

STATE OF ALABAMA)

COUNTY OF SHELBY)

MORTGAGE SECURING GUARANTY

This Mortgage, made and entered into as of the ____ day of January, 1994, by and between **ALLOY CAST PRODUCTS, INC.**, an Alabama corporation (herein called the "Mortgagor") and **BERNARD YOMTOV** (herein called the "Mortgagee").

W I T N E S S E T H:

WHEREAS, simultaneously with the delivery of this mortgage, Mortgagor has guaranteed the debt of J. M. Foster Co., Inc., a corporation, to Mortgagee of even date in the principal sum of Seventy Two Thousand and No/100 Dollars (\$72,000.00), evidenced by one Promissory Note dated of even date; and

WHEREAS, Mortgagee is desirous of securing the prompt payment of said Promissory Note and the interest therein provided for and performance by Mortgagor of the covenants contained in the Mortgagor's Guaranty Agreement of even date; and

NOW, THEREFORE, the undersigned, in consideration of the premises, One Dollar (\$1.00) in hand paid by Mortgagee to Mortgagor, the receipt and sufficiency of which are acknowledged, to secure the prompt payment of the Promissory Note, with the interest thereon, and any further sum or sums for which Mortgagor or J. M. Foster Co., Inc. may hereafter become indebted to Mortgagee, pursuant to the terms hereof and of the Guaranty Agreement and further to secure the performance of the covenants, conditions and agreements hereinafter and in said Promissory Note setforth, Mortgagor has bargained and sold and hereby grants, bargains, sells, aliens and conveys to Mortgagee, his heirs, successors and assigns, the following described real estate, lying and being in the County of Shelby, State of Alabama, to-wit:

PARCEL I

Commence at a point which lies 225.07 feet North of the Southwest corner of the Northwest 1/4 of the Southeast 1/4 of Section 23, Township 21 South, Range 1 West, Shelby County, Alabama, and run in a Southerly direction along the West line of said 1/4-1/4 section a distance of 225.07 feet to the Southwest corner of said 1/4-1/4 section; thence deflect 39°28'40" and run to the left in a Southeasterly direction a distance of 614.82 feet to a point on the Northwesterly right-of-way of Norfolk Southern Railroad; thence deflect 84°24'27" and run to the left in a Northeasterly direction along said right-of-way a distance of 370.61 feet to the POINT OF BEGINNING of the herein described parcel; thence deflect 86°00'58" and run to the left in a Northwesterly direction a distance of 405.76 feet to a point on the Easterly right-of-way of Industrial Drive; thence turn an interior angle of 135°22'44" and run to the right in a Northeasterly direction along the Easterly right-of-way of Industrial Drive a distance of 305.95 feet to the PC of a curve to the right; thence run along the arc of said curve to the right having a central angle of 40°03'34" and a radius of 320.00 feet in a

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Northeasterly direction and along said right-of-way a distance of 223.73 feet to a point; thence turn an interior angle of $62^{\circ}25'39''$ from the tangent of last described curve and run to the right in a Southerly direction a distance of 181.40 feet to a point; thence turn an interior angle of $193^{\circ}21'12''$ and run to the left in a Southeasterly direction a distance of 534.82 feet to a point on the Northwesterly right-of-way of Norfolk Southern Railroad; thence turn an interior angle of $105^{\circ}25'13''$ to the tangent of a curve to the right have a central angle of $2^{\circ}32'12''$ and a radius of 2935.75 feet and run to the right along the arc of said curve and along said right-of-way in a Southwesterly direction a distance of 129.98 feet to a point; thence run tangent to last described curve in a Southwesterly direction and along said right-of-way a distance of 132.47 feet to the point of beginning of the herein described parcel; containing 4.06 acres, more or less.

PARCEL II

Commence at a point which lies 225.07 feet North of the Southwest corner of the Northwest 1/4 of the Southeast 1/4 of Section 23, Township 21 South, Range 1 West, Shelby County, Alabama, and run in a Southerly direction along the West line of said 1/4-1/4 section a distance of 225.07 feet to the Southwest corner of said 1/4-1/4 section; thence deflect $39^{\circ}28'40''$ and run to the left in a Southeasterly direction a distance of 614.82 feet to a point on the Northwesterly right-of-way of Norfolk Southern Railroad; thence deflect $84^{\circ}24'27''$ and run to the left in a Northeasterly direction along said right-of-way a distance of 503.08 feet to the point of beginning of a curve to the left; thence run along the arc of said curve to the left having a central angle of $2^{\circ}32'12''$ and a radius of 2935.75 feet in a Northeasterly direction along said right-of-way a distance of 129.98 feet to the POINT OF BEGINNING of the herein described parcel; thence deflect $74^{\circ}34'47''$ from the tangent of last described curve and run to the left in a Northwesterly direction a distance of 534.82 feet to a point; thence turn an interior angle of $166^{\circ}38'48''$ and run to the right in a Northerly direction a distance of 181.40 feet to a point on the Southerly right-of-way of Industrial Drive; thence turn an interior angle of $117^{\circ}34'21''$ to the tangent of a curve to the right having a central angle of $6^{\circ}54'06''$ and a radius of 320.00 feet and run to the right along the arc of said curve in a Northeasterly direction and along the Southerly right of way of Industrial Drive a distance of 38.55 feet to a point of compound curvature; thence run along the arc of a curve to the right having a central angle of $18^{\circ}33'00''$ and a radius of 635.00 feet in a Northeasterly direction and along said right-of-way a distance of 205.59 feet to a point; thence turn an interior angle of $95^{\circ}31'18''$ from the tangent of last described curve and run to the right in a Southerly direction a distance of 644.56 feet to a point on the Northwesterly right-of-way of Norfolk Southern Railroad; thence turn an interior angle of $115^{\circ}38'30''$ to the tangent of a curve to the right having a central angle of $4^{\circ}30'40''$ and a radius of 2935.75 feet and run to the right along the arc of said curve in a Southwesterly direction along said right-of-way a distance of 231.14 feet to the point of beginning of the herein described parcel; containing 3.86 acres, more or less.

TO HAVE AND TO HOLD the said premises, and every part thereof, unto Mortgagee, his heirs, successors and assigns, forever, subject, however, to all easements and restrictions now of record. And Mortgagor covenants with Mortgagee that it is lawfully seized of said premises and has a good right to sell and convey the same as aforesaid; that the said premises are free of all encumbrances except as herein set out, and Mortgagor will warrant and forever defend the title to said premises unto Mortgagee, his heirs, successors and assigns, against the lawful claims of all persons whomever.

This mortgage is made and accepted on the understanding that the following covenants, conditions and agreements shall continue in effect so long as any portion of the indebtedness hereby secured remains unpaid, to-wit:

1. The Mortgagor will perform its covenants under its Guaranty Agreement of even date.

2. That, for the benefit of Mortgagee, Mortgagor will constantly keep in force fire and extended coverage insurance policies with respect to any and all buildings on said premises, such insurance to be provided in such manner and in such companies and for such amounts as may be reasonably required by Mortgagee, with loss, if any, payable to Mortgagee as his interests may appear, and if the Mortgagor fails to keep said property insured as above specified then Mortgagee may, at his option, insure said property for its insurable value against loss by fire and other hazards, casualties and contingencies, for his own benefit, and any amount which may be expended for premiums on such insurance policies shall be secured by the lien of this mortgage and bear interest from the date of payment by Mortgagee.

3. That said premises and the improvements thereon shall be kept in good condition and no waster committed or permitted thereon, natural wear and tear excepted, and all taxes and assessments or other charges which may be levied upon or accrue against said premises, as well as all other sums which may be or become liens or charges against same, shall be paid and discharged by Mortgagor promptly as and when so levied or assessed, and shall not be permitted to become delinquent or to take priority over the lien of this mortgage.

4. That any lien which may be filed under the provisions of the statutes of Alabama, relating to the liens of mechanics and materialmen, shall be promptly paid and discharged by Mortgagor and shall not be permitted to take priority over the liens of this mortgage, provided that Mortgagor, upon first furnishing to Mortgagee reasonable security for the payment of all liability, costs and expenses of the litigation, may in good faith contest, at Mortgagor's expense, the validity of any such lien or liens. In those instances where Mortgagee's title policy protects it against such lien or liens such title policy shall be deemed to be sufficient security.

5. That any and all legal requirements, of any department of the city wherein said premises are located, shall be fully complied with by Mortgagor within thirty (30) days after notice of such requirement shall have been given by Mortgagee to Mortgagor, and the mailing of a written notice, or demand, directed to the last known address of the Mortgagor, prepaid postage, shall be sufficient notice in any case arising hereunder.

6. If Mortgagor fails to pay all or any part of the taxes or assessments levied, accrued or assessed upon or against said property, or fails to pay immediately and discharge any and all liens, debts and/or charges which might become liens superior to the lien of this mortgage, Mortgagee may, at his option, pay said taxes, assessments, debts, liens and/or charges, and any money which Mortgagee shall have so paid or become obligated to pay shall constitute a debt to Mortgagee additional to the debt hereby specially secured, shall be secured by this mortgage, shall bear interest from the date paid and, at the option of the Mortgagee, shall be immediately due and payable.

7. No failure of Mortgagee to exercise any option herein given to declare the maturity of the debt hereby secured shall be taken or construed as a waiver of their right to exercise such option or to declare such on the part of Mortgagor; and the procurement of insurance or the payment of taxes or other liens, debts, or charges by Mortgagees shall not be taken or construed as a waiver of their right to declare the maturity of the indebtedness hereby secured by reason of the failure of Mortgagor to procure such insurance or to pay such taxes, debts, liens or charges.

8. Mortgagor agrees to pay a reasonable attorney fee to Mortgagee should the Mortgagee employ an attorney to collect any indebtedness secured by this mortgage.

9. As additional security for the indebtedness secured by this mortgage, Mortgagor hereby assigns, transfers and sets over to Mortgagee, effective upon Mortgagor's default under the terms of this mortgage or the note secured by this mortgage, all its interest in the leases of any part of the real estate described herein, together with all the rents, issues and profits now or hereafter due under or by virtue of said leases. If Mortgagor shall make default in the payment of any of the indebtedness hereby secured, or in the performance of any of the terms or conditions hereof, Mortgagee may proceed to collect the rent, income and profits from the premises, either with or without the appointment of a receiver; any rents, income and profits collected by Mortgagee prior to foreclosure of this mortgage, less the cost of collecting the same, including any real estate commission or attorney's fee incurred, shall be credited first to advances with interest thereon, then to interest due on the principal indebtedness, and the remainder, if any, to the principal debt hereby secured.

10. It is further agreed that if Mortgagor shall fail to pay, or cause to be paid, the whole or any portion of the principal sum, or any installment of interest thereon, or any other sum the payment of which is hereby secured, as they or any of them mature, either by lapse of time or otherwise, in accordance with the agreements and covenants herein contained, or should default be made in the payment of any mechanic's lien, materialmen's lien, insurance premiums, taxes or assessments now, or which may hereafter be, levied against, or which may become a lien on, said property, or should default be made in any of the covenants, conditions and agreements herein contained, and if such default is not cured within thirty (30) days after written notice thereof is mailed to Mortgagor, then and in that event the whole of said principal sum, with interest thereon, and all other sums secured hereby, shall, at the option of the then holder of said indebtedness, be and become immediately due and payable and the holder of the debt hereby secured shall have the right to enter upon and take possession of said property and after, or without, taking such possession of the same, sell the mortgaged property at public outcry, in front of the courthouse door of the county wherein said property is located, to the highest bidder for cash, either in person or by auctioneer, after first giving notice of the

time, place and terms of such sale by publication once a week for three (3) successive weeks in some newspaper published in said county, and, upon the payment of the purchase money, the Mortgagee or any person conducting said sale for them is authorized and empowered to execute to the purchaser at said sale a deed to the property so purchased in the name and on the behalf of Mortgagor, and the certificate of the holder of the mortgage indebtedness, appointing said auctioneer to make such sale, shall be prima facie evidence of his authority in the premises, or the equity of redemption from this mortgage may be foreclosed by suit in any court of competent jurisdiction as now provided by law in the case of past due mortgages, the Mortgagee, or the then holder of the indebtedness hereby secured, may bid at any such sale and become the purchaser of said property if the highest bidder therefor. The proceeds of any such sale shall be applied (a) to the expenses incurred in making the sale and in all prior efforts to effect collection of the indebtedness secured hereby, including a reasonable attorney's fee for such services as may be, or have been necessary in any one or more of the foreclosure of this Mortgage, of the collection of said indebtedness, and of the pursuit of any efforts theretofore directed to that end; (b) to the payment of whatever sum or sums Mortgagee may have paid out or become liable to pay, in carrying out the provisions of this mortgage, together with interest thereon; (c) to the payment and satisfaction of said principal indebtedness and interest thereon to the day of sale; and (d) the balance, if any, shall be paid over to Mortgagor, or Mortgagor's successors or assigns. In any event, the purchaser under any foreclosure sale, as provided herein, shall be under no obligation to see to the proper application of the purchase money.

11. It is expressly agreed that any indebtedness at any time secured hereby may be extended, rearranged or renewed, and that any part of the security herein described may be waived or released without in anywise altering, varying or diminishing the force, effect or lien of this instrument; and this instrument shall continue as a lien on all of said lands and premises and other property and rights covered hereby and not expressly released until all sums with interest and charges hereby secured are fully paid; and no other security hereafter taken to secure the payment of said indebtedness or any part thereof shall in any manner be impaired or affected by the execution of this instrument; and no security subsequently taken by Mortgagee or other holder or holders of said indebtedness shall in any manner impair or affect the security given by this instrument; and all security for the payment of said indebtedness or any part thereof shall be taken, considered and held as cumulative.

12. Mortgagor agrees for itself and any and all persons or concerns claiming by, through or under Mortgagor, that if it or any one or more of them shall hold possession of the above described property or any part thereof subsequent to foreclosure hereunder, it or the parties so holding possession, shall become and be considered as tenants at will of the purchaser or purchasers at such foreclosure sale; and any such tenant failing or refusing to surrender possession upon demand shall be guilty of forcible detainer and shall be liable to such purchaser or purchasers for reasonable rental of said premises, and shall be subject to eviction and removal, forcible or otherwise, with or without process of law, and all damages which may be sustained by any such tenant as a result thereof being hereby expressly waived.

13. Provided always that if Mortgagor pays the indebtedness secured by this mortgage, and reimburse Mortgagee, his heirs and assigns, for any amounts they may have expended pursuant to the authorization of this mortgage, including without limitation, sums spend in payment of taxes, assessments, insurance or other liens and interest thereon, and

shall do and perform all other acts and things herein agreed to be done, this conveyance shall be null and void; otherwise it shall remain in full force and effect.

14. If the mortgaged property, or any part thereof, is sold, leased, transferred, conveyed or encumbered in any manner, voluntarily or involuntarily without the Mortgagee's prior written consent, then such sale, lease, transfer, conveyance or encumbrance shall be absolutely void and shall constitute a default under this mortgage and the Mortgagee, at its option, may declare the entire principal indebtedness plus accrued interest due and payable. This prohibition shall also apply to any transfer of the stock of the Mortgagor for so long as all or any portion of the loan remains outstanding and unpaid.

15. Singular or plural words used herein to designate the Mortgagor shall be construed to refer to the maker or makers of this mortgage, whether one or more persons or a corporation, and all covenants and agreements herein contained shall bind the successors and assigns of the Mortgagor, and every option, right and privilege herein reserved or secured to Mortgagee shall inure to the benefit of his heirs, executors, administrators or assigns.

16. The enforceability or invalidity of any provision or provisions of this mortgage shall not render any other provision or provisions herein contained unenforceable or invalid. All rights or remedies of Mortgagee hereunder are cumulative and not alternative, and are in addition to those provided by law.

IN WITNESS WHEREOF, the Mortgagor has caused this mortgage to be executed in its name and its corporate seal to be hereunto affixed and attested by its duly authorized officers, as of the date first mentioned above.

ALLOY CAST PRODUCTS, INC.,
an Alabama corporation

By: Jim Fortes
Its PRESIDENT

ATTEST:

By: [Signature]
Its Sec.

[SEAL]

STATE OF ALABAMA)
)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Jim Foster, whose name as President of **ALLOY CAST PRODUCTS, INC.**, an Alabama corporation, 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 the said instrument, he, as such officer and with full authority, executed the same voluntarily as the act of said corporation.

GIVEN under my hand and official seal of office, this 14 day of January, 1994.

[NOTARIAL SEAL]

Polly M. Fitzgourd
Notary Public
MY COMMISSION EXPIRES APRIL 2, 1995
My Commission Expires: _____

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