liable for the Indebtedness without in any way affecting the rights of the Mortgagee hereunder as to any part of the Mortgaged Property not expressly released and may agree with any party with an interest in the Mortgaged Property to extend the time for payment of all or any part of the Indebtedness or to waive the prompt and full performance of any term, condition or covenant of the Note, this Mortgage or any other instrument evidencing or securing the Indebtedness.

H. Partial Payments. Acceptance by the Mortgagee of any payment of less than the amount due on the Indebtedness shall be deemed acceptance on account only, and the failure of the Mortgagor to pay the entire amount then due shall be and continue to constitute an Event of Default, and at any time thereafter and until the entire amount due on the Indebtedness has been paid, the Mortgagee 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.

I. Titles Not To Be Considered. All section, paragraph, subparagraph or other titles contained in this Mortgage

are for reference purposes only, and this Mortgage shall be construed without reference to said titles.

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

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




Albert L. Scott, Jr.

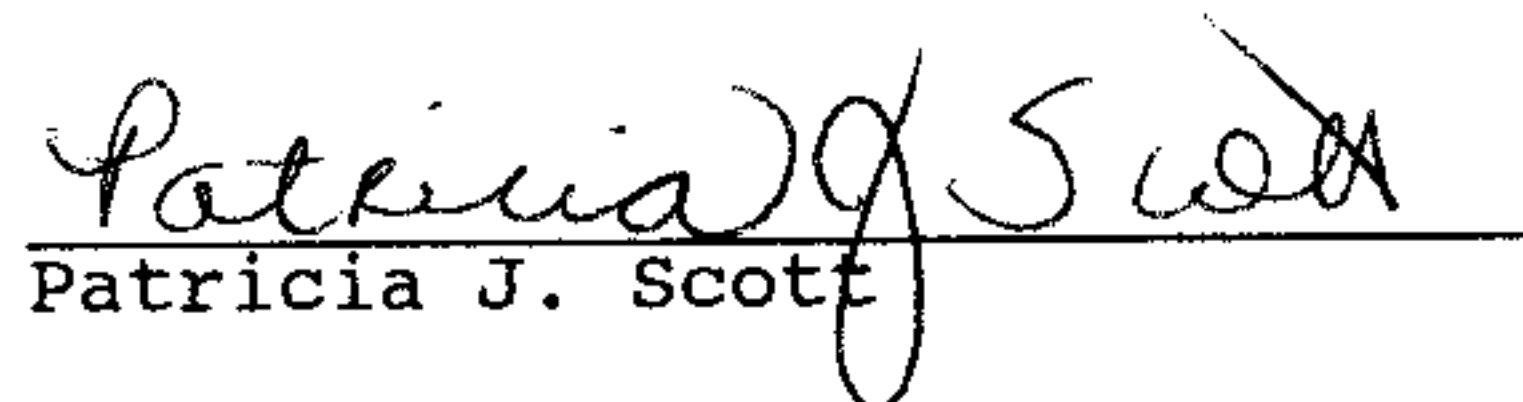
STATE OF GEORGIA)
Fulton COUNTY)

I, the undersigned authority, in and for said county in said state, hereby certify that Albert L. Scott, Jr., whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this 26th day of May, 1993.



Peggy J. Hunt
Notary Public, Georgia, Fulton County
My Commission Expires April 2, 1995.
My Commission expires: _____



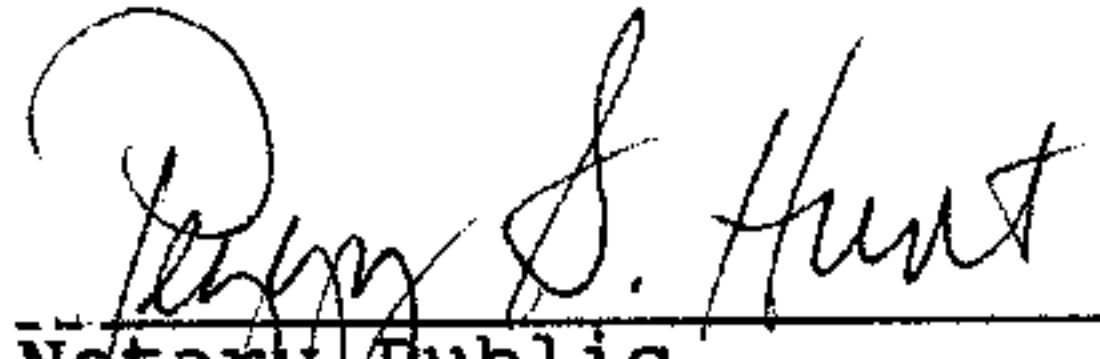
Patricia J. Scott

STATE OF GEORGIA)
Fulton COUNTY)

I, the undersigned authority, in and for said county in said state, hereby certify that Patricia J. Scott whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the

contents of said instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this 26th day of May, 1993.



Notary Public
My Commission Expires April 2, 1995
My Commission Expires April 2, 1995

This instrument was prepared by:

✓ C. Ellis Brazeal III
WALSTON, STABLER, WELLS,
ANDERSON & BAINS
505 20th Street North, Suite 500
P. O. Box 830642
Birmingham, Alabama 35283-0642
Telephone: (205) 251-9600
Telecopier: (205) 251-0700

EXHIBIT A

All of the interest of the Mortgagor in the following described real estate, situated in Shelby County, Alabama, to wit:

The West half of the NW 1/4 of Sec. 14,
Township 22 South, Range 3 West.

EXHIBIT B

The following liens or encumbrances on the real property described in Exhibit A are the only prior encumbrances thereon;

Utility Easements

Inst # 1993-15573

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SHELBY COUNTY JUDGE OF PROBATE
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