

This Instrument Prepared by:
Steven A. Brickman, Esquire
SIROTE & PERMUTT, P.C.
P. O. Box 55727
Birmingham, Alabama 35255

SECOND MORTGAGE

Inst # 1994-05656

STATE OF ALABAMA
SHELBY COUNTY

02/21/1994-05656
08:47 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
004 MCD 338.50

KNOW ALL MEN BY THESE PRESENTS:

THIS MORTGAGE is made and entered into on this the 16th day of February, 1994, by and between the undersigned, **CHARLES F. WHITE** and wife, **JUDY L. WHITE** (hereinafter together referred to as the "Mortgagors"), and **EARLON MCWHORTER** (hereinafter referred to as the "Mortgagee"); to secure the payment of Two Hundred Fifteen Thousand and No/100 Dollars (\$215,000.00) evidenced by a Master Promissory Note of even date herewith and payable according to the terms of said Note (the "Note").

NOW, THEREFORE, in consideration of the premises, the Mortgagors do hereby grant, bargain, sell and convey unto the Mortgagee the following described real estate situated in Shelby County, Alabama, to-wit:

Lot 52, according to the survey of Greystone, 4th Sector, as recorded in Map Book 16, Page 89 A B & C in the Probate Office of Shelby County, Alabama, being situated in Shelby County, Alabama; together with the non-exclusive easement to use the private roadways, common areas, and Hugh Daniel Drive, all as more particularly described in the Greystone Residential Declaration of Covenants, Conditions and Restrictions dated November 6, 1990, and recorded in Real 317, Page 260, in the Probate Office of Shelby County, Alabama, and all amendments thereto.

together with all and singular the rights, privileges, hereditaments, easements, and appurtenances thereunto belonging or in anywise appertaining (hereinafter collectively sometimes referred to as the "mortgaged premises," the "real estate," and/or the "premises");

TO HAVE AND TO HOLD FOREVER, unto the said Mortgagee, Mortgagee's successors, heirs and assigns.

This Mortgage and lien shall secure not only the principal amount hereof, but all future and subsequent advances to or on behalf of the Mortgagors, or any other indebtedness due from Mortgagors to Mortgagee, whether directly or acquired by assignment, and the real estate herein described shall be security for such debts to the total extent even in excess thereof of the principal amount hereof.

The above-described property is warranted free from all encumbrances and against adverse claims, except as stated herein.

The within Mortgage is a second mortgage and is subordinate to that certain prior mortgage to First National Bank of Columbiana, recorded as Instrument # 1993-40663, in the Office of the Judge of Probate of Shelby County, Alabama; but this Mortgage is subordinate to said prior mortgage only to the extent of the current balance now due on the debt secured by said prior mortgage. The within Mortgage will not be subordinated to any advances secured by

the above described prior mortgage, if said advances are made after the date of the within Mortgage. Mortgagors hereby agree not to increase the balance owed that is secured by said prior mortgage. In the event Mortgagors should fail to make any payments which become due on said prior mortgage, or should default in any of the other terms, provisions and conditions of said prior mortgage occur, then such default under the prior mortgage shall constitute a default under the terms and provisions of the within Mortgage, and the Mortgagee herein may, at Mortgagee's option, declare the entire indebtedness due hereunder immediately due and payable and the within Mortgage subject to foreclosure. Failure to exercise this option shall not constitute a waiver of the right to exercise same in the event of any subsequent default. The Mortgagee herein may, at Mortgagee's option, make on behalf of Mortgagors any such payments which become due on said prior mortgage, or incur any such expenses or obligations on behalf of Mortgagors, in connection with the said prior mortgage, in order to prevent the foreclosure of said prior mortgage, and all such amounts so expended by Mortgagee on behalf of Mortgagors shall become a debt to Mortgagee, or Mortgagee's assigns additional to the debt hereby secured, and shall be covered by this Mortgage, and shall bear interest from the date of payment by Mortgagee, or Mortgagee's assigns, at the same interest rate as the indebtedness secured hereby and shall entitle the Mortgagee to all of the rights and remedies provided herein, including at Mortgagee's option, the right to foreclose this Mortgage.

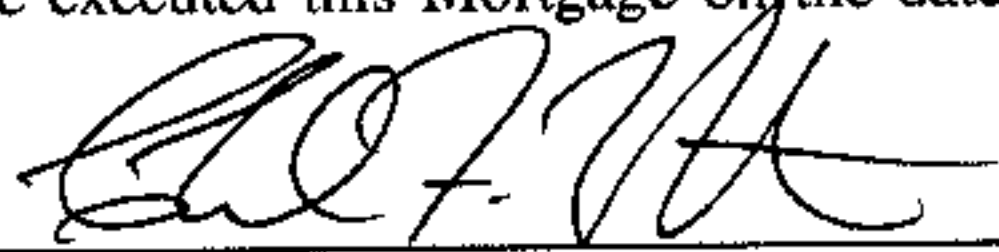
If the Mortgagors shall sell, encumber or otherwise transfer the mortgaged property or any part thereof or any interest therein without the prior written consent of the Mortgagee, the Mortgagee shall be authorized to declare at Mortgagee's option all or any part of such indebtedness immediately due and payable.

The Mortgagors shall indemnify, protect, defend, and hold the Mortgagee harmless from and against any and all claims, causes of action, liabilities, losses, damages, injuries, expenses, charges, penalties or costs (including attorney's fees), of whatsoever character, nature and kind, whether groundless or not, whether to property or to person, and whether by direct or derivative action, known or unknown, suspected or unsuspected, latent or patent, existing or contingent (collectively, "Losses and Liabilities"), related directly or indirectly to, or arising out of or in connection with (a) any breach or default of Mortgagors hereunder, (b) any of Mortgagors' activities on the premises (or the activities of Mortgagors' agents, employees, representatives, independent contractors, licensees, guests, or invitees on the premises) including without limitation the use of equipment or machinery on the premises, (c) Mortgagors' actual or alleged breach of any brokerage or finder's contract or agreement, actual or alleged, connected in any way with the purchase, financing, or construction of any improvements on any portion of the premises, and (d) any other fact, circumstance or event related to Mortgagors' performance hereunder, regardless of whether any such Losses and Liabilities arise from tort or contract. The Mortgagors shall indemnify, protect and hold harmless Mortgagee, its directors, officers, employees, and agents, and any successors to Mortgagee's interest in the chain of title to the premises, their directors, officers, employees and agents, from and against any and all Losses and Liabilities including all foreseeable and all unforeseeable consequential damages, directly or indirectly arising out of the use, generation, storage, or disposal of Hazardous Materials by Mortgagors or any prior owner or operator of the premises, and including, without limitation, the cost of any required or necessary repair, cleanup, or detoxification and the preparation of any closure or other required plans, whether such action is required or necessary prior to or following transfer of title to the premises, to the full extent that such action is attributable, directly or indirectly, to the presence or use, generation, storage, release, threatened release, or disposal of Hazardous Materials by any person on the premises prior to or following transfer of title to the premises, to the full extent that such action is attributable, directly or indirectly, to the presence or use, generation, storage, release, threatened release, or disposal of Hazardous Materials by any person on the premises prior to transfer of title thereto to Mortgagee. For the purposes of this paragraph, Hazardous Materials shall include but not be limited to substances defined as "hazardous substances," "hazardous materials," or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; and the regulations adopted and publications promulgated pursuant to said laws.

For the purpose of further securing the payment of the indebtedness, the Mortgagors agree to pay all taxes or assessments when imposed legally upon the real estate, and should default be made in the payment of same, the Mortgagee may at Mortgagee's option pay off the same; and to further secure the indebtedness, Mortgagors agree to keep the improvements on the real estate insured against loss or damage by fire, lightning, and tornado for the fair and reasonable insurable value thereof, in companies satisfactory to the Mortgagee, with loss, if any, payable to Mortgagee as Mortgagee's interest may appear, and to promptly deliver said policies, or any renewal of said policies to Mortgagee; and if the undersigned fails to keep the property insured as above specified, or fails to deliver said insurance policies to Mortgagee, then Mortgagee, or Mortgagee's assigns, may at Mortgagee's option insure the real estate for said sum, for Mortgagee's own benefit, the policy if collected to be credited on the indebtedness, less cost of collecting same. All amounts so expended by Mortgagee for taxes, assessments or insurance, shall become a debt to Mortgagee or Mortgagee's assigns, additional to the debt hereby specially secured, and shall be covered by this Mortgage, and bear interest at the same interest rate as the indebtedness secured hereby from the date of payment by Mortgagee or Mortgagee's assigns and be at once due and payable.

UPON CONDITION, HOWEVER, that if the Mortgagors pay the indebtedness, and reimburses Mortgagee or Mortgagee's assigns for any amounts Mortgagee may have expended, then this conveyance shall be null and void; but should default be made in the payment of any sum expended by the Mortgagee or Mortgagee's assigns, or should the indebtedness hereby secured, or any part thereof, or the interest thereon remain unpaid at maturity, or should the interest of Mortgagee or Mortgagee's assigns in the real estate become endangered by reason of the enforcement of any prior lien or encumbrance thereon, so as to endanger the debt hereby secured, then in any one of said events, the whole of the indebtedness hereby secured, at the option of Mortgagee or Mortgagee's assigns, shall at once become due and payable, and this Mortgage be subject to foreclosure as now provided by law in case of past due mortgages, and the Mortgagee, Mortgagee's agents or assigns shall be authorized to take possession of the premises hereby conveyed, and with or without first taking possession, after giving notice of the time, place and terms of sale, by publication once a week for three consecutive weeks, in some newspaper published in the county and state, sell the same in lots or parcels or en masse as Mortgagee, Mortgagee's agents or assigns deem best, in front of the courthouse door of the county (or the division thereof), where the real estate is located, at public outcry, to the highest bidder for cash, and apply the proceeds of sale: First, to the expense of advertising, selling and conveying, including such attorney's fees as are allowed by law; Second, to the payment of any amounts that may have been expended, or that it may then be necessary to expend, in paying insurance, taxes, or the other encumbrances, with interest thereon; Third, to the payment of the indebtedness in full, whether the same shall or shall not have fully matured at the date of said sale, but no interest shall be collected beyond the day of sale; and Fourth, the balance, if any, to be turned over to the Mortgagors. The undersigned further agrees that Mortgagee, Mortgagee's agents or assigns may bid at said sale and purchase the real estate, if the highest bidder therefor. Failure to exercise this option shall not constitute a waiver of the right to exercise the same in the event of any subsequent default.

IN WITNESS WHEREOF, Mortgagors have executed this Mortgage on the date first above written.


CHARLES F. WHITE


JUDY L. WHITE

STATE OF ALABAMA
COUNTY OF Jefferson

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Charles F. White and wife, Judy L. White, whose names are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that being informed of the contents of said instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and seal on this the 16th day of February,
1994.

[Signature]
NOTARY PUBLIC
My Commission Expires: May 17, 1994

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