

MORTGAGE

THE STATE OF ALABAMA, }
SHELBY COUNTY. }

THIS INDENTURE, made this 1 day of November
by and between River Place, Ltd.

limited partnership
a corporation organized and existing under the laws of the State of Alabama
having its principal place of business at Birmingham, Alabama

hereinafter referred to as the Mortgagor, and Highland Mortgage Company

a corporation organized and existing under the laws of the State of Alabama
having its principal place of business at Birmingham, Alabama
hereinafter referred to as the Mortgagee.

WHEREAS, the Mortgagor is justly indebted to the Mortgagee in the principal sum of TWO MILLION SEVEN HUNDRED THIRTY-TWO THOUSAND AND NO/100----- Dollars (\$ 2,732,000.00),
evidenced by its note of even date herewith, bearing interest from date on outstanding balances at six and five-eighths per centum (6.625 %) per annum, said principal and interest being payable in monthly installments as provided in said note with a final maturity of September 1, 2011 , which note is identified as being secured hereby by a certificate thereon. Said note and all of its terms are incorporated herein by reference and this conveyance shall secure any and all extensions thereof, however evidenced.

WHEREAS the said Mortgagor is desirous of securing prompt payment of the said note and all notes given in extension or renewal of said indebtedness or any part thereof and any other sum due or to become due hereunder.

NOW, THEREFORE, in consideration of the premises and the sum of one dollar (\$1) to the undersigned Mortgagor in hand paid by the Mortgagee, the receipt whereof is hereby acknowledged, and for the purpose of securing the prompt payment of said indebtedness the said Mortgagor does thereby grant, bargain, sell, and convey unto the said Mortgagee the following-described real property situated in Shelby County, Alabama, to wit:

See Exhibit "A" attached hereto and made a part hereof.

Notwithstanding any other provision contained herein or in the Note, it is agreed that the execution of the Note shall impose no personal liability upon the mortgagor for payment of the indebtedness evidenced thereby and in the event of a default, the holder of the Note shall look solely to the property subject to this Mortgage and to the rents, issues and profits thereof in satisfaction of the indebtedness evidenced by the Note and will not seek or obtain any deficiency or personal judgment against the mortgagor except such judgement or decree as may be necessary to foreclose or bar its interest in the property subject to this Mortgage and all other property mortgaged, pledged, conveyed or assigned to secure payment of the Note; provided, that nothing in this condition and no action so taken shall operate to impair any obligation of the maker under the Regulatory Agreement herein referred to and made a part hereof.

Inst # 1993-34158

11/01/1993 03:41:58
12:25 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
006 MCD 4120.00

THIS INSTRUMENT PREPARED BY:
Robin H. Harbin
Welden and Harbin, Attorneys at Law
P. O. Box 55465
Birmingham, AL 35255

TOGETHER WITH all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, including any after-acquired title, franchise, licenses or easements, and also with all right, title and interest of the Mortgagor from time to time in and to any and all buildings and improvements; all heating, lighting, plumbing, cooking, incinerating, ventilating, air conditioning and refrigerating equipment, elevators and motors, engines and machinery, sprinkler systems, ice boxes, storm and screen doors, screens, awnings, window shades, floor coverings, fixtures, equipment and other property now or hereafter owned by Mortgagor, or any successor in title, and attached to or used in connection with the real estate hereinabove described; together with all building materials and equipment now or hereafter delivered to said premises and intended to be installed therein. AND ALSO all furnishings and articles of personal property now or hereafter attached to or in and about the building or buildings now erected or hereafter to be erected on the lands herein described which are necessary to the complete and comfortable use and occupancy of such building or buildings for the purposes for which they were or are to be erected, including all goods, chattels and personal property as are ever used or furnished in operating a building, or the activities conducted therein, similar to the one herein described and referred to, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are, or shall be attached to said building or buildings in any manner (the Mortgagor hereby declaring that it is intended that the items herein enumerated shall be deemed to have been permanently installed as part of the realty); all of which property, together with all and any replacements thereof, shall be deemed a portion of the security for the indebtedness herein mentioned and secured by this Mortgage, and all of the property hereinbefore mentioned is hereinafter sometimes designated as "mortgaged property";

To HAVE AND TO HOLD the mortgaged property together with all and singular the privileges and appurtenances, tenements, hereditaments, easements, and rights-of-way thereunto belonging or usually enjoyed with said mortgaged property or any part thereof and the reversions, remainder and remainders unto the Mortgagee and its successors and assigns forever.

The Mortgagor covenants with the Mortgagee that Mortgagor is lawfully seized in fee simple of the mortgaged property; that said property is free from all encumbrances and liens whatsoever. That Mortgagor has a good and legal right to mortgage and warrant the same to Mortgagee; and that Mortgagor will warrant and defend the title to said property to Mortgagee forever against the claims and demands of any person or persons whomsoever; and Mortgagor will execute, acknowledge and deliver all and every such further assurances unto Mortgagee all and singular the mortgaged property hereby mortgaged and conveyed and intended so to be, or which Mortgagor may be or become hereinafter bound so to do.

THIS MORTGAGE IS MADE, however, subject to the following covenants, conditions, and agreements, that is to say:

1. That Mortgagor will pay the Note at the times and in the manner provided therein;
 2. That Mortgagor will not permit or suffer the use of any of the property for any purpose other than the use for which the same was intended at the time this Mortgage was executed;
 3. That the Regulatory Agreement, if any, executed by the Mortgagor and the Federal Housing Commissioner, which is being recorded simultaneously herewith, is incorporated in and made a part of this Mortgage. Upon default under the Regulatory Agreement and upon the request of the Federal Housing Commissioner, the Mortgagee, at its option, may declare the whole of the indebtedness secured hereby to be due and payable;
 4. That all rents, profits and income from the property covered by this Mortgage are hereby assigned to the Mortgagee for the purpose of discharging the debt hereby secured. Permission is hereby given to Mortgagor so long as no default exists hereunder, to collect such rents, profits and income;
 5. That upon default hereunder Mortgagee shall be entitled to the appointment of a receiver by any court having jurisdiction, without notice, to take possession and protect the property described herein and operate same and collect the rents, profits and income therefrom;
 6. That at the option of the Mortgagor the principal balance secured hereby may be reamortized on terms acceptable to the Federal Housing Commissioner if a partial prepayment results from an award in condemnation in accordance with provisions of paragraph 8 herein, or from an insurance payment made in accordance with provisions of paragraph 7 herein, where there is a resulting loss of project income;
 7. That the Mortgagor will keep the improvements now existing or hereafter erected on the mortgaged property insured against loss by fire and such other hazards, casualties, and contingencies, as may be stipulated by the Federal Housing Commissioner upon the insurance of the Mortgage and other hazards as may be required from time to time by the Mortgagee, and all such insurance shall be evidenced by standard Fire and Extended Coverage Insurance Policy or policies, in amounts not less than necessary to comply with the applicable Coinsurance Clause percentage, but in no event shall the amounts of coverage be less than eighty per centum (80%) of the Insurable Values or not less than the unpaid balance of the insured Mortgage, whichever is the lesser, and in default thereof the Mortgagee shall have the right to effect insurance. Such policies shall be endorsed with standard Mortgagee clause with loss payable to the Mortgagee and the Federal Housing Commissioner as interest may appear, and shall be deposited with the Mortgagee;
- That if the premises covered hereby, or any part thereof, shall be damaged by fire or other hazard against which insurance is held as hereinabove provided, the amounts paid by any insurance company in pursuance of the contract of insurance to the extent of the indebtedness then remaining unpaid, shall be paid to the Mortgagee, and, at its option, may be applied to the debt or released for the repairing or rebuilding of the premises;
8. That all awards of damages in connection with any condemnation for public use of or injury to any of said property are hereby assigned and shall be paid to Mortgagee, who may apply the same to payment of the installments last due under said Note, and Mortgagee is hereby authorized, in the name of Mortgagor, to execute and deliver valid acquittances thereof and to appeal from any such award;

9. That concurrently with payments of interest or of principal and interest, the Mortgagor will pay to the Mortgagee monthly on the first day of each month after the date hereof and until the principal sum secured hereby is fully paid, the following sums:

(a) An amount sufficient to provide the Mortgagee with funds to pay the next mortgage insurance premium if this instrument and the Note secured hereby are insured, or a monthly service charge, if they are held by the Federal Housing Commissioner, as follows:

- (I) If and so long as said Note of even date and this instrument are insured or are reinsured under the provisions of the National Housing Act, an amount sufficient to accumulate in the hands of the Mortgagee one month prior to its due date the annual mortgage insurance premium, in order to provide such Mortgagee with funds to pay such premium to the Federal Housing Commissioner pursuant to the National Housing Act, as amended, and applicable Regulations thereunder, or
- (II) If and so long as said Note of even date and this instrument are held by the Federal Housing Commissioner, a monthly service charge in an amount equal to $\frac{1}{12}$ of $\frac{1}{2}\%$ of the average outstanding principal balance due on the Note computed for each successive year beginning with the first day of the month following the date of this instrument, if the Federal Housing Commissioner is the Mortgagee named herein, or the first day of the month following assignment, if the Note and this instrument are assigned to the Federal Housing Commissioner, without taking into account delinquencies or prepayment.

(b) A sum equal to the ground rents, if any, next due, plus the premiums that will next become due and payable on policies of fire and other property insurance covering the premises covered hereby, plus water rates, taxes and assessments next due on the premises covered hereby (all as estimated by the Mortgagee) less all sums already paid therefor divided by the number of months to elapse before one month prior to the date when such ground rents, premiums, water rates, taxes and assessments will become delinquent, such sums to be held by Mortgagee in trust to pay said ground rents, premiums, water rates, taxes, and special assessments.

(c) All payments mentioned in the two preceding subsections of this paragraph and all payments to be made under the Note secured hereby shall be added together and the aggregate amount thereof shall be paid each month in a single payment to be applied by Mortgagee to the following items in the order set forth:

- (i) premium charges under the Contract of Insurance with the Federal Housing Commissioner or service charge;
- (ii) ground rents, taxes, special assessments, water rates, fire and other property insurance premiums;
- (iii) interest on the Note secured hereby;
- (iv) amortization of the principal of said Note.

10. Any excess funds accumulated under (b) of the next preceding paragraph remaining after payment of the items therein mentioned, shall be credited to subsequent monthly payments of the same nature required thereunder; but if any such item shall exceed the estimate therefor the Mortgagor shall without demand forthwith make good the deficiency. Failure to do so before the due date of such item shall be a default hereunder. In case of termination of the Contract of Mortgage Insurance by prepayment of the Note and Mortgage in full, or otherwise (except as hereinafter provided), accumulations under (a) of the next preceding paragraph hereof not required to meet payments due under the Contract of Mortgage Insurance, shall be credited to the Mortgagor. If the property is sold under foreclosure or is otherwise acquired by the Mortgagee after default, any remaining balance of the accumulations under (b) of the next preceding paragraph shall be credited to the principal of the Mortgage as of the date of commencement of foreclosure proceedings or as of the date the property is otherwise acquired; and accumulations under (a) thereof shall be likewise credited unless required to pay sums due the Federal Housing Commissioner under the Contract of Mortgage Insurance;

11. That if default be made in the payment of any of the installments provided for in paragraph 9 hereof and Mortgagor fails to pay ground rents, taxes, assessments, water rents, fire and other property insurance premiums before the same become delinquent or subject to penalties or fails to provide the Mortgagee with funds sufficient to meet Mortgage insurance premiums (all of which the Mortgagor covenants to pay or to provide), or in the event of the failure of the Mortgagor to keep the buildings on said premises and those to be erected on said premises, or improvements thereon, in good repair, said Mortgagee may pay such taxes, water rents, assessments, Mortgage and property insurance premiums, or make such repairs as in its discretion it may deem necessary properly to preserve the property and any sums so paid shall be a lien on such premises prior to any other lien attaching or accruing subsequent to the lien of this Mortgage, payable forthwith, with interest at the rate specified in the Note until paid;

12. That Mortgagor will take reasonable care of the mortgaged premises and the buildings thereon, and will maintain the same in as good repair and condition as at the original date of completion, ordinary depreciation excepted; and that it will commit or permit no waste or nuisance of any kind, and will not make any structural alterations in the buildings without the written consent of the Mortgagee, and will do no act which would unduly impair or depreciate the value of the property as security;

13. That the Mortgagor will give immediate notice by mail to the Mortgagee and the Federal Housing Commissioner of any fire damage or other casualty to the premises;

14. That in case proceedings to foreclose this Mortgage are instituted, any sums necessarily expended for the continuation of the abstract of title to the above-described real estate, together with interest thereon at the rate specified in the Note shall become a part of the debt secured by this Mortgage and shall be collectible as such;

15. That should the proceeds of the loan made by the Mortgagee to the Mortgagor, the repayment of which is hereby secured, or any part thereof, or any amount paid out or advanced by the Mortgagee, be used directly or indirectly to pay off, discharge, or satisfy, in whole or in part, any prior lien or encumbrance upon said premises above described, or any part thereof, then the Mortgagee shall be subrogated to any additional security held by the holder of such lien or encumbrance;

~~16. That the funds to be advanced hereunder are to be used in the construction of certain improvements on the land herein described, in accordance with a building loan agreement between the Mortgagor and the Mortgagee dated November 19 93, which building loan agreement (except such part or parts thereof as may be inconsistent herewith), is incorporated herein by reference to the same extent and effect as if fully set forth and made a part of this Mortgage, and if the construction of the improvements to be made pursuant to said building loan agreement shall not be carried on with reasonable diligence or shall be discontinued at any time for any reason other than strikes or lock-outs, the Mortgagee, after due notice to the Mortgagor, or any subsequent owner, is hereby invested with full and complete authority to enter upon the said premises, employ watchmen to protect such improvements from depredation or injury and to preserve and protect the personal property therein, and to continue any and all outstanding contracts for the erection and completion of said building or buildings, to make and enter into any contracts and obligations wherever necessary, either in its own name or in the name of the Mortgagor, or other owner, and to pay and discharge all debts, obligations, and liabilities incurred thereby. All such sums so advanced by the Mortgagee (exclusive of advances of the principal of the indebtedness secured hereby) shall be added to the principal of the indebtedness secured hereby and shall be secured by this Mortgage and shall be due and payable on demand with interest at the rate specified in the Note, but no such advances shall be insured unless same are specifically approved by the Federal Housing Commissioner prior to the making thereof. The principal sum and other charges provided for herein shall, at the option of the Mortgagee or holder of this Mortgage and the Note secured thereby, become due and payable on the failure of the Mortgagor, or other owner, to keep and perform any of the covenants, conditions, and agreements of said building loan agreement. This covenant shall be terminated upon the completion of the improvements to the satisfaction of the Mortgagee and the making of the final advance as provided in said building loan agreement;~~

17. The Mortgagor covenants that it will not voluntarily create or permit to be created against the property subject to this Mortgage any lien superior or inferior hereto, and that it will keep and maintain the mortgaged premises free from the claim of all persons supplying labor or materials which will enter into the construction of any and all buildings now being erected or to be erected on said premises;

18. The Mortgagor covenants and warrants that the improvements about to be made upon the premises above described and all plans and specifications comply with all municipal ordinances and regulations made or promulgated by lawful authority, and that the same will upon completion comply with all such municipal ordinances and regulations and with the rules of the fire rating or inspection organization, bureau, association, or office having jurisdiction;

19. The Mortgagor covenants and agrees that so long as the Mortgage and the said Note secured hereby are insured or held by the Federal Housing Commissioner under the provisions of the National Housing Act, it will not execute or file for record any instrument which imposes a restriction upon the sale or occupancy of the mortgaged property on the basis of race, color or creed;

20. That in the event of default in making any monthly payment provided for herein or in the Note secured hereby, and if such default is not made good prior to the due date of the next such installment, or in the event of a breach of any other stipulations, agreements, conditions and covenants of this Mortgage; then, in any such event, the whole indebtedness hereby secured shall immediately become due and payable and this Mortgage subject to foreclosure, at the option of the Mortgagee, without notice; and the Mortgagee shall have the right and is hereby authorized to enter upon and take possession of said property, and after or without taking possession, to sell the same before the Courthouse door in the City of Columbiana County of Shelby Alabama, at public outcry for cash to the highest bidder, first giving notice of the time, place, and terms of said sale by publication once a week for three successive weeks prior to said sale in some newspaper published in said city, and, upon the payment of the purchase money, the Mortgagee or any person conducting said sale for it is authorized to execute to the purchaser at said sale a deed to the property so purchased, and such purchaser shall not be held to inquire as to the application of the proceeds of such sale. The Mortgagee may bid at the sale and purchase said property, if the highest bidder therefor;

The proceeds of said sale shall be applied: First, to the expenses of advertising and selling, including reasonable attorney's fees; second, to the repayment of any money, with interest thereon, which the Mortgagee may have paid or become liable to pay or which it may then be necessary to pay for taxes, assessments, insurance and/or other charges, liens or debts hereinabove provided; third, to the payment and satisfaction of the indebtedness hereby secured with interest, but interest to date of sale only shall be charged; fourth, the balance, if any, shall be paid to the Mortgagor. If this Mortgage be foreclosed in chancery, reasonable attorney's fees for foreclosing the same shall be paid out of the proceeds of the sale;

21. That Mortgagor hereby waives, to the extent permitted by law, the benefits of all valuation, appraisalment, home-stead, exemption, stay, redemption and moratorium laws, and the law commonly known as the "Deficiency Judgment Act," now in force or which may hereafter become laws;

22. No waiver of any covenant herein or of the Note secured hereby shall at any time thereafter be held to be a waiver of the terms hereof or of the Note secured hereby.

If the Mortgagor shall well and truly pay and discharge the indebtedness hereby secured as it shall become due and payable and shall do and perform all acts and agreements to be done and performed by the Mortgagor under the terms and provisions of this Mortgage, then this conveyance shall be and become null and void.

This Mortgage and all the covenants and agreements herein contained shall bind, and the benefits and advantages shall inure to, the respective successors and assigns of the parties hereto; and to the extent permitted by law, shall bind any subsequent owner of the mortgaged premises or any part thereof. The term "Mortgagee" shall include any lawful owner or holder of the Mortgage debt. Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

IN WITNESS WHEREOF, the Mortgagor has caused this instrument to be duly executed in its behalf by its General Partner ~~President, Notary Public~~ Secretary, and its corporate seal to be affixed hereto the day and year first above written.

In the presence of

RIVER PLACE, LTD.

By: Altadena, Inc., General Partner

By: Peter W. Field President.
[CORPORATE SEAL]

ATTEST:

Witnesses.

Secretary.

STATE OF ALABAMA
COUNTY OF JEFFERSON

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Peter W. Field, whose name as President of Altadena, Inc., the General Partner of River Place, Ltd., a limited partnership is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such President and with full authority, executed the same voluntarily for and as the act of said Limited Partnership.

Given under my hand and official seal this the 1 day of November, 1993.

Robin Hood Hall
NOTARY PUBLIC

My Commission Expires: 12-6-95

STATE OF ALABAMA

Loan No.

MORTGAGE

TO

THE STATE OF ALABAMA,

COUNTY.

I, Judge of the Probate Court of said County, do hereby certify that the foregoing conveyance was filed for registration in this office on the _____ day of _____, 19____, and

was recorded in Vol. _____, Record of Deeds, pages _____

on the _____ day of _____, 19____

19

Judge of Probate.

Fee

U.S. GOVERNMENT PRINTING OFFICE: 1983-O-677548

A tract of land situated in the NW 1/4 of Section 3, Township 19 South, Range 2 West, Shelby County, Alabama, said tract being part of Block 2 of Altadena Park, as recorded in Map Book 5, Page 73, part of Lot 1, Butte Woods Ranch Addition to Altadena Valley as recorded in Map Book 5, Page 1, all recorded in the Probate Office of Shelby County, Alabama, said tract of land more particularly described as follows:

Commence at the Southwest corner of the NE 1/4, NW 1/4 of said Section 3, and run thence Easterly along the South line thereof 69.02 feet; thence turn 69 degrees 30' 50" right and run Southeasterly 96.27 feet to the point of beginning, said point being on the Northerly line of Lot 1 of said Altadena Park; thence turn 90 degrees 00' left and run Northeasterly 240.0 feet to the Northern most corner of said Lot 1; thence turn 90 degrees 58' 45" right and run Southeasterly 149.79 feet to the Southeast corner of said Lot 1; thence turn 6 degrees 16' 15" right and run Southeasterly along the Easterly line of Lot 2 of said subdivision 144.94 feet to the most Easterly corner of Lot 2; thence turn 7 degrees 01' 15" right and run Southerly along the Easterly line of Lot 3 of said subdivision for 57.52 feet to a point on last said lot line; thence turn 106 degrees 56' 15" left and run Northeasterly 128.13 feet; thence turn 84 degrees 50' right and run Southeasterly for 195.0 feet; thence turn 20 degrees 59' 30" left and run Southeasterly for 333.22 feet; thence turn 52 degrees 39' 30" left and run Easterly for 150.0 feet; thence turn 90 degrees left and run Northerly for 600.14 feet; thence turn 41 degrees 00' right and run Northeasterly for 300.00 feet; thence turn 14 degrees 00' left and run Northeasterly for 125.0 feet; thence turn 25 degrees 00' left and run Northerly for 170.0 feet; thence turn 87 degrees 58' 40" right and run Easterly for 137.41 feet to a point on the East line of the NE 1/4 of NW 1/4, Section 3, Township 19 South, Range 2 West; thence turn left 90 degrees and run Northerly along said 1/4-1/4 line for 270 feet, more or less, to the Westerly bank of the Cahaba River; thence run Northerly and Westerly along the Southwest bank of said river 1400 feet, more or less, to the West line of the NE 1/4 of the NW 1/4 of said Section 3, said point also being on the Easterly line of Lot 1 of said Butte Woods Ranch Addition to Altadena Valley; thence run Northerly along last said 1/4-1/4 section line and said lot line for 90 feet, more or less, to the Northeasterly corner of said Lot 1; thence turn left and run Westerly along the Northerly line of said Lot 1 for 240 feet, more or less, to the Northwest corner of said Lot 1; thence turn left and run Southwesterly and along the Easterly right of way line of Caldwell Mill Road for 425 feet, more or less; thence turn left 31 degrees 45' and run Southeasterly for 67.96 feet; thence turn left 31 degrees 45' and run Southeasterly along the new Northeasterly right of way line of Old Caldwell

CONTINUED

Hill Road for 231.58 feet to the beginning of a curve to the right having a radius of 263.05 feet; thence continue Southeasterly and along said right of way line and along the arc of said curve 162.13 feet to the end of said curve; thence continue Southeasterly on a course tangent to said curve, and along said right of way line 245.3 feet to the point of beginning. Situated in Shelby County, Alabama.

Inst # 1993-34158

11/01/1993-34158
12:25 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
006 MCD 4120.00

THIS INSTRUMENT PREPARED BY:
Robin H. Harbin
Welden and Harbin, Attorneys at Law
P. O. Box 55465
Birmingham, AL 35255