

MORTGAGE AND SECURITY AGREEMENT

Dated as of June 1, 1994

COLUMN FINANCIAL, INC.,
a Delaware corporation, Mortgagee

AND

SUN RIVERCHASE, LIMITED PARTNERSHIP,
a California limited partnership, Mortgagor

LOCATION OF PROPERTY:

City: Hoover
County: Shelby
State: Alabama

Prepared by:
Record and Return To:
Cadwalader, Wickersham & Taft
100 Maiden Lane
New York, New York 10038
Attention: Robert F. McDonough, Esq.

Inst # 1994-17864

06/03/1994-17864
12:28 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
072 MCD 122354.50

TABLE OF CONTENTS

Page

ARTICLE I

DEFINITIONS AND INTERPRETATION

SECTION	1.01.	Definitions.....	5
	1.02.	Resolution of Drafting Ambiguities.....	6

ARTICLE II

PAYMENT OF INDEBTEDNESS AND INCORPORATION OF COVENANTS, CONDITIONS AND AGREEMENTS

SECTION	2.01.	Payment of Indebtedness and Incorporation of Covenants, Conditions and Agreements...	6
---------	-------	---	---

ARTICLE III

NO CLAIMS AGAINST MORTGAGEE, ETC.

SECTION	3.01.	No Claims Against Mortgagee, etc.....	6
---------	-------	---------------------------------------	---

ARTICLE IV

COVENANTS, REPRESENTATIONS AND WARRANTIES OF MORTGAGOR

SECTION	4.01.	Single Purpose Entity.....	6
	4.02.	Notice of Condemnation, Casualty and Default; Furnishing Copies of Documents...	7
	4.03.	Certain Limitations on Actions of Mortgagor	7
	4.04.	Payment of Moneys to Mortgagee.....	8
	4.05.	Further Acts, etc.....	8
	4.06.	Appointment of Mortgagee as Attorney.....	8
	4.07.	Liability of Mortgagor Under Other Operative Documents; Absence of Liability of Mortgagee.....	9
	4.08.	Representations and Warranties.....	9
	4.09.	Due on Sale/Transfer or Encumbrance of the Mortgaged Property.....	9
	4.10.	Environmental Matters.....	10
	4.11.	No Liens.....	11
	4.12.	The Ground Lease.....	11
	4.13.	No Cooperative or Condominium.....	16
	4.14.	Changes in the Laws Regarding Taxation....	16
	4.15.	Documentary Stamps.....	17
	4.16.	Authority.....	17
	4.17.	Maintenance Survey.....	17
	4.18.	Evidence of Tax Payments.....	18

ARTICLE V

NO CREDIT FOR PAYMENT OF TAXES

SECTION	5.01. No Credit For Payment of Taxes.....	18
---------	---	----

ARTICLE VI

APPLICATION OF PROCEEDS FROM MORTGAGED PROPERTY

SECTION	6.01. Application of Proceeds from Mortgaged Property.....	18
---------	---	----

ARTICLE VII

EVENTS OF DEFAULT; DECLARATION OF INDEBTEDNESS DUE

SECTION	7.01. Events of Default; Declaration of Indebtedness Due.....	18
---------	--	----

ARTICLE VIII

REMEDIES, ETC.

SECTION	8.01. Remedies Under Lease.....	21
	8.02. Legal Proceedings.....	21
	8.03. Cost of Collection.....	21
	8.04. No Waiver.....	22
	8.05. Foreclosure.....	22
	8.06. Power of Sale.....	23
	8.07. Mortgagee Authorized to Execute Deeds, Etc.....	24
	8.08. Purchase of Mortgaged Property by Mortgagee.....	24
	8.09. Receipt a Sufficient Discharge to Purchaser.....	25
	8.10. Waiver of Appraisement, Valuation, etc....	25
	8.11. Sale a Bar.....	25
	8.12. Application of Proceeds of Sale.....	25
	8.13. Appointment of Receiver.....	25
	8.14. Possession, Management and Income.....	25
	8.15. Right of Mortgagee to Perform Covenants, etc.....	26
	8.16. Remedies, etc. Cumulative.....	26
	8.17. No Action Contrary to Sublessee's Rights under Lease.....	27
	8.18. Prepayment Fee on Acceleration.....	27
	8.19. Mortgagor as Tenant Holding Over.....	27

	<u>Page</u>
ARTICLE IX	
NO ASSUMPTION OF LEASE	
SECTION 9.01. No Assumption of Lease.....	27
ARTICLE X	
ADDITIONAL SECURITY	
SECTION 10.01. Additional Security.....	28
ARTICLE XI	
THE SUBLEASE	
SECTION 11.01. The Sublease.....	28
ARTICLE XII	
NOTICES, ETC.	
SECTION 12.01. Notices, etc.....	29
ARTICLE XIII	
AFTER-ACQUIRED PROPERTY	
SECTION 13.01. After-Acquired Property.....	30
ARTICLE XIV	
RIGHTS OF MORTGAGOR TO CURE CERTAIN LEASE EVENTS OF DEFAULT, ETC.	
SECTION 14.01. Payments of Rents.....	30
14.02. Other Curable Lease Defaults; Compliance..	31
14.03. No Impairment of Mortgaged Property; Subrogation.....	31
14.04. Lease Not to be Declared in Default; Agreements of Mortgagee.....	32
14.05. Certain Other Rights of Mortgagor.....	32
ARTICLE XV	
GOVERNING LAW, ETC.	
SECTION 15.01. Terms Subject to Applicable Laws and Regulations	33
15.02. Governing Law.....	33

ARTICLE XVI

SECURITY AGREEMENT

SECTION 16.01.	Security Agreement.....	34
----------------	-------------------------	----

ARTICLE XVII

CASH COLLATERAL

SECTION 17.01.	Representations, Warranties and Certain Agreements in Respect of Cash Collateral.....	36
17.02.	Security Interest in Cash Collateral.....	36
17.03.	Deposit of Cash Collateral.....	36
17.04.	Investment of Cash Collateral.....	37
17.05.	General Authority.....	37
17.06.	Application of Cash Collateral.....	37

ARTICLE XVIII

CONSTRUCTION FUNDS

SECTION 18.01.	Representations, Warranties and Certain Agreements in Respect of Construction Funds.....	38
18.02.	Security Interest in Construction Funds...	38
18.03.	Deposit of Construction Funds.....	38
18.04.	Disbursement of Construction Funds.....	38
18.05.	Disbursement of Construction Funds..... After Event of Default.....	39

ARTICLE XIX

EXCULPATION

SECTION 19.01.	Exculpation.....	39
----------------	------------------	----

ARTICLE XX

MISCELLANEOUS

SECTION 20.01.	Costs of Litigation.....	40
20.02.	Modification.....	40
20.03.	Severability.....	41
20.04.	Estoppel Certificates.....	41
20.05.	Usury Laws.....	41
20.06.	Prepayment.....	41
20.07.	Trustee's Fees.....	41

<u>Schedule A</u>	Description of Premises
<u>Schedule B</u>	Description of Debtor and Secured Party
<u>Schedule C</u>	Additional Permitted Liens
<u>Schedule D</u>	Cash Collateral
<u>Appendix A</u>	Definitions and Rules of Usage

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (this "Mortgage"), made as of the first day of June, 1994, by SUN RIVERCHASE, LIMITED PARTNERSHIP, a California limited partnership having an address c/o SunAmerica Inc., One SunAmerica Center, Los Angeles, California 90067-6022 Attention: Mr. Alan Nussenblatt ("Mortgagor"), to and for the benefit of COLUMN FINANCIAL INC., a Delaware corporation having offices at 3414 Peachtree Road, N.E., Suite 1140, Atlanta, Georgia 30326-1113 ("Mortgagee").

W I T N E S S E T H:

To secure the payment of an indebtedness in the principal sum of EIGHTY ONE MILLION FOUR HUNDRED FORTY FIVE THOUSAND DOLLARS (81,445,000), lawful money of the United States of America, to be paid with interest and all other sums and fees payable according to a certain mortgage note dated the date hereof made by Mortgagor to Mortgagee (the mortgage note being hereinafter called the "Note," and the loan evidenced by the Note being hereinafter referred to as the "Loan") and all indebtedness, obligations, liabilities and expenses due under the Note, this Mortgage and any other Loan Document (said indebtedness, interest, other sums, fees, obligations and all other sums due under the Note, this Mortgage and any other Loan Document hereinafter being collectively called the "Indebtedness"), Mortgagor has mortgaged, given, granted, bargained, sold, aliened, enfeoffed, conveyed, confirmed, pledged, assigned and hypothecated and by these presents does mortgage, give, grant, bargain, sell, alien, enfeoff, convey, confirm, pledge, assign and hypothecate unto Mortgagee, and grant unto Mortgagee a security interest in, the following property and rights (collectively, the "Mortgaged Property"):

GRANTING CLAUSE ONE

All of Mortgagor's right, title and interest in and to the Ground Lease (as hereinafter defined) affecting the real property described on Schedule A hereto (the "Premises") and the leasehold estate created thereby, a memorandum of which Ground Lease is recorded in the Office of the Judge of Probate of Shelby County, Alabama, as Instrument No. 1994-17861 (the "Land Records") prior to the recording of this Mortgage, including, without limitation, all of Mortgagor's rights to terminate the Ground Lease pursuant to the provisions of Section 3.03 or Article IX thereof and all of Mortgagor's rights pursuant to Section 365 of the Bankruptcy Code with respect to the Ground Lease and all of Mortgagor's right, title and interest in, to and under the

AmSouth Guaranty and the Bancorp Guaranty (as such terms are hereinafter defined). If Mortgagor shall acquire the fee title in the Premises or any other estate, title or interest in any part of the Premises or in any property demised by the Ground Lease, or any part thereof, then the lien of this Mortgage shall, without the need for any further documentation, attach to, cover, and be a lien upon such acquired estate, title or interest, and Mortgagor will promptly execute and deliver to Mortgagee any documentation required by Mortgagee confirming the foregoing.

GRANTING CLAUSE TWO

TOGETHER WITH, all right, title and interest of Mortgagor, now or hereafter existing, in and to any and all buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter located on the Premises or any part thereof (collectively, the "Improvements"; Mortgagor's right, title and interest in, to and under the Ground Lease, the leasehold estate created thereby, all of Mortgagor's right, title and interest in, to and under the Declaration, and the Improvements hereinafter collectively referred to as the "Property").

GRANTING CLAUSE THREE

TOGETHER WITH, all right, title and interest of Mortgagor, now or hereafter existing, in and to (a) all modifications, extensions and renewals of the Ground Lease; (b) all rights of Mortgagor to renew or extend the term of the Ground Lease; (c) all rights of Mortgagor to cancel, surrender or terminate the Ground Lease or the leasehold estate created thereby, whether such rights be contractual, statutory or otherwise; and (d) all other credits, security deposits, options, privileges and rights granted and demised to Mortgagor under the Ground Lease.

GRANTING CLAUSE FOUR

TOGETHER WITH, all right, title and interest of Mortgagor, now or hereafter existing, in and to (a) that certain Construction Agreement dated the date hereof (the "Construction Agreement") between Mortgagor and Sublessee with respect to construction of the Improvements, that certain Infrastructure Improvement Agreement dated the date hereof (the "Infrastructure Improvement Agreement") between Mortgagor and Sublessee with respect to the construction of certain off-site improvements and that certain Disbursement Agreement dated the date hereof (the "Disbursement Agreement") among Mortgagor, Mortgagee and Depository (as hereinafter defined), (b) all modifications of the Construction Agreement, the Infrastructure Improvement Agreement

and the Disbursement Agreement, (c) all rights of Mortgagor to modify or amend the Construction Agreement, the Infrastructure Improvement Agreement and the Disbursement Agreement, (d) all rights of Mortgagor to cancel or terminate the Construction Agreement, the Infrastructure Improvement Agreement and the Disbursement Agreement, whether such rights be contractual, statutory or otherwise, and (e) all other rights and privileges given to Mortgagor under the Construction Agreement, the Infrastructure Improvement Agreement and the Disbursement Agreement, all as more particularly described in that certain Assignment of Contracts dated the date hereof by Mortgagor (the "Assignment of Contracts").

GRANTING CLAUSE FIVE

TOGETHER WITH, all right, title and interest of Mortgagor in, to and under that certain Declaration of Covenants, Easements and Restrictions (the "Declaration") dated the date hereof by Fee Owner in favor of Mortgagor, which is recorded as Instrument No. 1944-17860 in the Land Records prior to the recording of this Mortgage, and all other easements, rights-of-way, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, zoning rights and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances of any nature whatsoever in any way belonging, relating or pertaining to the Mortgaged Property or any part thereof, and the reversion and reversions, remainder and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Premises or any part thereof to the center line thereof and all the estates, rights, titles, interests, dower and rights of dower, courtesy and rights of courtesy, property, possession, claim and demand whatsoever, both in law and in equity, of Mortgagor of, in and to the Mortgaged Property and every part and parcel thereof, with the appurtenances thereto.

GRANTING CLAUSE SIX

TOGETHER WITH, all right, title and interest of Mortgagor, now or hereafter existing, in and to all machinery, equipment, fixtures (including but not limited to all heating, ventilating, air conditioning, plumbing, lighting, communications and elevator fixtures) and other property of every kind and nature whatsoever owned by Mortgagor, or in which Mortgagor has or shall have an interest (to the extent of such interest), now or hereafter located upon the Mortgaged Property, or appurtenant thereto, and usable in connection with the present or future operation and occupancy of the Mortgaged Property and all building equipment, materials and supplies of any nature whatsoever owned by Mortgagor, or in which Mortgagor has or shall

have an interest (to the extent of such interest), now or hereafter located upon the Mortgaged Property, or appurtenant thereto, or usable in connection with the present or future operation and occupancy of the Mortgaged Property (hereinafter collectively called the "Equipment"), and the right, title and interest of Mortgagor in and to any of the Equipment which may be subject to any security agreements (as defined in the Uniform Commercial Code) superior in lien to the lien of this Mortgage. In connection with Equipment which is leased to Mortgagor or which is subject to a lien or security interest which is superior to the lien of this Mortgage, this Mortgage shall also cover all right, title and interest of Mortgagor in and to all deposits, and the benefit of all payments now or hereafter made, with respect to such Equipment.

GRANTING CLAUSE SEVEN

TOGETHER WITH, all of Mortgagor's right, title and interest in and to all awards or payments, including interest thereon, which may heretofore and hereafter be made with respect to the Mortgaged Property, or any part thereof, whether from the exercise of the right of eminent domain (including but not limited to any transfer made in lieu of or in anticipation of the exercise of said right), or for a change of grade, or for any other injury to or decrease in the value of the Mortgaged Property.

GRANTING CLAUSE EIGHT

TOGETHER WITH, all moneys and securities now or hereafter paid or deposited or required to be paid or deposited to or with Mortgagee by Mortgagor pursuant to any term of this Mortgage or any Operative Document and held or required to be held by Mortgagee, hereunder or thereunder, including, without limitation, the Cash Collateral deposited with Mortgagee pursuant to Article XVII and the proceeds thereof and the Construction Funds (as hereinafter defined) deposited by Mortgagor with the Depository pursuant to the Disbursement Agreement.

GRANTING CLAUSE NINE

TOGETHER WITH, all of Mortgagor's right, title and interest in and to all proceeds of and any unearned premiums on any insurance policies (or self-insurance) covering the Mortgaged Property, or any part thereof, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Mortgaged Property, or any part thereof.

GRANTING CLAUSE TEN

TOGETHER WITH, all accounts receivable, contract rights, interests, estate or other claims, both in law and in equity, which Mortgagor now has or may hereafter acquire in the Mortgaged Property or any part thereof.

GRANTING CLAUSE ELEVEN

TOGETHER WITH, all right, title and interest of Mortgagor in, to and under all franchises, permits, special permits, licenses and rights, whether governmental or otherwise, respecting the use, occupation, development, construction and/or operation of the Mortgaged Property or any part thereof or the activities conducted thereon or therein, or otherwise pertaining to the Mortgaged Property or any part thereof.

BUT EXCLUDING HOWEVER, from the Mortgaged Property and the definition thereof, the Excepted Payments (as hereinafter defined).

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, except after the occurrence and during the continuance of an Event of Default (as hereinafter defined), Mortgagee shall not exercise any of the rights granted to Mortgagee under the foregoing Granting Clauses without the prior written Consent of Mortgagor, which consent will not be unreasonably withheld or delayed.

TO HAVE AND TO HOLD the above granted and described Mortgaged Property unto and to the use and benefit of Mortgagee, and the successors and assigns of Mortgagee, forever, subject to the Sublease, including the rights of Sublessee thereunder, and the other Permitted Liens (as hereinafter defined).

PROVIDED, HOWEVER, these presents are upon the express condition, if Mortgagor shall well and truly pay to Mortgagee the Indebtedness, these presents and the estate hereby granted shall cease, terminate and be void.

AND Mortgagor represents and warrants to, and covenants with, Mortgagee that:

ARTICLE I

DEFINITIONS AND INTERPRETATION

SECTION 1.01. Definitions. For purposes of this Mortgage, capitalized terms used in this Mortgage and not otherwise defined shall have the meanings assigned to them in Appendix A, and the rules of usage set forth in Appendix A shall

apply thereto and hereto. Appendix A is attached hereto and incorporated herein by reference.

SECTION 1.02. Resolution of Drafting Ambiguities. Each of Mortgagor and Mortgagee acknowledges that it was represented by counsel in connection with the Loan Documents, that it and its counsel reviewed and revised the Loan Documents and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Loan Documents.

ARTICLE II

PAYMENT OF INDEBTEDNESS AND INCORPORATION OF COVENANTS, CONDITIONS AND AGREEMENTS

SECTION 2.01. Mortgagor will pay the Indebtedness at the time and in the manner provided in the Note, this Mortgage and the other Loan Documents. All the covenants, conditions and agreements contained in the Note and the other Loan Documents are hereby made a part of this Mortgage to the same extent and with the same force as if fully set forth herein.

ARTICLE III

NO CLAIMS AGAINST MORTGAGEE, ETC.

SECTION 3.01. No Claims Against Mortgagee, etc. Nothing contained in this Mortgage shall constitute any consent or request by Mortgagee, express or implied, for the performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof, nor as giving Mortgagor or any other Person any right, power or authority to contract for or permit the performance of any labor or services or the furnishing of any materials or other property, in either case in such fashion as would permit the making of any Claim against Mortgagee, in respect thereof or any claim that any Lien based on the performance of such labor or services or the furnishing of any such materials or other property is prior to the Lien of this Mortgage.

ARTICLE IV

COVENANTS, REPRESENTATIONS AND WARRANTIES OF MORTGAGOR

SECTION 4.01. Single Purpose Entity. Mortgagor will at all times be a Single Purpose Entity.

SECTION 4.02. Notice of Condemnation, Casualty and Default; Furnishing Copies of Documents. If Mortgagor shall have Actual Knowledge of a Condemnation, a Casualty the cost of the repair of which is estimated to exceed \$50,000 or an event that, with notice or the passage of time or both would become an Event of Default, Mortgagor shall give or cause to be given prompt telex, telegraphic or telephonic notice (confirmed by written notice sent in the manner provided in Section 16.01) to Mortgagee, which notice shall set forth in reasonable detail the facts or circumstances known to it with respect to each such Condemnation, Casualty or default and (if such default is not an Event of Default) shall describe in reasonable detail the action Mortgagor has taken, is taking or proposes to take in respect thereto. For all purposes of this Mortgage, in the absence of Actual Knowledge, Mortgagor shall not be deemed to have knowledge of a Condemnation, Casualty or default unless notified in writing by Fee Owner, Mortgagee or Sublessee in the manner provided in Ground Lease, the Sublease, this Mortgage or any other Operative Document, provided that in the case of the failure of Sublessee to maintain insurance to the extent required by Article XIV of the Sublease, such written notice to Mortgagor may be from an insurer or broker. Mortgagor shall furnish to Mortgagee, promptly upon receipt thereof, a duplicate or copy of all reports, notices, requests, demands, certificates, financial statements and other instruments furnished to Mortgagor under the Ground Lease, the Sublease or any other Operative Document, including, without limitation, a copy of each insurance certificate, report or notice received pursuant to Article XIV of the Lease, in each case, to the extent that any of the same shall not state on its face or otherwise that it has already been distributed to Mortgagee.

SECTION 4.03. Certain Limitations on Actions of Mortgagor. Mortgagor will not take any action with respect to any part of the Mortgaged Property except upon the written consent of Mortgagee or as required or otherwise expressly permitted by the terms of this Mortgage. Mortgagor warrants and represents that it has not assigned or pledged, and hereby covenants, subject to Sections 4.09 and 4.11, that it will not assign or pledge, so long as this Mortgage shall remain in effect, any of its estate, right, title or interest subject to this Mortgage, to anyone other than Mortgagee, except in connection with Permitted Liens or as otherwise consented to by Mortgagee and that (a) except as expressly consented to by Mortgagee in its sole discretion, Mortgagor will not (i) enter into any agreement amending or supplementing the form of any Operative Document, or (ii) take or omit to take any action required under any Operative Document, the taking or omission of which might result in an alteration or modification of, any waiver of rights under, or any claim or lien upon, the Note, this Mortgage, any other Loan Document or any Operative Document or any of the rights or security created or effected thereby, and (b) except as expressly consented to by Mortgagee, which consent

will not be unreasonably withheld or delayed, Mortgagor will not (i) accept any payment other than the Excepted Payments from, or settle or compromise any Claim against, Sublessee, Fee Owner or Guarantor arising under any Operative Document, or (ii) submit or consent to the submission to arbitration of any material dispute, conflict, difference or other matter arising under or in respect of any Operative Document, except as expressly provided therein.

SECTION 4.04. Payment of Moneys to Mortgagee. Mortgagor agrees that promptly on receipt thereof it will transfer to Mortgagee any and all moneys (other than the Excepted Payments) from time to time received by it from anyone (other than Mortgagee) constituting part of the Mortgaged Property for distribution or retention by Mortgagee pursuant to Paragraph 7 of the Assignment of Rents.

SECTION 4.05. Further Acts, etc. Mortgagor will, at the sole cost of Mortgagor, and without expense to Mortgagee, do, execute, acknowledge and deliver all and every such further acts, conveyances, mortgages, assignments, notices of assignments, financing statements, transfers and assurances as Mortgagee shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, perfecting and confirming unto Mortgagee the property and rights hereby mortgaged, given, granted, bargained, sold, aliened, enfeoffed, conveyed, confirmed, pledged, assigned and hypothecated or intended now or hereafter so to be, or which Mortgagor may be or may hereafter become bound to convey or assign to Mortgagee, or for carrying out the intention or facilitating the performance of the terms of this Mortgage or for filing, registering or recording this Mortgage and any other Loan Document intended to be filed, registered or recorded and, on demand, will execute and deliver within five (5) business days after request of Mortgagee, and if Mortgagor fails to so deliver, hereby authorizes Mortgagee thereafter to execute in the name of Mortgagor or without the signature of Mortgagor to the extent Mortgagee may lawfully do so, one or more financing statements, to evidence more effectively the lien hereof upon the Mortgaged Property. Mortgagor grants to Mortgagee an irrevocable power of attorney coupled with an interest for the purpose of executing and filing any financing statements as shall be necessary or desirable for evidencing or perfecting any and all interests granted to Mortgagee hereunder.

SECTION 4.06. Appointment of Mortgagee as Attorney. Mortgagor hereby unconditionally appoints and constitutes Mortgagee its true and lawful attorney-in-fact, irrevocably, with full power, coupled with an interest (in the name of Mortgagor or otherwise), to ask, require, demand, receive, compound and give acquittance for any and all moneys and claims for moneys that are part of the Mortgaged Property due and to become due under or arising out of any Operative Document and to endorse any checks or other instruments or orders in connection therewith, provided

that Mortgagee shall exercise such power only after the occurrence and during the continuance of an Event of Default, except as otherwise expressly provided in the Assignment of Rents.

SECTION 4.07. Liability of Mortgagor Under Other Operative Documents; Absence of Liability of Mortgagee. Anything herein to the contrary notwithstanding but subject to the limitations on the liability of Mortgagor set forth in Article XIX, Mortgagor shall remain obligated under each Operative Document to which it is a party to perform all of the obligations assumed by it thereunder, all in accordance with and pursuant to the terms and provisions thereof. Mortgagee shall not have any obligation or liability under the Ground Lease, the Sublease or any other Operative Document, by reason of or arising out of the assignment of, or granting a Lien in, the Ground Lease or the Sublease pursuant to this Mortgage nor shall Mortgagee be required or obligated in any manner to perform or fulfill any obligation of Mortgagor under or pursuant to any such Operative Document, to make any payment, to make any inquiry as to the nature or sufficiency of any payment received by it, to present or file any claim, or to take any action to collect or enforce the payment of any amounts which may have been assigned to it or to which it may be entitled any time or times.

SECTION 4.08. Representations and Warranties. Mortgagor hereby (a) represents and warrants to Mortgagee that (i) it holds a valid leasehold estate in and to the Property free and clear of Lessor Liens attributable to it, other than Permitted Liens, (ii) it has the right to mortgage, give, grant, bargain, sell, alien, enfeoff, convey, confirm, pledge, lease, assign, and hypothecate and grant a security interest in, the Mortgaged Property and (iii) it holds no option or right, pursuant to the Ground Lease or otherwise, to acquire the fee estate in the Premises and (b) covenants that it will not take any action which will in any way impair its authorization to continue to perform fully this Mortgage or any other Operative Document to which it is a party.

SECTION 4.09. Due on Sale/Transfer or Encumbrance of the Mortgaged Property. Mortgagor, without the prior written consent of Mortgagee, shall not sell, convey, alienate, mortgage, encumber or otherwise transfer the Mortgaged Property or any part thereof or any interest therein nor permit or suffer the divestiture of its title or any interest therein, nor sublet the entire Premises (except pursuant to the Sublease), nor permit or suffer any merger, consolidation or dissolution or syndication affecting Mortgagor, nor permit or suffer the encumbrance or transfer of any partnership interest in Mortgagor or any stock in the general partner of Mortgagor. Notwithstanding the foregoing, Mortgagee shall consent to (a) a transfer of any partnership interest in Mortgagor or a transfer of stock in the general partner of Mortgagor, provided that Mortgagor shall present to

Mortgagee evidence reasonably satisfactory to Mortgagee that such transfer does not affect Mortgagor's status as a Single Purpose Entity or (b) a transfer of the entire Mortgaged Property to another entity, provided that Mortgagor shall present to Mortgagee evidence reasonably satisfactory to Mortgagee that such entity is a Single Purpose Entity, and provided further, in each case, that Mortgagor shall have delivered to each of the Rating Agencies and to Mortgagee a nonconsolidation opinion in form and substance reasonably satisfactory to Mortgagee. Notwithstanding anything to the contrary contained herein, Mortgagor shall not be permitted to sell, convey or otherwise transfer the Mortgaged Property to a corporation, partnership or other entity created under the laws of the State of Alabama.

SECTION 4.10. Environmental Matters. Mortgagor will comply and cause its agents, employees, contractors and sublessees, including, without limitation, Sublessee, and assigns to comply with all applicable Environmental Laws with respect to the Property. Mortgagor will not cause or permit the release, generation, treatment, storage or disposal of any Hazardous Materials on the Property in violation of any applicable Environmental Law. If at any time Mortgagee shall have reasonable cause to believe that an event has occurred which constitutes a violation of Environmental Laws or which is likely to result in Sublessee being liable to Mortgagor and Mortgagee by virtue of an indemnity given by Sublessee under Section 10.02 of the Sublease, Mortgagee shall have the right to require Mortgagor to have such environmental assessments or tests made as Mortgagee reasonably deems necessary. Mortgagor shall cause such environmental assessments or tests to be performed within thirty (30) days after any request by Mortgagee (or if Mortgagor is unable to cause such environmental assessments or tests to be performed within said 30-day period through no fault of Mortgagor, Mortgagor shall cause such environmental assessments or tests to be commenced within said thirty (30) day period and shall in good faith and with all due diligence cause the same to be completed as soon as possible thereafter); provided, however, that in the event of an emergency, as reasonably determined by Mortgagee, Mortgagor shall cause such environmental assessments or tests to be performed in such shorter time period as Mortgagee may require. Such assessments or tests shall be made by Persons selected by Mortgagor with the consent of Mortgagee, which consent shall not be unreasonably withheld or delayed. In the event that Mortgagor does not cause such environmental assessments or tests to be performed within the applicable time period, Mortgagee shall have the right to cause such environmental assessments or tests to be performed. Mortgagor shall pay for the cost of all such environmental assessments or tests, whether performed by or at the request of Mortgagor or Mortgagee. Mortgagor grants Mortgagee and its employees and agents an irrevocable and non-exclusive license, subject to the rights of Sublessee under the Sublease and of any other tenants of the Property, to enter the Property to conduct testing to the

extent permitted hereunder and if Mortgagor fails to do so, to remove any Hazardous Materials, and the costs of such environmental assessments and testing and removal shall immediately become due and shall be secured by this Mortgage.

SECTION 4.11. No Liens. Mortgagor shall not create or permit to be created or to remain, and shall immediately discharge or cause to be discharged, any Lien on the Property or any interest therein (other than Permitted Liens) in each case (a) whether voluntarily or involuntarily created and (b) whether or not subject or subordinate hereto, without the prior written consent of Mortgagee, which consent shall be at Mortgagee's sole and complete discretion, and shall not be granted if such Lien shall pose a material risk of sale of the Property. The Permitted Liens affecting title to the Property at the time of execution of this Mortgage do not adversely affect the use and operation of the Property as contemplated on the date hereof or the ability of the Mortgagor to timely pay principal and interest due under the Note; provided that the portions of the Ground Lease Land designated as the Parking Deck Tract and the Training Center Tract on Schedule A hereto are subject to two unutilized public utility easements, which Mortgagor covenants to cause to be vacated during construction of the Improvements to eliminate any encroachments by the Improvements on any such utility easements. Mortgagor will remove any Liens (other than Permitted Liens) with respect to the Mortgaged Property or any part thereof whether now or hereafter acquired within ten (10) days after Mortgagor acquires Actual Knowledge of such Liens unless within such ten-day period Mortgagor shall have deposited with the Mortgagee cash in an amount sufficient to pay such Lien.

SECTION 4.12. The Ground Lease. (a) With respect to the Ground Lease, Mortgagor hereby warrants and represents as follows: (i) Mortgagor is the owner of a valid and subsisting interest as tenant under the Ground Lease; (ii) the Ground Lease is in full force and effect, unmodified and not supplemented by any writing or otherwise; (iii) all rent, additional rent and other charges reserved therein have been paid to the extent they are payable to the date hereof; (iv) Mortgagor enjoys the quiet and peaceful possession of the estate demised thereby, subject to the Sublease; (v) Mortgagor is not in default under any of the terms thereof and there are no circumstances which, with the passage of time or the giving of notice or both, would constitute an event of default thereunder; (vi) Mortgagor has not received notice from the lessor under the Ground Lease of a default thereunder; (vii) to the best of Mortgagor's Actual Knowledge, the lessor under the Ground Lease is not in default under any of the terms or provisions thereof on the part of the lessor to be observed or performed; (viii) the lessor under the Ground Lease has satisfied all of its repair or construction obligations, if any, to date pursuant to the terms of the Ground Lease; and (ix) the execution, delivery and performance of this Mortgage do not require any consent (other than those consents which have been

obtained and are in full force and effect) under, and will not contravene any provision of or cause a default under, the Ground Lease.

(b) Further, with respect to the Ground Lease, Mortgagor covenants and agrees as follows: (i) to promptly and faithfully observe, perform and comply with all the terms, covenants and provisions thereof on its part to be observed, performed and complied with, at the times set forth therein, and to do all things necessary to preserve unimpaired its rights thereunder; (ii) not to do, permit, suffer or refrain from doing anything, as a result of which, there could be a default under or breach of any of the terms thereof; (iii) not to terminate (pursuant to Section 3.03 or Article IX thereof or otherwise), cancel, surrender, modify, amend or in any way alter or permit the alteration of any of the terms thereof and not to release the lessor under the Ground Lease from any obligations imposed upon it thereby; (iv) not to assign the Ground Lease in whole or in part (except as permitted by Section 4.09) nor sublet the Premises demised under the Ground Lease in whole or in part (other than pursuant to the Sublease) without the prior written consent of Mortgagee, which consent may be withheld in Mortgagee's sole discretion; (v) to give Mortgagee immediate written notice of any default by Fee Owner or Mortgagor thereunder and to immediately deliver to Mortgagee copies of each notice of default and all other notices, communications, plans, specifications and other similar instruments received or delivered by Mortgagor in connection therewith; and (vi) to furnish to Mortgagee, upon Mortgagee's request and to the extent not provided by Sublessee pursuant to the Sublease, such information and evidence as Mortgagee may reasonably require concerning Mortgagor's due observance, performance and compliance with the terms, covenants and provisions thereof.

(c) In the event of any default by Mortgagor in the performance of any of its obligations under the Ground Lease, including, without limitation, any default in the payment of rent, additional rent and other charges and impositions made payable by the tenant thereunder, then, in each and every case, Mortgagee may, at its option and without notice, cause the default or defaults to be remedied and otherwise exercise any and all of the rights of Mortgagor thereunder in the name of and on behalf of Mortgagor, but no such action by Mortgagee shall release Mortgagor from any default under this Mortgage. Mortgagor shall, on demand, reimburse Mortgagee for all advances made and expenses incurred by Mortgagee in curing any such default (including, without limitation, reasonable attorneys' fees and disbursements), together with interest thereon at the Default Rate, or the maximum rate permitted by the laws of the State of Alabama, whichever is lower, from the date that an advance is made or expense is incurred, to and including the date the same is paid and such monies so expended by Mortgagee with interest thereon shall be secured by this Mortgage.

(d) It is hereby agreed, notwithstanding the union of the fee estate in the Premises and the leasehold estate created by the Ground Lease in either Fee Owner, Mortgagor or a third party, whether by purchase or otherwise, that said fee estate and said leasehold estate shall not merge but shall always be kept separate and distinct, and Mortgagee shall continue to have and enjoy all of the rights and privileges of Mortgagee as to the separate estates. If Mortgagor acquires the fee title or any other estate, title or interest in the property demised by the Ground Lease, or any part thereof, the lien of this Mortgage shall attach to, cover and be a lien upon such acquired estate, title or interest and same shall thereupon be and become a part of the Mortgaged Property with the same force and effect as if specifically encumbered herein. Mortgagor agrees to execute all instruments and documents which Mortgagee may reasonably require to ratify, confirm and further evidence Mortgagee's lien on the acquired estate, title or interest. Furthermore, Mortgagor hereby appoints Mortgagee its true and lawful attorney-in-fact to execute and deliver all such instruments and documents in the name and on behalf of Mortgagor. This power, being coupled with an interest, shall be irrevocable as long as the Indebtedness remains unpaid. Mortgagor shall not purchase any or all of the Premises without Mortgagee's prior written consent, which may be withheld in Mortgagee's sole discretion.

(e) If the Ground Lease is cancelled or terminated, and if Mortgagee or its nominee shall acquire an interest in any new lease of the Premises, Mortgagor shall have no right, title or interest in or to such new lease or the leasehold estate created thereby.

(f) Mortgagor shall use its best efforts to obtain and deliver to Mortgagee, within forty (40) days after written demand by Mortgagee, an estoppel certificate from the landlord under the Ground Lease setting forth (i) the name of the tenant thereunder, (ii) that the Ground Lease has not been modified or, if it has been modified, the date of each modification (together with copies of each such modification), (iii) the basic rent and additional rent payable under the Ground Lease, (iv) the date to which all rental charges have been paid by the tenant under the Ground Lease, (v) whether there are any defaults or alleged defaults of the tenant under the Ground Lease with respect to payment of amounts payable thereunder or if there are any events which have occurred which with notice, the passage of time or both, would constitute a default by the tenant under the Ground Lease with respect to payment of amounts payable thereunder, and, if there are, setting forth the nature thereof in reasonable detail and (vi) to the best knowledge of the Ground Lessor, whether there are any other defaults or alleged defaults, or any other events which have occurred which with notice, the passage of time or both would constitute a default by the tenant under the Ground Lease.

(g) Notwithstanding anything to the contrary contained herein or in the Ground Lease, Mortgagee shall have no liability or obligation under the Ground Lease by reason of its acceptance of this Mortgage. Mortgagee shall be liable for the obligations of the tenant arising under the Ground Lease for only that period of time during which Mortgagee is in possession of the Mortgaged Property or has acquired, by foreclosure or otherwise, and is holding all of Mortgagor's right, title and interest therein, and such liability shall terminate upon Mortgagee's transfer of the Mortgaged Property.

(h) No release or forbearance of any of Mortgagor's obligations under the Ground Lease, pursuant to the Ground Lease or otherwise, shall release Mortgagor from any of its obligations under this Mortgage or the other Loan Documents.

(i) Mortgagor shall enforce the obligations of the lessor under the Ground Lease to the end that Mortgagor may enjoy all of the rights granted to it under the Ground Lease, and will immediately notify Mortgagee of any default, of which Mortgagor has Actual Knowledge, by the lessor in the performance or observance of any of the terms, covenants and conditions on the part of the lessor to be performed or observed under the Ground Lease and Mortgagor will immediately advise Mortgagee of the occurrence of any of the events of default enumerated in the Ground Lease and of the giving of any notice by the lessor under the Ground Lease to Mortgagor of any default by Mortgagor, as lessee thereunder, in the performance or observance of any of the terms, covenants or conditions of the Ground Lease on the part of Mortgagor to be performed or observed and will immediately deliver to Mortgagee a true copy of each such notice.

(j) Mortgagor shall give Mortgagee immediate notice of the commencement of any appraisal proceeding under and pursuant to the provisions of the Ground Lease. If an Event of Default shall have occurred and be continuing, Mortgagee shall have the right to intervene and participate in any such proceeding and Mortgagor shall confer with Mortgagee and its attorneys and experts and cooperate with them to the extent which Mortgagee deems reasonably necessary for the protection of Mortgagee. Any appraiser appointed by Mortgagor in any appraisal shall be subject to approval by Mortgagee, not to be unreasonably withheld or delayed, provided that after the occurrence and during the continuance of an Event of Default, Mortgagee shall have, and is hereby granted, the sole and exclusive right to designate and appoint on behalf of Mortgagor, the appraiser in such proceeding.

(k) Mortgagee shall have the right to participate in the adjustment and settlement of any casualty insurance proceeds and in the determination of any such condemnation award under the Ground Lease and, if an Event of Default shall have occurred and be continuing, may do so in the name and in the place of Mortgagor, provided that unless an Event of Default has occurred

and is continuing, Mortgagor shall have the right to adjust and settle such proceeds and determine such awards with the consent of Mortgagee, which consent will not be unreasonably withheld or delayed, except that such consent may be unreasonably withheld or delayed with respect to the adjustment, settlement or determination of any such insurance proceeds or condemnation awards in excess of \$2,000,000.

(l) Mortgagor will, promptly after the execution and delivery of this Mortgage or of any instrument or agreement supplemental hereto, notify the lessor under the Ground Lease in writing of the execution and delivery hereof and deliver to such lessor a copy of each such instrument or agreement.

(m) If the Ground Lease is rejected in any case, proceeding or other action commenced by or against the lessor under the Ground Lease (or any person or party constituting or having an interest in the Ground Lease) under the Bankruptcy Code or any comparable federal or state statute or law, (i) Mortgagor, immediately after obtaining notice thereof, shall give notice thereof to Mortgagee, (ii) Mortgagor, without the prior written consent of Mortgagee, shall not elect to treat the Ground Lease as terminated pursuant to Section 365(h) of said Bankruptcy Code or any comparable federal or state statute or law, and any election by Mortgagor made without such consent shall be void and (iii) this Mortgage and all the liens, terms, covenants and conditions of this Mortgage shall extend to and cover Mortgagor's possessory rights under Bankruptcy Code Section 365(h) and to any claim for damages due to lessor's rejection of the Ground Lease. In addition, Mortgagor hereby assigns irrevocably to Mortgagee, Mortgagor's rights to accept disaffirmance of the Ground Lease and to offset rents under such Ground Lease in the event any case, proceeding or other action is commenced by or against the lessor under such Ground Lease under the Bankruptcy Code or any comparable federal or state statute or law, provided that Mortgagee shall not exercise such rights and shall permit Mortgagor to exercise such rights with the prior written consent of Mortgagee, not to be unreasonably withheld or delayed, unless an Event of Default shall have occurred and be continuing.

(n) Mortgagor hereby assigns to Mortgagee, Mortgagor's right to seek an extension of the 60-day period within which Mortgagor must accept or reject the Ground Lease under Section 365 of the Bankruptcy Code or any comparable federal or state statute or law with respect to any case, proceeding or other action commenced by or against Mortgagor under such Code or comparable federal or state statute or law, provided the Mortgagee shall not exercise such right, and shall permit Mortgagor to exercise such right with the prior written consent of Mortgagee, not to be unreasonably withheld or delayed, unless an Event of Default shall have occurred and be continuing. Furthermore, if Mortgagor shall desire to so reject the Ground Lease, at Mortgagee's request, Mortgagor shall assign its

interest in the Ground Lease to Mortgagee in lieu of rejecting such Ground Lease as described above, upon receipt by Mortgagor of written notice from Mortgagee of such request together with Mortgagee's agreement to cure any existing defaults of Mortgagor under such Ground Lease.

(o) Mortgagor hereby unconditionally and irrevocably assigns to Mortgagee (i) any right which Mortgagor has pursuant to the terms of the Ground Lease to renew and/or extend the terms of the Ground Lease, provided that, so long as no Event of Default shall have occurred and be continuing, Mortgagor shall also have the right to renew or extend the Ground Lease pursuant to its terms and that Mortgagee shall not exercise any such right except after the occurrence and during the continuance of an Event of Default (or after the occurrence and during the continuance of an event that with notice and/or the passage of time would become an Event of Default, if the period within which Mortgagor's right to exercise any such renewal or extension right might expire before the serving of such notice or the passage of such time), and (ii) any right which Mortgagor has pursuant to the terms of the Ground Lease to cancel or terminate the Ground Lease pursuant to Section 3.03 or Article IX thereof or otherwise, provided that Mortgagee shall not exercise any such rights or options assigned to Mortgagee pursuant to this subsection (o) except after the occurrence and during the continuance of any Event of Default and provided further that upon satisfaction of this Mortgage, all such rights described in clauses (i) and (ii) shall be deemed reassigned to Mortgagor.

(p) If the Ground Lease is materially breached or purported to be terminated by the lessor thereunder, Mortgagor, immediately after obtaining notice thereof, shall give notice thereof to Mortgagee.

SECTION 4.13. No Cooperative or Condominium. Mortgagor shall not operate the Property, or permit the Property to be operated, as a cooperative or condominium building or buildings in which the tenants or occupants participate in the ownership, control or management of the Property or any part thereof, as tenant stockholders or otherwise.

SECTION 4.14. Changes in the Laws Regarding Taxation. If any law is enacted or adopted or amended after the date of this Mortgage which deducts the Indebtedness or any portion thereof from the value of the Mortgaged Property for the purpose of taxation and which, in substitution of the taxes so reduced, imposes a tax, either directly or indirectly, on the principal amount of the Note or Mortgagee's interest in the Mortgaged Property, Mortgagor will pay such tax, with interest and penalties thereon, if any. In the event Mortgagee is advised by counsel chosen by it that the payment of such tax or interest and penalties by Mortgagor would be unlawful or unenforceable or provide the basis for a defense of usury, then in any such event,

Mortgagee shall have the option, by written notice of not less than ten (10) days, to declare the Indebtedness immediately due and payable.

SECTION 4.15. Documentary Stamps. If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Note or this Mortgage, or impose any other tax or charge on the same, Mortgagor will pay for the same, with interest and penalties thereon, if any. Notwithstanding anything to the contrary contained herein, in no event shall Mortgagor be obligated for income, franchise or similar taxes of Mortgagee or any transfer taxes with respect to any assignment of the Note or this Mortgage or any interest in either the Note or the Mortgage.

SECTION 4.16. Authority. Mortgagor has full power, authority and legal right to execute this Mortgage, and to mortgage, give, grant, bargain, sell, alien, enfeoff, convey, confirm, pledge, hypothecate and assign, and grant a security interest in the Mortgaged Property pursuant to the terms hereof and to keep and observe all of the terms of this Mortgage on Mortgagor's part to be performed.

SECTION 4.17. Maintenance Survey. Mortgagor shall, at Mortgagor's own cost and expense, cause to be delivered to Mortgagee, within sixty (60) days of each anniversary date of Final Completion of the Improvements, a certificate from an independent engineering or architectural consulting firm engaged by Mortgagor, and approved by Mortgagee (which approval shall not be unreasonably withheld or delayed, and Mortgagee hereby approves Roy Jorgensen Associates, Inc.), to survey the compliance of the Property with law and the adequacy of the maintenance and repair of the Property. Such certificate shall state that (a) a qualified representative of such firm with at least ten (10) years experience inspecting first-class office buildings on behalf of institutional owners or mortgagees in connection with mortgage loans or acquisitions has conducted a thorough on-site inspection of the Property; (b) such firm is familiar with the building laws applicable to the Property; (c) no violation of law was observed by such inspector with respect to the Property or if it was, what must be done to cure such violation; (d) the Property is in a state of maintenance and repair consistent with its status as a first-class suburban office building, or if it is not, what must be done to cause it to be in such a state; and (e) such consultant has inspected the electrical, plumbing, heating, ventilating and air conditioning, mechanical, and life safety systems in the Property and find the same to be in good working order, or if any are not, what must be done to cause such systems to be in good working order.

SECTION 4.18. Evidence of Tax Payments. Within thirty (30) days after the date on which annual payments of ad valorem real estate taxes are required to be paid pursuant to the Ground

Lease, Mortgagor shall deliver to Mortgagee a certificate of an officer of Mortgagor, or shall cause to be delivered a certificate of an officer of Sublessee, addressed to Mortgagor and Mortgagee, setting forth the amount of such real estate taxes and any other taxes payable during the corresponding year that could become a lien on the Mortgaged Property (collectively, "Taxes") and certifying that all Taxes then due and payable with respect to the Mortgaged Property have been paid, accompanied by copies of receipts for such real estate taxes from the applicable governmental authority indicating payment thereof.

ARTICLE V

NO CREDIT FOR PAYMENT OF TAXES

SECTION 5.01. No Credit for Payment of Taxes. Mortgagor shall not be entitled to any credit against the Indebtedness, by reason of the payment of any tax on the Property or any part thereof. If such credit shall be required by Applicable Laws and Regulations, Mortgagee shall have the option, on not less than ten (10) days written notice, to declare the Indebtedness immediately due and payable.

ARTICLE VI

APPLICATION OF PROCEEDS FROM MORTGAGED PROPERTY

SECTION 6.01. Application of Proceeds from Mortgaged Property. All moneys received and other amounts realized by Mortgagee hereunder, under the Note, the Assignment of Rents or any other Loan Document or any Operative Document shall be received, held, applied and distributed as provided in Paragraph 7 of the Assignment of Rents.

ARTICLE VII

EVENTS OF DEFAULT; DECLARATION OF INDEBTEDNESS DUE

SECTION 7.01. Events of Default; Declaration of Indebtedness Due. If one or more of the following events (individually called an "Event of Default" and collectively called "Events of Default") shall occur (whether such occurrence shall be voluntary or involuntary, or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental officer, commission, authority, body or agency, or otherwise):

(a) Mortgagor shall default (i) in the due and punctual payment of any semi-annual installment payment of principal and/or interest payable under the Note and such default shall continue for five (5) Business Days after Mortgagor shall have been given written notice of such default by Mortgagee or (ii) in the due and punctual payment of any other payment of all or any portion of the Indebtedness when the same shall have become due and payable (whether on a date fixed for any optional or required prepayment or by acceleration, declaration, demand or otherwise) and such default shall continue for five (5) Business Days after Mortgagor shall have been given written notice of such default by Mortgagee;

(b) Mortgagor shall default in the due performance or observance of any of the terms of any Major Loan Document or any Operative Document (other than those defaults referred to in the foregoing clause (a)) and in any such case such default shall continue for more than thirty (30) days after Mortgagor shall have been given written notice of such default by Mortgagee; provided, however, that the continuation of such default beyond such thirty (30) day period will not constitute an Event of Default if such default is curable by Mortgagor and Mortgagor is diligently and in good faith proceeding to remedy such default; provided, further, however, that such default shall constitute an Event of Default if the same shall continue beyond one hundred eighty (180) days (or if the cure of such default shall require construction, beyond three hundred sixty (360) days) after written notice by Mortgagee;

(c) if a Lease Event of Default shall occur and be continuing, provided that for the purposes of this subparagraph (c) the failure of Sublessee to complete construction of the Improvements by June 30, 1996 under the Construction Agreement shall not constitute an Event of Default unless such failure shall continue until December 31, 1996;

(d) if any representation or warranty made by Mortgagor hereunder or by Mortgagor in or pursuant to any other Major Loan Document or any Operative Document shall prove to have been false or incorrect in any material respect on the date as of which made and such falsehood or incorrectness shall continue for more than thirty (30) days after Mortgagor shall have been given written notice of such falsehood or incorrectness by Mortgagee;

(e) if Mortgagor shall consent to the appointment of, or taking of possession by, a receiver, trustee, custodian or liquidator of itself or of a substantial part of its property pursuant to the Bankruptcy Code or any similar state or Federal laws, or if Mortgagor shall fail, or shall

admit in writing its inability, to pay its debts generally as they become due, or shall make a general assignment for the benefit of creditors; or if Mortgagor shall file a voluntary petition in bankruptcy or a voluntary petition or an answer seeking reorganization in a proceeding under the Bankruptcy Code or any other applicable bankruptcy or insolvency laws or any law analogous in purpose or effect (as now or hereafter in effect) or an answer admitting the material allegations of a petition filed against such Person in any such proceeding, or if Mortgagor shall by voluntary petition, answer or consent, seek relief under the provisions of the Bankruptcy Code or any other now existing or future bankruptcy, insolvency or other similar law providing for the liquidation, reorganization or winding-up of partnerships or corporations, or providing for an agreement, composition, extension or adjustment with its creditors;

(f) if a receiver, conservator, trustee, liquidator, custodian or similar official of Mortgagor or of a substantial part of the property of Mortgagor shall be appointed by a court order and such order shall remain in effect for more than sixty (60) days; or if Mortgagor shall be adjudicated bankrupt or insolvent; or such Person's property shall be sequestered by court order and such order shall remain in effect for more than sixty (60) days; or if a petition shall be filed against Mortgagor under the Bankruptcy Code or any other bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law or any law analogous in purpose and effect of any jurisdiction, whether now or hereafter in effect, and shall not be dismissed within sixty (60) days after such ruling; or

(g) Mortgagor shall be in default under the Ground Lease beyond any applicable notice and/or grace period or the Fee Owner shall validly terminate the Ground Lease pursuant to any provision thereof (subject to Mortgagee's rights under Section 13.02 thereof);

then, (i) upon the occurrence of an Event of Default described in clause (e) or (f) of this Section 7.01, the Indebtedness, including the applicable Prepayment Fee, shall automatically become due and payable, without presentment, demand, protest or notice, all of which are hereby waived, and thereafter the outstanding principal balance of the Note shall bear interest at the Default Rate, and (ii) upon the occurrence of any Event of Default other than those described in clauses (e) and (f) of this Section 7.01, Mortgagee may, at any time thereafter (unless all Events of Default shall theretofore have been remedied and all costs and expenses, including, without limitation, reasonable legal fees and expenses incurred by or on behalf of Mortgagee shall have been paid by Mortgagor) at its option, declare the

Indebtedness, including the applicable Prepayment Fee, to be due and payable whereupon the same shall immediately become due and payable, without presentment, demand, protest or notice, all of which are hereby waived, and thereafter the outstanding principal balance of the Note shall bear interest at the Default Rate.

ARTICLE VIII

REMEDIES, ETC.

SECTION 8.01. Remedies Under Lease. Subject to the rights of Mortgagor contained in Article XIV and the limitations set forth in this Section 8.01, if an Event of Default shall have occurred and be continuing that results directly from a Lease Event of Default, then in every such case Mortgagee, as assignee and grantee or secured party hereunder or otherwise, may, to the extent permitted by Applicable Laws and Regulations, exercise any or all of the rights and powers and pursue any or all of the remedies under the Sublease (including Section 19.02 thereof) and, in connection therewith, corresponding remedies under this Article VIII, and may take possession of all or part of the Mortgaged Property and may exclude Mortgagor and Sublessee and all Persons claiming under either of them wholly or partly therefrom. Any provision of the Sublease, this Mortgage or any other Loan Document or any Operative Document to the contrary notwithstanding, if any Event of Default of the type described in Section 7.01(c) has occurred and is continuing and there are no other Events of Default then existing that do not arise directly from such Event of Default under Section 7.01(c), Mortgagee shall not foreclose the Lien of this Mortgage or otherwise exercise remedies which would result in the exclusion of Mortgagor from the Mortgaged Property or any part thereof (including exercising its remedies with respect to the Construction Funds) unless Mortgagee is concurrently taking action under the Sublease to dispossess Sublessee, to terminate the Sublease or to pursue any comparable remedy to the extent that it is then entitled to do so hereunder or under any other Loan Document and is not then stayed or otherwise prevented from doing so by operation of law.

SECTION 8.02. Legal Proceedings. If any one or more Events of Default shall have occurred and be continuing, Mortgagee, subject to the rights of Mortgagor contained in Article XIV, may proceed to protect and enforce its rights hereunder by an action at law, suit in equity or other appropriate proceeding, whether for the specific performance of any agreement contained herein, or for an injunction against the violation of any of the terms hereof, or in aid of the exercise of any power granted hereby or by law.

SECTION 8.03. Cost of Collection. If Mortgagor shall fail to pay any portion of the Indebtedness, including, without limitation, any Prepayment Fee or interest (including interest at

the Default Rate, if any), Mortgagor will pay to Mortgagee such further amounts as shall be sufficient to cover the cost and expense of collection, including, without limitation, reasonable legal fees and expenses.

SECTION 8.04. No Waiver. Neither failure nor delay on the part of Mortgagee to exercise any right, remedy, power or privilege provided for herein or in any other Loan Document or by statute or at law or in equity or otherwise shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, remedy, power or privilege preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

SECTION 8.05. Foreclosure. (a) Reference is made to the Assignment of Rents intended to be recorded in the Land Records immediately after the recording of this Mortgage. Subject to Section 8.01, Mortgagee shall at a foreclosure sale, sell as part of the Mortgaged Property Mortgagor's interest as the lessor under the Sublease, subject to the rights of Sublessee under the Sublease, except that if the Sublease has been terminated, then Mortgagee shall be entitled to sell the Mortgaged Property free and clear of the Sublease or any rights Sublessee may have under the Sublease.

(b) Subject to Section 8.01, if any Event of Default shall have occurred and be continuing, Mortgagee may, at any time, proceed at law or in equity or otherwise to enforce the payment of the Indebtedness in accordance with the terms of the Note and this Mortgage and, if the Sublease shall have been declared to be in default pursuant to Article XIX thereof or the Indebtedness shall have been declared to be due and payable pursuant to Section 7.01 hereof, foreclose the Lien of this Mortgage in one or more proceedings as against all or, to the extent permitted by law, any part of the Mortgaged Property, or any interest in any part thereof and to have the same sold under the judgment or decree of a court of competent jurisdiction or proceed to take either of such actions. One or more exercises of the powers herein granted shall not extinguish nor exhaust such powers, until the entire Mortgaged Property is sold or all of the Indebtedness is paid in full. If Mortgagee so elects, Mortgagee may sell the personal property covered by this Mortgage at one or more separate sales in any manner permitted by the Uniform Commercial Code of the State of Alabama, and one or more exercises of the powers herein granted shall not extinguish nor exhaust such powers, until the entire Mortgaged Property is sold or the Indebtedness is paid in full. If the Indebtedness is now or hereafter further secured by any chattel mortgages, pledges, contracts of guaranty, assignments of lease or other security, Mortgagee may, at its option, exhaust the remedies granted under any of said security, either concurrently or independently, and in such order as it may determine.

SECTION 8.06. Power of Sale. Subject to Section 8.01, if an Event of Default shall have occurred and be continuing, and if the Sublease shall have been declared to be in default pursuant to Article XIX thereof or the Indebtedness shall have been declared to be due and payable pursuant to Section 7.01 hereof, Mortgagee shall have the right to enter upon and take possession of the Mortgaged Property and with or without taking such possession of the same, may sell, assign, transfer and deliver, or cause the sale, assignment, transfer and delivery of, the whole or, from time to time, to the extent permitted by law, any part of the Mortgaged Property or any interest in any part thereof, for immediate or future delivery, and for such price or prices and on such terms as Mortgagee in its sole discretion may determine, or as may be required or permitted by Applicable Laws and Regulations. Such sale shall be at public outcry and auction in front of the Courthouse door of Shelby County, to the highest bidder for cash, in order to pay the Indebtedness, all expenses of sale and all proceedings in connection therewith, including reasonable attorneys' fees, after advertising the time, terms and place of such sale once a week for three (3) successive weeks immediately preceding such sale (but without regard to the number of days intervening between the date of publication of the first advertisement and the date of sale) in the newspaper published in such County, or in the paper in which the sheriff's advertisements for such County are then being published. All other notice is hereby waived by Mortgagor. Mortgagee, its agents, representatives, successors or assigns, may bid and purchase at such sale. Mortgagee may execute and deliver to the purchaser at such sale a conveyance of the Mortgaged Property in the name and on behalf of Mortgagor, which conveyance shall contain recitals as to the Event of Default upon which the execution of the power of sale herein granted depends. Mortgagor agrees that such recitals shall be binding and conclusive upon Mortgagor. To this end, Mortgagor hereby constitutes and appoints Mortgagee the agent and attorney-in-fact of Mortgagor to make such sale and conveyance and thereby to divest Mortgagor of all right, title, interest, equity and right of redemption, including any statutory redemption, in and to the Mortgaged Property and to vest the same in the purchaser or purchasers at such sale or sales, and all the acts and doings of said agent and attorney-in-fact are hereby ratified and confirmed. Mortgagee shall collect the proceeds of such sale and apply such proceeds as provided herein. The power and agency hereby granted are coupled with an interest and are not revocable by death or dissolution, or otherwise, and are in addition to any and all other remedies which Mortgagee may have hereunder, at law or in equity and shall not be exhausted by one exercise thereof but may be exercised until full payment of all of the Indebtedness secured hereby. It is expressly understood and agreed that in exercising its power of sale pursuant to the provisions of this Mortgage, Mortgagee may, at its option, sell the Mortgaged Property or any portion thereof at such sale subject to such leases, tenant contracts, rental agreements, franchise

agreements, management contracts and other contracts and such tenants in possession of the Mortgaged Property as shall be specifically designated in the advertisements of sale required under the provisions of this Section 8.06. The certificate of the holder of the Indebtedness appointing the auctioneer to make such sale shall be prima facie evidence of his authority in the Premises. Notwithstanding the existence of any other security interest in the Mortgaged Property held by Mortgagee or by any other party, Mortgagee shall have the right to determine the order in which any of the Mortgaged Property or any part thereof shall be subjected to the remedies provided herein. Mortgagee shall have the right to determine the order in which any or all portions of the Indebtedness are satisfied from the proceeds realized upon the exercise of the remedies provided herein. Mortgagor and any party who now or hereafter acquires a security interest in any of the Mortgaged Property and who has actual or constructive notice hereof hereby waives, to the extent permitted by law, any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

SECTION 8.07 Mortgagee Authorized to Execute Deeds, etc. Mortgagor hereby presently, unconditionally and irrevocably appoints Mortgagee its true and lawful attorney, to the extent permitted by Applicable Laws and Regulations, in its name and stead and on its behalf, for the purpose of effectuating any sale, assignment, transfer or delivery hereunder, if an Event of Default shall have occurred and be continuing, and if the Sublease shall have been declared to be in default pursuant to Article XIX thereof or the Indebtedness shall have been declared to be due and payable pursuant to Section 7.01 hereof, whether pursuant to foreclosure or power of sale, to execute and deliver all such deeds, bills of sale, assignments, releases and other proper instruments as Mortgagee may consider necessary or appropriate, with full power of substitution, Mortgagor hereby ratifying and confirming all that such attorneys or any substitute shall lawfully do by virtue hereof. If so requested by Mortgagee or any purchaser, Mortgagor shall ratify and confirm such sale, assignment, transfer or delivery by executing and delivering to Mortgagee or such purchaser, without any representation or warranty (express or implied) by Mortgagor (except as to the absence of Lessor Liens), and without recourse, all deeds, bills of sale, assignments, releases and other proper instruments to effect such ratification and confirmation as may be designated in any such request.

SECTION 8.08 Purchase of Mortgaged Property by Mortgagee. Mortgagee may be a purchaser of the Mortgaged Property or of any part thereof or of any interest therein at any sale thereof, whether pursuant to foreclosure or power of sale or otherwise, and may apply the Indebtedness against the purchase price thereof. Mortgagee shall, upon any such purchase, acquire

title to the property so purchased free of the Lien of this Mortgage.

SECTION 8.09 Receipt a Sufficient Discharge to Purchaser. Upon any sale of the Mortgaged Property or any part thereof or any interest therein, whether pursuant to foreclosure or power of sale or otherwise hereunder, the receipt of (a) the officer making the sale under judicial or nonjudicial proceedings or (b) Mortgagee shall be sufficient discharge to the purchaser for the purchase money, and such purchaser shall not be obliged to see to the application thereof.

SECTION 8.10 Waiver of Appraisement, Valuation, etc. Mortgagor hereby waives, to the full extent it may lawfully do so, the benefit of all appraisement, valuation, stay, extension, moratorium and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale of the estate or any part thereof or any interest therein. All waivers by Mortgagor in this paragraph have been made voluntarily, intelligently and knowingly, after Mortgagor has been first informed by counsel of its own choosing as to possible alternative rights.

SECTION 8.11 Sale a Bar. Any sale of the Mortgaged Property or any part thereof or any interest therein, pursuant to applicable foreclosure laws of the State of Alabama or to the power of sale granted herein, shall forever be a perpetual bar against Mortgagor to contest such sale.

SECTION 8.12 Application of Proceeds of Sale. The proceeds of any sale of the Mortgaged Property or any part thereof or any interest therein, whether pursuant to foreclosure or power of sale or otherwise, together with any other moneys at the time held by Mortgagee as part of the Mortgaged Property, shall be applied to the Indebtedness in such order as Mortgagee shall determine.

SECTION 8.13 Appointment of Receiver. If an Event of Default shall have occurred and be continuing, and if (a) a Lease Event of Default shall have occurred or (b) the Indebtedness shall have been declared due and payable pursuant to Section 7.01 hereof, Mortgagee shall, as a matter of strict right without regard to the value of the Property, to the extent permitted by law, be entitled to the appointment of a receiver for all or any part of the Mortgaged Property, whether such receivership be incidental to a proposed sale of the Mortgaged Property or otherwise, and Mortgagor hereby consents to the appointment of such receiver and will not oppose any such appointment.

SECTION 8.14 Possession, Management and Income. If an Event of Default shall have occurred and be continuing, and if (a) a Lease Event of Default shall have occurred or (b) the Indebtedness shall have been declared to be due and payable

pursuant to Section 7.01 hereof, Mortgagee, without further notice, to the extent permitted by law, may enter upon and take possession of the Property or any part thereof without judicial process, by summary proceedings, ejectment or otherwise and may remove Mortgagor and all other Persons claiming under or through Mortgagor (other than Sublessee, and Persons claiming under or through Sublessee, if no Lease Event of Default exists) and any and all property therefrom, and may hold, operate and manage the same and receive all earnings, income, rents, issues and proceeds accruing with respect thereto or any part thereof. Mortgagee shall be under no liability for or by reason of any such taking of possession, entry, removal or holding, operation or management, except that any amounts so received by Mortgagee shall be applied to pay:

(a) all costs and expenses of so entering upon, taking possession of, holding, operating and managing the Mortgaged Property or any part thereof, all other fees and expenses of Mortgagee hereunder, and any taxes, assessments or other charges secured by a Lien on the Mortgaged Property which are prior to the Lien of this Mortgage which Mortgagee may consider it necessary or desirable to pay; and

(b) thereafter in payment of the Indebtedness, in such order of priority as Mortgagee shall determine.

SECTION 8.15 Right of Mortgagee to Perform Covenants, etc. If an Event of Default shall have occurred and be continuing or if immediate action shall be required to protect the security of this Mortgage, Mortgagee, without waiving or releasing any obligation or default, may (but shall be under no obligation to) at any time thereafter make such payment or perform such act, in compliance with the Ground Lease and subject to the rights of Sublessee under the Sublease, for the account and at the expense of Mortgagor and may enter upon the Property or any part thereof for such purpose and take all such action with respect thereto as, in Mortgagee's opinion, may be reasonably necessary or appropriate therefor. No such entry shall be deemed an eviction. All sums so paid by Mortgagee and all reasonable costs and expenses (including, without limitation, reasonable legal fees and expenses) so incurred, together with interest at the Default Rate thereon (to the extent permitted by law) from the date of payment or incurrence, shall constitute an addition to the Indebtedness secured by this Mortgage and shall be paid by Mortgagor to Mortgagee upon demand. Mortgagee shall not be liable for any damages resulting from any such payment or action unless such damages shall be a consequence of willful misconduct or gross negligence on the part of Mortgagee.

SECTION 8.16 Remedies, etc. Cumulative. Anything herein to the contrary notwithstanding but subject to the limitations on the liability of Mortgagor set forth in Article XVIII, each right, power and remedy of Mortgagee provided for in

this Mortgage or now or hereafter existing at law or in equity or by statute or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Mortgage or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Mortgagee of any one or more of the rights, powers or remedies provided for in this Mortgage or now or hereafter existing at law or in equity or by statute or otherwise, or the exercise of any such right, power or remedy with respect to any part of the Mortgaged Property, shall not preclude the simultaneous or later exercise by Mortgagee of any or all such other rights, powers or remedies, or the simultaneous or later exercise by Mortgagee of any such right, power or remedy with respect to any other part of the Mortgaged Property, provided, however, that in no event shall Mortgagee collect any portion of the Indebtedness more than once.

SECTION 8.17 No Action Contrary to Sublessee's Rights under Lease. Notwithstanding any of the provisions of this Mortgage to the contrary, neither Mortgagor nor Mortgagee shall, so long as no Lease Event of Default shall have occurred and be continuing, take any action which would interfere with Sublessee's rights under the Sublease, including the right to quiet possession and use of the Property.

SECTION 8.18. Prepayment Fee on Acceleration. If Mortgagee declares the Indebtedness due and payable pursuant to Section 7.01, then a Prepayment Fee shall be due and payable as well, calculated as of the date of such declaration.

SECTION 8.19 Mortgagor as Tenant Holding Over. In case of a foreclosure by Mortgagee as provided in this Mortgage, or the exercise by Mortgagee of the power of sale set forth in Section 8.06 above, Mortgagor and any person in possession, or otherwise claiming, under Mortgagor, as to whose interest such foreclosure or sale was not made subject, shall, at the option of the purchaser at such foreclosure or sale, then become and be tenants holding over, and shall forthwith deliver possession to such purchaser, or shall be dispossessed in accordance with the laws applicable to tenants holding over.

ARTICLE IX

NO ASSUMPTION OF LEASE

SECTION 9.01 No Assumption of Lease. Neither this Mortgage nor any action or inaction on the part of Mortgagee shall constitute an assumption on the part of Mortgagee of any obligation under the Ground Lease, the Sublease or the Assignment of Rents. No action or inaction on the part of Mortgagor shall adversely affect or limit in any way the rights of Mortgagee

under this Mortgage, the Ground Lease, the Sublease or the Assignment of Rents.

ARTICLE X

ADDITIONAL SECURITY

SECTION 10.01. Additional Security. Without notice to or consent of Mortgagor, and without impairment of the Lien and rights created by this Mortgage, Mortgagee may accept (but Mortgagor shall not be obligated to furnish) from Mortgagor or from any other Person or Persons, additional security for the Note or the Indebtedness. Neither (a) the giving of this Mortgage, (b) the acceptance of any such additional security nor (c) the invalidity or ineffectiveness of any security shall prevent Mortgagee from resorting first, in the enforcement of its rights, either to such additional security or to the security created by this Mortgage, in any case without affecting Mortgagee's Lien and rights under this Mortgage.

ARTICLE XI

THE SUBLEASE

SECTION 11.01. The Sublease. Mortgagor shall:

(a) diligently perform and observe all of the terms, conditions and covenants of the Sublease and of any other Operative Document required to be performed and observed by it, to the end that all things shall be done which are necessary to keep unimpaired its rights under the Sublease and the other Operative Documents;

(b) promptly notify Mortgagee in writing of any default under the Sublease of which it has Actual Knowledge; and

(c) maintain in full force and effect, and will not, except as otherwise expressly provided herein or in the Assignment of Rents, (i) cancel or terminate or consent to any cancellation, termination or surrender of, (ii) amend or modify, (iii) waive any default under or breach of, or (iv) consent to any prepayment or discount of Rent under the Sublease.

ARTICLE XII

NOTICES, ETC.

SECTION 12.01. Notices, etc. Except as otherwise specified herein, any notice or other communication under this Mortgage shall be effective and valid only if in writing, referring to this Mortgage, signed by the party giving such notice, and delivered either (a) personally to such other party, (b) by nationally recognized overnight courier delivery service (c) by certified mail of the United States Postal Service, postage prepaid, return receipt requested, or (d) by telecopier with a confirmatory copy delivered by one of the other methods set forth above, addressed to the other party as follows (or to such other address or person as either party or person entitled to notice may by notice to the other party specify):

To Mortgagee:

Column Financial, Inc.
3414 Peachtree Road, N.E., Suite 1140
Atlanta, Georgia 30326-1113
Attention: Director of Finance
Telecopier: (404) 239-0419

with a copy concurrently to:

Cadwalader, Wickersham & Taft
100 Maiden Lane
New York, New York 10038
Attention: W. Christopher White, Esq.
Telecopier: (212) 504-6666

To Mortgagor:

Sun Riverchase, Limited Partnership
c/o SunAmerica Inc.
One SunAmerica Center
Los Angeles, California 90067-6022
Attention: Mr. Alan Nussenblatt
Telecopier: (310) 772-6584

With a copy concurrently to:

U.S. Realty Advisors
1370 Avenue of the Americas
New York, New York 10019
Attention: Mr. David M. Ledy
Telecopier: (212) 581-4540

with a copy concurrently to:

Brownstein, Hyatt, Farber
& Strickland, P.C.
410 Seventeenth Street, 22nd Floor
Denver, Colorado 80202
Attention: Wayne H. Hykan, Esq.
Telecopier: (303) 623-1956

Unless otherwise specified, notices shall be deemed given upon receipt or refusal to accept, provided, with respect to telecopier notices, sender shall have received automatic confirmation.

ARTICLE XIII

AFTER-ACQUIRED PROPERTY

SECTION 13.01. After-Acquired Property. All property acquired by Mortgagor after the date hereof, which by the terms hereof is required or intended to be subjected to the Lien of this Mortgage, shall, immediately upon the acquisition thereof by Mortgagor and without further mortgage, conveyance or assignment, become subject to the Lien of this Mortgage as fully as though now owned by Mortgagor and specifically described herein. Nevertheless, Mortgagor will do all such further acts and execute, acknowledge, deliver, record and file Mortgage supplements in a form reasonably satisfactory to the parties thereto, and all such further conveyances, financing statements and assurances as Mortgagee may reasonably deem necessary or desirable to subject such after-acquired property effectively to the Lien of this Mortgage.

ARTICLE XIV

RIGHTS OF MORTGAGOR TO CURE CERTAIN LEASE EVENTS OF DEFAULT, ETC.

SECTION 14.01. Payments of Rents. Notwithstanding any other provisions of this Mortgage, any other Loan Document or any Operative Document, upon the occurrence of a Lease Event of Default of the type described in Section 19.01 of the Sublease relating to payments of Basic Rent and Additional Rent, then as long as no other Event of Default (other than an Event of Default which is concurrently being cured by Mortgagor as herein permitted) shall have occurred and be continuing, Mortgagor may (but shall not be required to) pay to Mortgagee, at any time prior to the expiration of five (5) Business Days after Mortgagor shall have received notice from Sublessee or Mortgagee of the

occurrence of such Lease Event of Default, an amount equal principal of and interest (including, to the extent permitted by Applicable Laws and Regulations, interest at the Default Rate then due and payable on the Note (without acceleration of same) and such payment by Mortgagor shall be deemed to cure such Lease Event of Default (and consequent Event of Default), which arose or would have arisen from such failure of Sublessee; provided that Mortgagor shall not be permitted to cure, under this Section 14.01, (a) more than six (6) such failures of Sublessee to pay Basic Rent or (b) if Sublessee has failed to pay the two (2) immediately preceding payments of Basic Rent.

SECTION 14.02. Other Curable Lease Defaults; Compliance. Notwithstanding any other provision of this Mortgage or any other Operative Document, if any other Lease Event of Default that is curable by Mortgagor (other than an event described in Section 19.01 of the Sublease relating to payments of Basic Rent and Additional Rent) shall have occurred and be continuing, then so long as no other Event of Default (other than a Lease Event of Default which is concurrently being cured by Mortgagor as herein permitted) shall have occurred and be continuing, Mortgagor may (but shall not be required to) cure such other Lease Event of Default at any time prior to the expiration of thirty (30) days after Mortgagor shall have received notice from Sublessee or Mortgagee of, or shall have Actual Knowledge of, the occurrence of such other Lease Event of Default, and such cure by Mortgagor shall be deemed to cure any Lease Event of Default (and consequent Event of Default), which arose or would have arisen from such default of Sublessee; provided, however, that the continuation of any such Lease Event of Default beyond such thirty (30) day period will not constitute an Event of Default if such Lease Event of Default is curable by Mortgagor within a reasonable period of time and Mortgagor is diligently and in good faith proceeding to remedy such Lease Event of Default; provided, further, however, that such default shall constitute an Event of Default if the same shall continue beyond one hundred eighty (180) days (or if the cure of such default shall require construction, beyond three hundred sixty (360) days) after written notice by Mortgagee.

SECTION 14.03. No Impairment of Mortgaged Property; Subrogation. Mortgagor, upon exercising its rights under Section 14.01 or 14.02 to cure a Lease Event of Default, shall not obtain any Lien on Sublessee's right, title and interest in the Property or any part thereof or any other part of the Mortgaged Property on account of such payment or performance or the costs and expenses incurred in connection therewith nor shall any Claim of Mortgagor against Sublessee or any other party for the repayment thereof impair the prior right and security interest of Mortgagee in and to the Mortgaged Property. Upon such payment or performance by Mortgagor, Mortgagor shall, so long as no Event of Default or default shall have occurred and be continuing, and if all principal and interest (including interest at the Default

Rate, if any, to the extent permitted by law) and all other amounts then due on the Note have been paid, be entitled to receive the amount of such payment and the costs and expenses incurred in connection with such payments and performance thereof, to the extent Sublessee shall pay such sums to Mortgagee, as part of the "Excess Payments" disbursed under Paragraph 7(c) of the Assignment of Rents. If Mortgagee receives any such payment at a time when Mortgagee is not required to disburse Excess Payments under the Assignment of Rents, the amount thereof shall be retained by Mortgagee, which shall hold such amounts until such time as all amounts then due and payable on the Note, this Mortgage and any other Loan Document shall have been paid in full and no other Event of Default or default shall have occurred and be continuing, whereupon Mortgagee shall remit such payment to Mortgagor; provided that if the Indebtedness shall have theretofore been declared to be due and payable, such payment and interest shall not be remitted to Mortgagor but shall be distributed by Mortgagee in payment of the Indebtedness in such order of priority as Mortgagee shall determine.

SECTION 14.04. Lease Not to Be Declared in Default; Agreements of Mortgagee. Notwithstanding any other provision of this Mortgage or any other Loan Document, upon the occurrence of any Lease Event of Default which may be cured by Mortgagor pursuant to Section 14.01 or 14.02, Mortgagee will not declare the Sublease to be in default or exercise any other remedy hereunder, thereunder or under any other Loan Document until the period in which such cure by Mortgagor may be effected shall have expired and, subject to the proviso in Section 14.01, as between Mortgagor and Mortgagee, any such cure in respect of a Lease Event of Default shall be deemed performance by Sublessee for the purposes of this Mortgage.

SECTION 14.05. Certain Other Actions by Mortgagor. Provided that no Event of Default has occurred and is continuing, and that Mortgagor shall not (except with the consent of Mortgagee, which may be granted or withheld in Mortgagee's sole discretion) amend or modify any Operative Document or waive any right of Mortgagor or any obligation of any other party thereunder, Mortgagee will not unreasonably withhold or delay its consent to any action proposed to be taken by Mortgagor as lessee under the Ground Lease or as a party to the Declaration, provided that in Mortgagee's judgment, reasonably exercised, such action shall not materially and adversely affect (a) the security provided by this Mortgage, (b) the enforceability of Mortgagee's rights under this Mortgage, (c) Mortgagor's rights as lessee under the Ground Lease or under the Declaration, (d) the obligations of Fee Owner under the Ground Lease or the Declaration or (e) the value of the Property. Mortgagor shall not take any action as lessee under the Ground Lease or under the Declaration without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld or delayed, except as expressly permitted under Section 4.12 hereof, provided that

Mortgagor shall have the right, without the prior written consent of Mortgagee, (i) to enforce and collect any indemnity amounts payable to Mortgagor under the Ground Lease, the Declaration or the AmSouth Guaranty, provided that all such amounts shall be paid (and Mortgagor covenants to direct Fee Owner, Sublessee and Guarantor to pay all such amounts) into the Clearing Account (as defined in the Assignment of Rents) and Mortgagee shall distribute such amounts pursuant to Paragraph 7(f) of the Assignment of Rents and (ii) to enforce (short of termination thereof) against Fee Owner, Guarantor and Sublessee all the terms, covenants, conditions and obligations in the Ground Lease, the Declaration and the AmSouth Guaranty. Mortgagor and Mortgagee shall also have the right to take such actions as are permitted under Paragraph 10 and Paragraph 11 of the Assignment of Rents on the terms set forth therein.

ARTICLE XV

GOVERNING LAW, ETC.

SECTION 15.01. Terms Subject to Applicable Laws and Regulations. All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any applicable law, and are intended to be limited to the extent necessary so that they will not render this Mortgage invalid, unenforceable or not entitled to be recorded, registered or filed under any Applicable Law and Regulations.

SECTION 15.02. Governing Law. THIS MORTGAGE SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ALABAMA WITHOUT REGARD TO CONFLICT OF LAW PROVISIONS THEREOF; PROVIDED THAT, BECAUSE THE ACCOUNTS IN WHICH THE CASH COLLATERAL AND THE CONSTRUCTION FUNDS SHALL BE HELD SHALL BE MAINTAINED IN THE STATE OF MASSACHUSETTS ALL MATTERS RELATING TO PERFECTION OF THE SECURITY INTERESTS IN THE CASH COLLATERAL AND THE CONSTRUCTION FUNDS GRANTED TO MORTGAGEE HEREUNDER (THE "SECURITY INTERESTS") SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF MASSACHUSETTS WITHOUT REGARD TO CONFLICT OF LAW PROVISIONS THEREOF. MORTGAGOR AND EACH ENDORSER HEREBY SUBMITS TO PERSONAL JURISDICTION IN THE STATE OF ALABAMA AND THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA LOCATED IN SAID STATE (AND ANY APPELLATE COURTS TAKING APPEALS THEREFROM) FOR THE ENFORCEMENT OF SUCH ENTITY'S OBLIGATIONS HEREUNDER AND UNDER THE NOTE AND THE OTHER LOAN DOCUMENTS, AND WAIVES ANY AND ALL PERSONAL RIGHTS UNDER THE LAW OF ANY OTHER STATE TO OBJECT TO JURISDICTION WITHIN THE STATE OF ALABAMA FOR THE PURPOSES OF ANY ACTION, SUIT, PROCEEDING OR LITIGATION TO ENFORCE SUCH OBLIGATIONS OF SUCH ENTITY. MORTGAGOR AND EACH ENDORSOR HEREBY WAIVES AND AGREES NOT TO ASSERT, AS A DEFENSE IN ANY ACTION, SUIT, PROCEEDING OR LITIGATION ARISING OUT OF OR RELATING TO THIS MORTGAGE, THE NOTE AND/OR ANY OF THE OTHER LOAN DOCUMENTS,

(A) THAT IT IS NOT SUBJECT TO SUCH JURISDICTION OR THAT SUCH ACTION, SUIT, PROCEEDING OR LITIGATION MAY NOT BE BROUGHT OR IS NOT MAINTAINABLE IN THOSE COURTS OR THAT THIS MORTGAGE, THE NOTE AND/OR ANY OF THE OTHER LOAN DOCUMENTS MAY NOT BE ENFORCED IN OR BY THOSE COURTS OR THAT IT IS EXEMPT OR IMMUNE FROM EXECUTION, (B) THAT THE ACTION, SUIT, PROCEEDING OR LITIGATION IS BROUGHT IN AN INCONVENIENT FORUM OR (C) THAT THE VENUE OF THE ACTION, SUIT, PROCEEDING OR LITIGATION IS IMPROPER.

ARTICLE XVI

SECURITY AGREEMENT

SECTION 16.01. Security Agreement. (a) This Mortgage shall also be considered to be, and shall be construed as, and is hereby declared and made to be, a security agreement with respect to any portion of the Mortgaged Property constituting security subject to the Uniform Commercial Code as enacted in the State of Alabama, and, to the extent any portion of the Mortgaged Property is subject to the Alabama Uniform Commercial Code (any such portion, a "Security"), Mortgagee is granted a security interest and Mortgagor does hereby grant a security interest to Mortgagee therein in compliance with the Uniform Commercial Code as enacted in Alabama. Mortgagee shall give Mortgagor written notice of the time and place of any public sale of such Security or of the time after which any private sale or other intended disposition thereof is to be made by notice to each of Mortgagor and any such Person entitled to receive such notice at least ten (10) Business Days before the time of such sale or other disposition, which provision for notice Mortgagor agrees is reasonable, it being understood that Mortgagee shall exercise the sale remedies under this Section 16.01 only following an Event of Default. A financing statement or statements with respect to such Security shall be executed by Mortgagor and Mortgagee and appropriately filed. The remedies for any violation of the covenants, terms and conditions of the security agreement contained in this Mortgage shall be (i) as prescribed herein, (ii) as prescribed by general law, or (iii) as prescribed by the specific statutory consequences now or hereafter enacted in the Alabama Uniform Commercial Code, all at Mortgagee's sole election.

(b) Each of Mortgagor and Mortgagee agrees that the filing of any financing statement or statements in the records normally having to do with personal property shall never be construed as in any way derogating from or impairing the stated intention of Mortgagor and Mortgagee that everything owned by Mortgagor and used in connection with the production of income from the Property or adapted for use therein or which is described or reflected in this Mortgage and which constitutes a portion of the Property, is, and at all times for all purposes and in all proceedings both legal or equitable shall be, regarded

as part of the Improvements (except for any trade fixtures owned by Sublessee under the provisions of the Sublease), irrespective of whether (i) any such item is physically attached to the Improvements, (ii) serial numbers are used for the better identification of certain items capable of being thus identified in a recital contained herein, or (iii) any such item is referred to or reflected in any such financing statement or statements so filed at any time. Similarly, the mention in any such financing statement or statements of the rights in and to (A) any insurance proceeds pursuant to a Casualty, (B) any condemnation award in respect to a Condemnation, or (C) the interest of Mortgagor as landlord in any present or future lease or rights to income growing out of the use and occupancy of the Property whether pursuant to lease or otherwise, shall never be construed as in any way altering any of the rights of Mortgagee as determined by this instrument or impugning the priority of Mortgagee's Lien granted hereby or by any other recorded document, but such mention in such financing statement or statements is declared to be for the protection of Mortgagee in the event any court shall at any time hold with respect to the foregoing clause (A), (B) or (C) that notice of Mortgagee's priority of interest, to be effective against a particular class of Persons, must be filed in the Alabama Uniform Commercial Code records. Mortgagor further covenants and agrees that all of the aforementioned Security shall not be the subject matter of any agreement or transaction whereby the ownership or beneficial interest thereof or therein shall be held by any Person or entity other than Mortgagor nor shall Mortgagor create or cause to be created any security interest covering any such property, other than the security interest created herein in favor of Mortgagee and as otherwise permitted under the Loan Documents and the Operative Documents.

(c) Mortgagor warrants that (i) Mortgagor's (that is, the "Debtor's") name, identity or corporate structure and residence or principal place of business is as set forth in subsection (d) below; (ii) Mortgagor (that is, the "Debtor") has been using or operating under said name, identity or corporate structure without change for the time period set forth in subsection (d) below; and (iii) the location of the collateral is upon the Premises. Mortgagor covenants and agrees that it will furnish Mortgagee with notice of any change in the matters addressed by clauses (i) or (iii) of this subsection within thirty (30) days of the effective date of any such change and Mortgagor will promptly execute any financing statements or other instruments deemed necessary by Mortgagee to prevent any filed financing statement from becoming misleading or losing its perfected status.

(d) The information contained in this subsection is provided in order that this instrument shall comply with the requirements of the Uniform Commercial Code, as enacted in the State of Alabama, for instruments to be filed as financing statements. The names of the "Debtor", and the "Secured Party",

the identity or corporate structure and residence or principal place of business of "Debtor", and the time period for which "Debtor" has been using or operating under said name and identity or corporate structure without change, are as set forth in Schedule B attached hereto and by this reference made a part hereof; the mailing address of the "Secured Party" from which information concerning the security interest may be obtained, and the mailing address of "Debtor" is as set forth in Schedule B; and a statement indicating the types, or describing the items, of collateral is set forth hereinabove.

ARTICLE XVII

CASH COLLATERAL

SECTION 17.01. Representations, Warranties and Certain Agreements in Respect of Cash Collateral. Mortgagor represents and warrants to Mortgagee that, provided that Mortgagee or its agent is in continuous possession of the Cash Collateral, the Lien of this Mortgage constitutes a valid and perfected security interest in such Cash Collateral prior to all other Liens. The Mortgagor is not a party to or otherwise bound by any agreement, other than this Mortgage, which restricts in any manner the rights of Mortgagee with respect to the Cash Collateral, and the Mortgagor will not become a party to any such agreement.

SECTION 17.02. Security Interest in Cash Collateral. In order to secure the full and punctual payment of the Indebtedness in accordance with the terms of the Note, this Mortgage and the other Loan Documents and to secure the performance of all of obligations of Mortgagor under the Note, this Mortgage, and the other Loan Documents, Mortgagor hereby assigns, pledges and grants to Mortgagee a continuing first priority security interest in the Cash Collateral.

SECTION 17.03. Deposit of Cash Collateral. Mortgagor shall (i) on the Closing Date deposit the Cash Collateral with Mortgagee or its agent by wire transfer to State Street Bank and Trust Company, to be held by Mortgagee or its agent pursuant to Section 17.04 in a segregated trust account in the State of New York as part of the Mortgaged Property as collateral for payment of the Indebtedness, and (ii) execute, deliver, file and record any and all instruments, assignments, agreements, financing statements and other documents, to the extent determined to be necessary by, and in form and substance satisfactory to, Mortgagee in its reasonable judgment, to perfect or continue the perfection of Mortgagee's security interest in such Cash Collateral. The deposit or holding of the Cash Collateral pursuant to this Section or Section 17.04 shall not constitute payment of any portion of the Indebtedness until applied thereto as herein provided. If Mortgagee shall determine that the amount

of Cash Collateral to be available for distribution on any Semi-Annual Due Date is less than the amount specified on Schedule D for such Semi-Annual Due Date, Mortgagee shall give Mortgagor notice of such shortfall and Mortgagor shall immediately deposit with Mortgagee, in accordance with the instructions set forth in this Section 17.03, an amount equal to such shortfall in the Cash Collateral.

SECTION 17.04. Investment of Cash Collateral. Any amounts held by Mortgagee pursuant to this Article XVII shall be invested by Mortgagee in Permitted Investments selected by Mortgagor provided that, Mortgagor shall have delivered to Mortgagee an opinion of counsel, in form and substance satisfactory to Mortgagee, as to the priority, creation and perfection of a security interest in favor of Mortgagee in such category of investment and Mortgagor shall have executed and delivered all documents and taken all other actions reasonably required by Mortgagee in order to create and perfect such security interest in the particular investment to be made. Mortgagee acknowledges that it has received a satisfactory opinion of counsel with respect to the investment of cash collateral in United States book entry treasury securities. Unless and until the same shall be released to Mortgagor pursuant to Section 17.06, any income realized as a result of any such investment shall be held and applied by Mortgagee in the same manner as the Cash Collateral held by Mortgagee is to be applied. Any such investment may be sold (without regard to maturity date) by Mortgagee whenever necessary to make any payment set forth on Schedule D. Any expenses incurred (including any loss on such investments) in connection with any investment of funds pursuant to this Section 17.04 shall be reimbursed immediately by Mortgagor, upon notice from Mortgagee, except Mortgagee or its agent shall be responsible for any direct loss resulting from its gross negligence or willful misconduct in executing investment instructions. Unless otherwise confirmed in writing, an account statement delivered by Mortgagee or its agent to Mortgagor shall be deemed written confirmation by Mortgagor that the investment transactions identified therein accurately reflect the investment directions given to Mortgagee by Mortgagor, unless Mortgagor notifies Mortgagee in writing to the contrary within thirty (30) days after the date of such statement.

SECTION 17.05. General Authority. Mortgagor hereby irrevocably appoints Mortgagee its true and lawful attorney, with full power of substitution, in the name of Mortgagor and Mortgagee or otherwise, for the sole use and benefit of Mortgagee, to apply and distribute the Cash Collateral pursuant to Section 17.06.

SECTION 17.06. Application of Cash Collateral. (a) Schedule D sets forth the three (3) Semi-Annual Due Dates and the respective amounts (collectively, the "Cash Collateral") to be

applied and distributed by Mortgagee on each such Semi-Annual Due Date.

(b) Provided no Event of Default shall have occurred and be continuing, Mortgagee shall, on each Semi-Annual Due Date specified on Schedule D, (i) apply the respective amount specified on Schedule D for such Semi-Annual Due Date in payment of the interest then payable under the Note, (ii) apply any income earned and received on the Cash Collateral to any other portions of the Indebtedness then due and payable and (iii) distribute any remaining income earned and received on the Cash Collateral to Mortgagor.

(c) If the Indebtedness shall have been accelerated, Mortgagee may, at its option, apply the Cash Collateral in payment of the Indebtedness in such order and proportion as Mortgagee shall determine in its sole discretion.

ARTICLE XVIII

CONSTRUCTION FUNDS

SECTION 18.01. Representations, Warranties and Certain Agreements in Respect of Construction Funds. Mortgagor represents and warrants to Mortgagee that, assuming that Mortgagee or its agent is in continuous possession of the Construction Funds, the Lien of this Mortgage will constitute a valid and perfected security interest in such Construction Funds prior to all other Liens. The Mortgagor is not a party to or otherwise bound by any agreement, other than this Mortgage, the Construction Agreement, the Disbursement Agreement and the Assignment of Contracts which restricts in any manner the rights of Mortgagee with respect to the Construction Funds, and the Mortgagor will not become a party to any such agreement.

SECTION 18.02. Security Interest in Construction Funds. In order to secure the full and punctual payment of the Indebtedness in accordance with the terms of the Note, this Mortgage and the other Loan Documents and to secure the performance of all of obligations of Mortgagor under the Note, this Mortgage, and the other Loan Documents, Mortgagor hereby assigns, pledges and grants to Mortgagee a continuing security interest in the Construction Funds.

SECTION 18.03. Deposit of Construction Funds. Mortgagor shall (i) on the Closing Date deposit the Construction Funds with Holding Agent or its agent by wire transfer to State Street Bank and Trust Company, to be held by Holding Agent, as agent for Mortgagee, in a segregated trust account as part of the Mortgaged Property as collateral for payment of the Indebtedness, and (ii) execute, deliver, file and record any and all

instruments, assignments, agreements, financing statements and other documents, to the extent determined to be necessary by, and in form and substance satisfactory to, Mortgagee in its reasonable judgment, to perfect or continue the perfection of Mortgagee's security interest in the Construction Funds.

SECTION 18.04. Disbursement of Construction Funds. For so long as no Event of Default shall have occurred and be continuing, Mortgagor shall have the right to request Holding Agent to disburse the Construction Funds pursuant to the Disbursement Agreement.

SECTION 18.05. Disbursement of Construction Funds After Event of Default. If an Event of Default has occurred and is continuing, Mortgagee may direct Holding Agent to disburse any Construction Funds in such amounts and to such parties (including Mortgagee) as Mortgagee may direct subject to the terms and provisions of the Assignment of Contracts.

ARTICLE XIX

EXCULPATION

SECTION 19.01. Exculpation. Notwithstanding anything to the contrary contained herein, in the Note or in any other Loan Document executed by Mortgagor in connection with the Loan, any claim based on or in respect of any obligation of Mortgagor hereunder or under the Note, this Mortgage or any other Loan Document executed by Mortgagor in connection with the Loan shall be enforced only against the Mortgaged Property (as defined in the Mortgage) and any other collateral now or hereafter given to secure the Loan, (including, without limitation, the partnership interests in Mortgagor (the "Partnership Interests") pursuant to that certain Limited Partnership Interest Pledge Agreement dated the date hereof by SunAmerica Inc. in favor of Mortgagee and that certain General Partnership Interest Pledge Agreement dated the date hereof by Sun Riverchase, Inc. in favor of Mortgagee (collectively, the "Pledge Agreements")) and not against any other assets, properties or funds of Mortgagor; provided however, that the liability of Mortgagor for loss, costs or damage arising out of the following matters shall not be limited solely to the Mortgaged Property and other collateral now or hereafter given to secure the Loan but shall include all of the assets, properties and funds of Mortgagor: (a) any failure to pay over to Mortgagee any Rents (including, without limitation, insurance proceeds and condemnation awards) received by Mortgagor, other than payments received by Mortgagor pursuant to Paragraph 7 of the Assignment of Rents; (b) any indemnity obligation of Mortgagor under any of the Loan Documents; (c) a fraudulent conveyance or a fraudulent transfer of the Mortgaged Property or any part thereof or any other properties or assets of Mortgagor; or (d) any fraud or

willful or intentional misrepresentation by Mortgagor in connection with (i) Mortgagor's application, negotiation, documentation, or administration of the Loan; (ii) Mortgagor's performance or fulfillment of any of Mortgagee's conditions to or requirements in advancing the Indebtedness or otherwise with respect to Mortgagor's inducements to Mortgagee to advance such Indebtedness; (iii) the execution and delivery of any of the Loan Documents; (iv) the making of any representations or warranties; or (v) Mortgagor's performance of any of its obligations under the Loan Documents. Nothing herein shall be deemed (w) to be a waiver of any right which Mortgagee may have under any bankruptcy law of the United States or the State of Alabama to file a claim for the full amount of the Loan or to require that all of the collateral securing the Loan shall continue to secure all of the Indebtedness; (x) to impair the validity of the Indebtedness; (y) to impair the right of Mortgagee as mortgagee or secured party to commence an action to foreclose any lien or security interest; or (z) to modify, diminish or discharge the liability of any guarantor under any guaranty. Nothing herein shall be deemed to be a waiver of any right which Mortgagee may have under Section 506(a), 506(b), 1111(b) or any other provisions of the Bankruptcy Code to file a claim for the full amount of the Indebtedness or to require that all collateral shall continue to secure all of the Indebtedness. In no event shall any claim based on or in respect of any obligation of Mortgagor under the Note, this Mortgage, the Assignment of Leases and Rents or any other Loan Document be brought against any partner, officer, director or shareholder of Mortgagor or of any partner of Mortgagor or be enforced against the assets, properties or funds of any partner, officer, director or shareholder of Mortgagor or of any partner of Mortgagor, except for the Partnership Interests to the extent permitted under the Pledge Agreement.

ARTICLE XX

MISCELLANEOUS

SECTION 20.01. Costs of Litigation. Should any action or proceeding be commenced to which Mortgagee is made a party or in which it becomes necessary, in the opinion of Mortgagee's counsel, to defend or uphold the Lien of this Mortgage as a result of an act or omission of Mortgagor, Mortgagor shall resist or defend against the same, if necessary in the name of Mortgagee, by attorneys approved by Mortgagee, such approval not to be unreasonably withheld or delayed provided that, except in the case where Mortgagor fails to adequately defend, in Mortgagee's good faith judgement, Mortgagee in such action or proceeding, or in a proceeding in which Mortgagor is a plaintiff, should Mortgagee choose, in its own discretion, to engage its own attorneys to resist or defend any such claim, action or proceeding, the fees and expenses of such counsel shall be at the

expense of Mortgagee, subject to Mortgagee's rights of indemnification as provided herein.

SECTION 20.02. Modification. No provision of this Mortgage or the Note shall be modified, waived or terminated, except by an instrument in writing, signed by the party against whom such modification, waiver or termination is to be enforced. No provision of the Ground Lease, the Sublease or any other Operative Document shall be modified, waived or terminated except with the prior written consent of Mortgagee.

SECTION 20.03. Severability. If any provision of this Mortgage or the Note or the application thereof to any Person or circumstance shall, to any extent, be invalid or unenforceable, the remaining provisions hereof or of the Note, or the application of such provision to Persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Mortgage or the Note shall be valid and be enforced to the fullest extent permitted by law.

SECTION 20.04. Estoppel Certificates. At any time and from time to time within fifteen (15) days after request by any party hereto, the other party hereto shall furnish a certificate certifying that this Mortgage is in full force and effect and unmodified (or that this Mortgage is in full force and effect as modified and setting forth the modifications); to the best knowledge of the signer of such certificate, whether or not Mortgagor is in default under any of its obligations hereunder (and, if so, the nature of such alleged default); and such other matters as may reasonably be requested.

SECTION 20.05. Usury Laws. This Mortgage and the Note are subject to the express condition that at no time shall Mortgagor be obligated or required to pay interest on the principal balance due under the Note at a rate which could subject the holder of the Note to either civil or criminal liability as a result of being in excess of the maximum interest rate which Mortgagor is permitted by law to contract or agree to pay. If by the terms of this Mortgage or the Note, Mortgagor is at any time required or obligated to pay interest on the principal balance due under the Note at a rate in excess of such maximum rate, the rate of interest under the Note shall be deemed to be immediately reduced to such maximum rate and the interest payable shall be computed at such maximum rate and all prior interest payments in excess of such maximum rate shall be applied and shall be deemed to have been payments in reduction of the principal balance of the Note and the principal balance of the Note shall be reduced by such amount in the inverse order of maturity.

SECTION 20.06. Prepayment. The Indebtedness may be prepaid only in accordance with the terms of the Note.

SECTION 20.07. Trustee's Fees. Mortgagor acknowledges that Mortgagee may contribute the Loan to a trust. On the date of any such contribution, Mortgagor shall pay to Mortgagee an amount, not to exceed \$5,000, in payment of the trustee's acceptance fee under the applicable trust agreement. On each Semi-Annual Due Date, in addition to all other amounts payable to Mortgagee under the Note, this Mortgage and the other Loan Documents, Mortgagor shall pay to Mortgagee the sum of (a) trustee's periodic fees under said trust agreement (not to exceed \$3,500 per annum) plus (b) all commercially reasonable fees of a special servicer engaged by the trustee pursuant to said trust agreement after the occurrence of an Event of Default, which special servicer fees shall be payable by Mortgagor until all outstanding Events of Default have been cured and two consecutive Semi-Annual Due Dates shall have elapsed without any additional Event of Default occurring plus (c) all expenses and disbursements incurred or made by the trustee or such special servicer under said trust agreement (including the reasonable compensation and the expenses and disbursements of said trustee's counsel and of all persons not regularly in said trustee's employ) of which Mortgagor shall have received notice which were incurred or made by said trustee or such special servicer in accordance with any of the provisions of said trust agreement.

SECTION 20.08. Construction Monitor. Mortgagor shall pay the fees, as provided below, of Compass Development (the "Monitor") to monitor construction of the Improvements and shall permit access to the Property to the Monitor and its employees for the purpose of conducting such monitoring. Mortgagee shall cause the Monitor to deliver copies of any semi-annual reports prepared for Mortgagee to Mortgagor. The Monitor shall receive (a) fees in the amount of (i) \$43,000 for the period from the date hereof to the first anniversary of the date hereof, (ii) \$2,500 for each month or partial month that shall elapse between the first anniversary of the date hereof and the date of Final Completion (as defined in the Construction Agreement) and (iii) \$1,000 for a semi-annual report prepared by the Monitor in each of the eighteenth (18th) and twenty-fourth (24th) month after the date hereof if Final Completion shall not have occurred and (b) reimbursement of documented out-of-pocket travel and production expenses not to exceed five hundred dollars (\$500) per month.

IN WITNESS WHEREOF, the parties hereto have caused this Mortgage to be duly executed under seal and delivered this Mortgage as of the date first above written.

SUN RIVERCHASE, LIMITED PARTNERSHIP,
a California limited partnership
as Mortgagor

By Sun Riverchase, Inc., a California
corporation, as General Partner

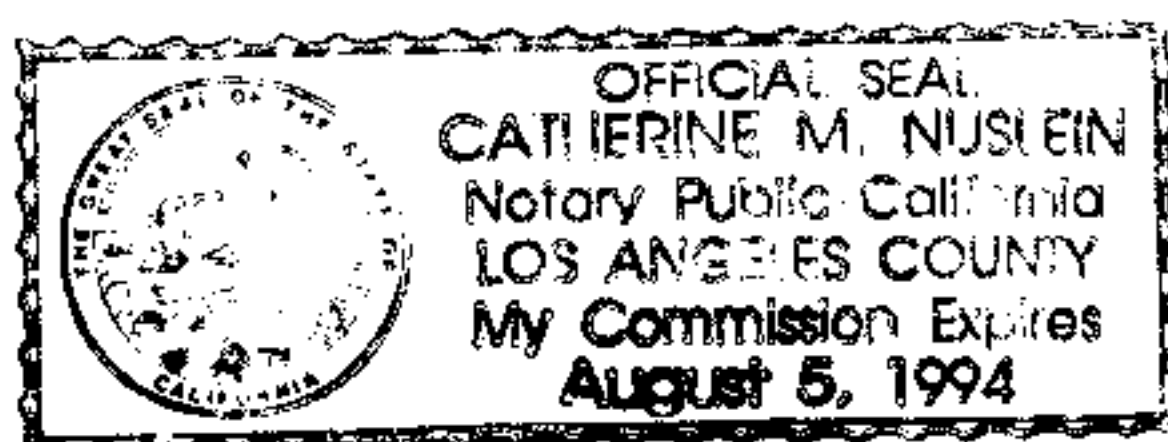
By: Will M. Petak
Name: WILLIAM M. PETAK
Title: VICE PRESIDENT

STATE OF California

COUNTY OF Los Angeles

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that William M. Petak, whose name as Vice President of Sun Riverchase, Inc., a corporation, as general partner of Sun Riverchase, Limited Partnership, a general partnership, is signed to the foregoing Mortgage and Security Agreement, and who is known to me, acknowledged before me on this day, that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation, acting in its capacity as general partner as aforesaid.

Given under my hand and official seal, this the 25 day of May, 1994.



Catherine M. Nusslein
NOTARY PUBLIC

MY COMMISSION EXPIRES: Aug 5 1994

Schedule A

NORTH BUILDING TRACT

A parcel of land situated in the Southeast 1/4 of the Southeast 1/4 of Section 19, Township 19 South, Range 2 West, being more particularly described as follows:

Commence at the Southeast corner of the Northeast 1/4 of the Southeast 1/4 of Section 19, Township 19 South, Range 2 West and turn an angle of 138°22'53" to the left from the East line of said 1/4 - 1/4 section and run in a Southwesterly direction a distance of 811.07 feet to the POINT OF BEGINNING; thence 34°16'51" to the right in a Southwesterly direction a distance of 59.41 feet to a point; thence 87°22'07" to the left in a Southeasterly direction a distance of 14.27 feet to a point; thence 90°00' to the right in a Southwesterly direction a distance of 23.50 feet to a point; thence 90°00' to the left in a Southeasterly direction a distance of 9.75 feet to a point; thence 90°00' to the right in a Southwesterly direction a distance of 269.00 feet to a point; thence 90°00' to the left in a Southeasterly direction a distance of 13.17 feet to a point; thence 90°00' to the right in a Southwesterly direction a distance of 54.17 feet to a point; thence 90°00' to the right in a Northwesterly direction a distance of 13.17 feet to a point; thence 90°00' to the left in a Southwesterly direction a distance of 159.42 feet to a point; thence 90°00' to the right in a Northwesterly direction a distance of 17.75 feet to a point; thence 90°00' to the right in a Northeasterly direction a distance of 2.00 feet to a point; thence 90°00' to the left in a Northwesterly direction a distance of 59.75 feet to a point; thence 90°00' to the right in a Northeasterly direction a distance of 9.75 feet to a point; thence 90°00' to the left in a Northwesterly direction a distance of 25.75 feet to a point; thence 90°00' to the right in a Northeasterly direction a distance of 6.50 feet to a point; thence 90°00' to the left in a Northwesterly direction a distance of 25.75 feet to a point; thence 90°00' to the right in a Northeasterly direction a distance of 269.50 feet to a point; thence 90°00' to the left in a Northwesterly direction a distance of 8.92 feet to a point; thence 90°00' to the right in a Northeasterly direction a distance of 67.53 feet to a point; thence 90°00' to the right in a Southeasterly direction a distance of 8.92 feet to a point; thence 90°00' to the left in a Northeasterly direction a distance of 69.47 feet to a point; thence 90°59'36" to the left in a Northwesterly direction a distance of 9.42 feet to a point; thence 88°46'53" to the right in a Northeasterly direction a distance of 125.30 feet to a point; thence 89°34'51" to the right in a Southeasterly direction a distance of 13.73 feet to a point; thence 90°00' to the left in a Northeasterly direction a distance

of 5.52 feet to a point; thence 87°22'05" to the right in a Southeasterly direction a distance of 103.48 feet to the POINT OF BEGINNING.

Containing 72,638.37 square feet or 1.67 acres.

SOUTH BUILDING TRACT

A parcel of land situated in the Southeast 1/4 of the Southeast 1/4 of Section 19, Township 19 South, Range 2 West, being more particularly described as follows:

Commence at the Southeast corner of the Northeast 1/4 of the Southeast 1/4 of Section 19, Township 19 South, Range 2 West and turn an angle of 145°11'03" to the left from the East line of said 1/4 - 1/4 section and run in a Southwesterly direction a distance of 1259.28 feet to the POINT OF BEGINNING; thence 55°42'40" to the right in a Westerly direction a distance of 336.50 feet to a point; thence 90°00' to the right in a Northerly direction a distance of 13.58 feet to a point; thence 90°00' to the left in a Westerly direction a distance of 50.00 feet to a point; thence 90°00' to the right in a Northerly direction a distance of 80.17 feet to a point; thence 90°00' to the right in an Easterly direction a distance of 21.00 feet to a point; thence 90°00' to the left in a Northerly direction a distance of 15.50 feet to a point; thence 90°00' to the right in an Easterly direction a distance of 10.75 feet to a point; thence 90°00' to the left in a Northerly direction a distance of 19.75 feet to a point; thence 90°00' to the right in an Easterly direction a distance of 373.00 feet to a point; thence 90°00' to the right in a Southerly direction a distance of 25.75 feet to a point; thence 90°00' to the right in a Westerly direction a distance of 18.25 feet to a point; thence 90°00' to the left in a Southerly direction a distance of 103.25 feet to the POINT OF BEGINNING.

Containing 48,696.89 square feet or 1.12 acres.

PEDESTRIAN BRIDGE BUILDING TRACT

A parcel of land situated in the Southeast 1/4 of the Southeast 1/4 of Section 19, Township 19 South, Range 2 West, being more particularly described as follows:

Commence at the Southeast corner of the Northeast 1/4 of the Southeast 1/4 of Section 19, Township 19 South, Range 2 West and

turn an angle of 137°37'30" to the left from the East line of said 1/4 - 1/4 section and run in a Southwesterly direction a distance of 1223.52 feet to the POINT OF BEGINNING; thence 48°09'08" to the right in a Westerly direction a distance of 108.09 feet to a point; thence 84°00' to the right in a Northwesterly direction a distance of 178.09 feet to a point; thence 86°19'47" to the right in a Northeasterly direction a distance of 20.51 feet to a point; thence 87°40'14" to the right in a Southeasterly direction a distance of 3.93 feet to a point; thence 90°00' to the left in a Northeasterly direction a distance of 54.17 feet to a point; thence 90°00' to the left in a Northwesterly direction a distance of 1.72 feet to a point; thence 92°19'45" to the right in a Northeasterly direction a distance of 33.00 feet to a point; thence 93°40'13" to the right in a Southeasterly direction a distance of 196.28 feet to the POINT OF BEGINNING.

Containing 19,969.02 square feet or 0.46 acre.

PARKING DECK TRACT

A parcel of land situated in the South 1/2 of the Southeast 1/4 of Section 19, Township 19 South, Range 2 West, and the Northwest 1/4 of the Northeast 1/4 of Section 30, Township 19 South, Range 2 West, being more particularly described as follows:

Commence at the Southeast corner of the Northeast 1/4 of the Southeast 1/4 of Section 19, Township 19 South, Range 2 West and turn an angle of 137°24'35" to the left from the East line of said 1/4 - 1/4 section and run in a Southwesterly direction a distance of 1664.71 feet to the POINT OF BEGINNING; thence 40°56'17" to the right in a Southeasterly direction a distance of 62.71 feet to a point; thence 90°00' to the right in a Northwesterly direction a distance of 0.50 feet to a point; thence 90°00' to the left in a Southwesterly direction a distance of 305.88 feet to a point; thence 90°00' to the right in a Northwesterly direction a distance of 130.87 feet to a point; thence 90°00' to the left in a Southwesterly direction a distance of 0.50 feet to a point; thence 90°00' to the right in a Northwesterly direction a distance of 72.71 feet to a point; thence 90°00' to the right in a Northeasterly direction a distance of 369.08 feet to a point; thence 90°00' to the right in a Southeasterly direction a distance of 204.08 feet to the POINT OF BEGINNING.

Containing 75,103.90 square feet or 1.72 acres.

TRAINING CENTER TRACT

A parcel of land situated in the Southwest 1/4 of the Northeast 1/4 of Section 30, Township 19 South, Range 2 West, being more particularly described as follows:

Commence at the Southeast corner of the Northeast 1/4 of the Southeast 1/4 of Section 19, Township 19 South, Range 2 West and turn an angle of 155°39'58" to the left from the East line of said 1/4 - 1/4 section and run in a Southwesterly direction a distance of 2188.68 feet to the POINT OF BEGINNING; thence 46°11'49" to the right in a Southwesterly direction a distance of 101.89 feet to a point; thence 90°00' to the right in a Northwesterly direction a distance of 13.76 feet to a point; thence 63°45' to the left in a Northwesterly direction a distance of 60.31 feet to a point; thence 63°45' to the left in a Southwesterly direction a distance of 13.76 feet to a point; thence 90°00' to the right in a Northwesterly direction a distance of 101.89 feet to a point; thence 90°00' to the left in a Southwesterly direction a distance of 92.00 feet to a point; thence 90°00' to the left in a Southeasterly direction a distance of 133.04 feet to a point on a curve to the left having a radius of 49.00 feet and a central angle of 54°14'49"; thence 64°37'25" to the right (angle measured to tangent) along said curve in a Southeasterly direction a distance of 46.39 feet to a point; thence 64°37'24" to the right (angle measured to tangent) in a Southwesterly direction a distance of 163.04 feet to a point; thence 90°00' to the left in a Southeasterly direction a distance of 92.00 feet to a point; thence 90°00' to the left in a Northeasterly direction a distance of 133.79 feet to a point; thence 90°00' to the right in a Southeasterly direction a distance of 11.21 feet to a point; thence 63°45' to the left in a Northeasterly direction a distance of 59.17 feet to a point; thence 26°14'59" to the right in a Northeasterly direction a distance of 21.79 feet to a point; thence 90°00' to the right in a Southeasterly direction a distance of 56.79 feet to a point; thence 90°00' to the left in a Northeasterly direction a distance of 76.00 feet to a point; thence 90°00' to the left in a Northwesterly direction a distance of 68.00 feet to a point; thence 90°00' to the right in a Northeasterly direction a distance of 6.00 feet to a point; thence 90°00' to the left in a Northwesterly direction a distance of 39.00 feet to a point; thence 90°00' to the right in a Northeasterly direction a distance of 25.00 feet to a point; thence 90°00' to the left in a Northwesterly direction a distance of 64.00 feet to a point; thence 90°00' to the left in a Southwesterly direction a distance of 25.00 feet to a point; thence 90°00' to the right in a Northwesterly direction a distance of 39.00 feet to the POINT OF BEGINNING.

Containing 65,511.36 square feet or 1.50 acres.

TOGETHER WITH, all Buildings, structures and other improvements lying within the perimetrical boundaries of the descriptions: North Building Tract; South Building Tract; Pedestrian Bridge Building Tract; the Training Center Tract and Parking Deck Tract (collectively, the "Building Tracts").

TOGETHER WITH, perpetual, non-exclusive access and use easements, on and over the site development; use of the parking facilities and parking decks and through all common areas for purpose of ingress and egress to the Building Tracts, all as created by that certain Declaration and Grant of Covenants, Easements and Restrictions, dated June 1, 1994 by AmSouth Riverchase, Inc., recorded in the Office of the Judge of Probate of Shelby County, Alabama.

Schedule B

Description of Debtor and Secured Party

A. Debtor:

1. The name and identity of Mortgagor is: Sun Riverchase, Limited Partnership, a California limited partnership.
2. The principal place of business of Mortgagor in the State of California is located at One SunAmerica Center, Los Angeles, California 90067-6022
3. Debtor has been using or operating under said name and identity without change since May 16, 1994 in California and since May 24, 1994 in Alabama.

B. Secured Party

Column Financial, Inc., a Delaware corporation

C. Record Owner of Land:

AmSouth Riverchase, Inc., an Alabama corporation

Schedule C

Additional Permitted Liens

1. Taxes due and payable October 1, 1994.
Prior Tax I.D. #58-10-4-19-0-001-001 (\$36,300.00) 1993 Amount
Prior Tax I.D. #58-10-4-20-0-001-048 (\$666.40) 1993 Amount
Prior Tax I.D. #58-10-9-30-0-001-002 (\$25,912.15) 1993 Amount
Prior Tax I.D. #58-10-4-20-0-001-47.001 (\$600.00) 1993 Amount
2. Title to all minerals within and underlying the premises, together with all mining rights and other rights, privileges and immunities relating thereto as recorded in Deed Book 127, Page 140; Deed Book 176, Page 186 and Deed Book 5, Page 713 Shelby County.
3. Easement and right-of-way granted Alabama Gas Corporation recorded in Deed Book 206, Page 24, and in Deed Book 205, Page 521, Shelby County and Volume 6274, Page 102, Jefferson County.
4. Right-of-way granted Alabama Power Company recorded in Deed Book 310, Page 595, Shelby County.
5. Covenants, restrictions and easements as set out in Deed Book 352, Page 176 and Deed Book 315, Page 758, in the Probate Office of Shelby County.
6. Land Use Agreement between the Harbert-Equitable Joint Venture and Blue Cross and Blue Shield of Alabama, recorded in Misc. Book 19, beginning at Page 690, in the Probate Office of Shelby County, as amended per Agreement dated September 19, 1983, as recorded in Misc. Book 16, beginning at Page 64, in Shelby County.
7. Declaration of Protective Covenants, Agreements, Easements, Charges and Liens for Riverchase (Business), records in Misc. 13, beginning at Page 189, as further amended by Amendment No. 2, recorded in Misc. Book 19, beginning at Page 633, and further amended in Deed Book 352, Page 177, Deed Book 315, Page 758 and as Instrument No. 1993-05236, in Shelby County, Alabama.
8. All existing, future or potential common law or statutory rights of access between the rights of I-65 and subject property as conveyed and relinquished to the State of Alabama.

9. Terms and conditions of the Leasehold estates to be insured by the Title Policies: (a) Memorandum of Ground Lease Agreement dated June 1, 1994, by and between AmSouth Riverchase, Inc. (Lessor) and Sun Riverchase, Limited Partnership (Lessee).
- (b) Memorandum of Sub-Lease dated June 1, 1994, by and between Sun Riverchase, Limited Partnership (Sub-Lessor) and AmSouth Bank, N.A. (Sub-Lessee).
- (c) Ground Lease dated June 1, 1994, by and between AmSouth Riverchase, Inc. (Lessor) and AmSouth Bank N.A. (Sub-Lessee).
10. Easements of varying widths and building set back lines as shown on Survey of Walter Schoel Engineering, dated April 28, 1994 and on Map Book 17, Page 10A through C and Map Book 17, Pages 8, 11 and 12; and Map Book 18, Page 83.
11. Declaration and Grant of Covenants, Easements and Restrictions dated the first day of June, 1994 recorded in Document # 1994-17860.
12. Encroachment of Building into 20 foot easement over and across Parking Deck Tract as shown by the Survey of Walter Schoel, Jr. dated May 6, 1994.
13. Easement of various widths encroaching into the westerly portion of the Training Center Tract as shown by the Survey of Walter Schoel, Jr. dated May 6, 1994.

Schedule D

Cash Collateral

<u>No.</u>	<u>Amount</u>	<u>Semi-Annual Due Date</u>
1.	\$3,477,702	December 1, 1994
2.	\$3,477,702	June 1, 1995
3.	\$3,477,702	December 1, 1995

Total: \$10,433,106

Appendix A

Definitions and Rules of Usage

Unless the context otherwise requires:

(a) any term defined below by reference to another instrument or document shall continue to have the meaning ascribed thereto in such other instrument or document as of the date hereof, whether or not such other instrument or document remains in effect or is modified;

(b) words importing the singular include the plural and vice versa;

(c) words importing a gender include any gender;

(d) a reference in a document to a part, clause, party, section, article, paragraph, exhibit or schedule with no other qualification is a reference to a part, clause, section, article or paragraph in, or a party, exhibit or schedule to, such document;

(e) a reference to any statute, regulation, proclamation, ordinance or law includes all statutes, regulations, proclamations, ordinances or laws varying, consolidating or replacing them, and a reference to a statute includes all regulations, proclamations and ordinances issued or otherwise applicable under that statute;

(f) a reference to a document includes all amendments, modifications or supplements to, or renewals, extensions, replacements or novations of, that document; and

(g) a reference to a party to a document includes that party's permitted successors and assigns under such document.

"Actual Knowledge" shall mean actual knowledge of, including any written notices received by, any officer of Mortgagor having responsibility for administration of the Loan or any Operative Document, provided that Mortgagor shall be deemed to have "actual knowledge" of any matter as to which Mortgagor has received notice pursuant to Section 20.01 of the Sublease, Section 12.10 of the Ground Lease, Section 12.01 of the Mortgage or any other notice provision of any other Loan Document or Operative Document.

"AmSouth Guaranty" shall mean the Guaranty Agreement, dated as of the date hereof, by Sublessee, as guarantor, in favor

of Mortgagor, as beneficiary, with respect to the obligations of Fee Owner under the Ground Lease and the Declaration.

"Applicable Laws and Regulations" shall mean all applicable laws (including Environmental Laws), rules, regulations, statutes, treaties, codes, ordinances, permits, certificates, orders and licenses of any federal, state, county, municipal or other governmental or regulatory authority, agency, board, commission, instrumentality, court or quasi-governmental authority, and applicable judgments, decrees, injunctions, writs, orders or like action of any court, arbitrator or other administrative, judicial or quasi-judicial tribunal or agency of competent jurisdiction (including those pertaining to health or safety and those pertaining to the construction, use or occupancy of the Property) and any restrictive covenant or deed restriction or easement of record, including, without limitation, the Declaration, in each case affecting the Property or the streets, sidewalks, vaults, vault spaces, curbs and gutters adjoining the Property, or the appurtenances to the Property, or the franchises and privileges connected therewith.

"Assignment of Contracts" shall have the meaning given to that term in Granting Clause Four of this Mortgage.

"Assignment of Rents" shall mean that certain Assignment of Leases and Rents dated the date hereof by Mortgagor in favor of Mortgagee, which Assignment of Leases and Rents is intended to be recorded in the Land Records immediately after the recording of this Mortgage.

"Bancorp Guaranty" shall mean the Guaranty Agreement, dated the date hereof, by Guarantor, as guarantor, in favor of Mortgagor, as beneficiary, with respect to the obligations of Sublessee under the Sublease, the Construction Agreement and the Infrastructure Improvement Agreement and the obligations of the Fee Owner under the Ground Lease and the Declaration.

"Bankruptcy Code" shall mean Title 11 of the U.S. Code, as amended.

"Business Day" shall mean any day other than a Saturday, Sunday or other day on which banks are authorized to be closed in either of the State of Alabama or the State of New York.

"Cash Collateral" shall have the meaning given to that term in Section 17.06 of this Mortgage.

"Casualty" shall mean any damage or destruction of the Improvements or any part thereof by fire or other casualty or cause.

"Claim" shall mean liabilities, obligations, damages, losses, demands, penalties, fines, claims, actions, suits, judgments, settlements, costs, expenses and disbursements (including, without limitation, reasonable legal fees and expenses and costs of investigation) of any kind and nature whatsoever.

"Closing Date" shall mean June 1, 1994.

"Condemnation" shall mean any condemnation, requisition or other taking, sale or transfer of the use, occupancy or title to the Property or any portion thereof in, by or on account of any actual or threatened eminent domain proceeding or other action by any governmental authority or other Person having the power of eminent domain.

"Construction Agreement" shall have the meaning given to that term in Granting Clause Four of this Mortgage.

"Construction Funds" shall mean those certain funds held by Depository under the Disbursement Agreement.

"Declaration" shall have the meaning given to that term in Granting Clause Five of this Mortgage.

"Disbursement Agreement" shall have the meaning given to that term in Granting Clause Four of this Mortgage.

"Environmental Laws" means any and all federal, state, local and foreign statutes, laws, judicial decisions, regulations, ordinances, rules, judgments, orders, decrees, codes, injunctions, permits, licenses and governmental restrictions, whether now or hereafter in effect, relating to the environment, the effect of the environment or pollutants, contaminants, hazardous substances or wastes on human health or to emissions, discharges or releases of pollutants, contaminants, hazardous substances or wastes into the environment including without limitation ambient air, surface water, ground water or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, hazardous substances or wastes or the clean-up or other remediation thereof.

"Equipment" shall have the meaning given to that term in Granting Clause Six of this Mortgage.

"Event of Default" shall have the meaning given to that term in Section 7.01 of this Mortgage.

"Excepted Payments" shall mean the security deposit and the payment of basic rent made by Sublessee on the Closing Date under the Sublease and the Excess Payments (as defined in the Assignment of Leases and Rents).

"FDI Act" shall mean the Federal Deposit Insurance Act (12 U.S.C. 1821 et seq.), as the same may be amended.

"Fee Owner" shall mean AmSouth Riverchase, Inc., an Alabama corporation .

"Ground Lease" shall mean the Ground Lease, dated as of the date hereof, between Fee Owner, as ground lessor, and Mortgagor, as ground lessee, affecting the Premises.

"Guarantor" shall mean AmSouth Bancorporation, a Delaware corporation.

"Hazardous Materials" shall mean any substance which is toxic, explosive, corrosive, flammable, radioactive or otherwise hazardous, including petroleum, its derivatives, by-products and other hydrocarbons, or any substance having any constituent elements displaying any of the foregoing characteristics, whether or not regulated under Environmental Laws.

"Holding Agent" shall mean State Street Bank and Trust Company in its capacity as agent for Mortgagee under Article 18 of this Mortgage.

"Improvements" shall have the meaning given to that term in Granting Clause Two of this Mortgage.

"Indebtedness" shall have the meaning given to that term in the Recital Clause of this Mortgage.

"Infrastructure Improvement Agreement" shall have the meaning given to that term in Granting Clause Four of this Mortgage.

"Intercreditor Agreement" shall mean the Intercreditor Agreement dated the date hereof between Mortgagee and Sublessee with respect to this Mortgage and the Subordinate Mortgage, which Intercreditor Agreement is intended to be recorded in the Land Records immediately after the recording of the Subordinate Mortgage.

"Land Records" shall have the meaning given to that term in Granting Clause One of this Mortgage.

"Lease Event of Default" shall have the meaning given to that term in Section 19.01 of the Sublease.

"Lessor Liens" shall mean Liens on or against the Mortgaged Property (i) which result from any act of, or any Claim against, Mortgagor which is not the responsibility of Sublessee or Fee Owner, or which result from any violation by Mortgagor of any of the terms of the Operative Documents which is not the responsibility of Sublessee or (ii) which result from Liens in

favor of any taxing authority by reason of any tax owed by Mortgagor and not otherwise payable by Sublessee under the Sublease or Fee Owner under the Ground Lease.

"Lien" shall mean any lien, mortgage, deed of trust, deed to secure debt, encumbrance, pledge, charge, lease, easement, servitude, or security interest of any kind, including any thereof arising under any conditional sale or other title retention agreement or Environmental Law.

"Loan" shall have the meaning given to that term in the Recital Clause of this Mortgage.

"Loan Documents" shall mean any agreement, instrument, certificate, affidavit or document now or hereafter evidencing and/or securing the Loan, or executed and/or delivered in connection therewith.

"Major Loan Document" shall mean any one or more of the Note, the Mortgage, the Assignment of Rents, the Consent Agreement dated the date hereof among Mortgagor, Mortgagee, Sublessee and Guarantor and the Agreement Regarding Representations, Warranties and Indemnities dated the date hereof among Mortgagor, Sublessee, Guarantor and DLJ Mortgage Capital, Inc.

"Mortgaged Property" shall have the meaning given to that term in the Recital Clause of this Mortgage.

"Mortgagee" shall mean Column Financial, Inc., a Delaware corporation, and its successors and assigns.

"Mortgagor" shall mean Sun Riverchase, Limited Partnership, a California limited partnership.

"Net Award" shall mean the entire award, compensation, insurance proceeds or other payment, if any, on account of any Condemnation or Casualty, less any expenses (including, but not limited to, reasonable attorneys' fees and expenses) incurred in collecting such award, compensation, insurance proceeds or other payment, which, pursuant to the Sublease or the Assignment of Rents, are to be paid or reimbursed from such award, compensation, insurance proceeds or other payments prior to application of the same to repair, restoration or rebuilding of the Improvements.

"Note" shall have the meaning given to that term in the Recital Clause of this Mortgage.

"Operative Documents" shall mean the Ground Lease, the Declaration, the Sublease, the AmSouth Guaranty, the Bancorp Guaranty, the Construction Agreement, the Disbursement Agreement,

the Subordinate Mortgage and the Infrastructure Improvement Agreement.

"Permitted Investments" shall mean (i) obligations of the United States of America, or obligations fully guaranteed as to interest and principal by the United States of America, maturing in not more than six months from the date such investment is made, (ii) certificates of deposit having a final maturity of not more than thirty (30) days after the date of issuance thereof of any commercial bank incorporated under the laws of the United States of America or any state thereof or the District of Columbia which bank is a member of the Federal Reserve System and has a combined capital and surplus of not less than \$300,000,000 and with a senior unsecured debt credit rating of A by S&P, (iii) commercial paper, rated A1 (or better) by S&P, having a remaining term until maturity of not more than ninety (90) days from the date such investment is made, and (iv) investments in shares of a money market fund or investment fund the assets of which consist only of the types of investments described in (i) above which fund is rated at least BBB+m or BBB+m-G by S&P.

"Permitted Liens" shall mean (i) the respective rights and interests of Sublessee, Mortgagor and Mortgagee pursuant to and as provided in the Loan Documents and the Operative Documents, (ii) Liens for taxes either not yet payable or being contested in good faith and by appropriate proceedings (a) as permitted under the Sublease or (b) by Mortgagor so long as such proceedings shall not involve any material danger of the sale, forfeiture or loss of any part of the Property, title thereto or any interest therein and shall not interfere with the use of the Property or the payment of Rent, (iii) materialmen's, mechanics', workers', repairmen's, employees' or other like Liens for amounts either not yet due or being contested in good faith and by appropriate proceedings (a) as permitted under the Sublease or (b) by Mortgagor so long as such proceedings shall not involve any material danger of the sale, forfeiture or loss of any part of the Property, title thereto or any interest therein, shall not interfere with the payment of Rent as provided in the Operative Documents, shall not affect the Lien of any Loan Document and shall not interfere with the use of the Property, (iv) Liens arising out of judgments or awards with respect to which at the time an appeal or proceeding for review is being prosecuted (a) as permitted under the Sublease or (b) by Mortgagor in good faith and either which have been bonded or for the payment of which adequate reserves shall have been provided so long as there is no material danger of the sale, forfeiture or loss of any part of the Property, title thereto or any interest therein, no interference with the payment of Rent as provided in the Operative Documents, the Lien of any Loan Document and no material interference with the use of the Property, (v) all matters set forth on Schedule C to this Mortgage, (vi) the

Subordinate Mortgage and (vii) assignments and subleases not prohibited by the Loan Documents or the Operative Documents.

"Person" shall mean any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization or a government or any agency or political subdivision thereof.

"Premises" shall have the meaning given to that term in Granting Clause One of this Mortgage.

"Property" shall have the meaning given to that term in Granting Clause Two of this Mortgage.

"Rating Agencies" shall mean Standard and Poor's Ratings Group and Fitch Investors Services, Inc.

"Rents" shall mean all rents, sums, income, revenues, accounts receivable, room rents, issues, profits and all other amounts arising out of or in connection with the Mortgaged Property, including without limitation, all oil and gas or other mineral royalties, but excluding the Excepted Payments.

"S&P" shall mean Standard & Poor's Ratings Group.

"Semi-Annual Due Date" shall mean each of the dates set forth on Schedule D.

"Single Purpose Entity" shall mean a partnership or corporation (an "Entity") that, among other things:

- (a) does not own and shall not own any asset other than (i) the Mortgaged Property, (ii) cash acquired through Excepted Payments or capital contributions by the partners or shareholders of such Entity and (iii) Permitted Investments;
- (b) is not engaged and shall not engage (and if such Entity is a partnership, no general partner of such partnership is engaged or shall engage) in any business other than those necessary for the ownership, management or operation of the Mortgaged Property as contemplated by the Operative Documents and has not and shall not enter into any contract or agreement with any general partner or affiliate of such Entity or any affiliate of any general partner of such Entity, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arms-length basis with third parties other than a

general partner or affiliate of such Entity or an affiliate of any general partner of such Entity;

- (c) has not incurred and shall not incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation) (and if such Entity is a partnership, no general partner of such partnership has incurred and shall not incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation)) other than the Loan, the obligations contemplated by the Operative Documents and customary expenses (not more than thirty (30) days past due) of operating the Mortgaged Property, including, without limitation, payments to U.S. Realty Advisors, Inc. under that certain Management Agreement dated the date hereof;
- (d) has not made and shall not make any loans or advances (other than advances under the Construction Agreement) to any third party (including any affiliate of such Entity or any general partner or principal or an affiliate of any general partner or principal of such Entity), provided that nothing contained herein shall prevent such Entity from making distributions to partners or shareholders of such Entity as permitted by its partnership agreement or articles of incorporation;
- (e) has done or caused to be done and shall do or cause to be done all things necessary to preserve its existence, and shall not, nor shall any partner, limited or general, or shareholder thereof, amend, modify or otherwise change the provisions of such Entity's partnership certificate, partnership agreement, articles of incorporation or by-laws that relate to its status as a Single Purpose Entity;
- (f) shall conduct and operate its business as contemplated by the Loan Documents and the Operative Documents;
- (g) shall maintain books and records and bank accounts separate from those of its affiliates, including its general partners;

- (h) shall be, and at all times shall hold itself out to the public as, a legal entity separate and distinct from any other entity (including any affiliate thereof, including any general partner or any affiliate of any general partner of such Entity);
- (i) shall maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations;
- (j) shall not seek or consent to the liquidation, dissolution or winding up, in whole or in part, of such Entity nor, if such Entity is a partnership, shall it permit the partners of such Entity to consent to the dissolution or liquidation in whole or in part of such Entity, and if such Entity is a partnership, such Entity shall not permit any general partner of such Entity to dissolve or consent to the dissolution or liquidation of any general partner of such Entity;
- (k) shall not commingle the funds and other assets of such Entity with those of any general partner of such Entity, any affiliate of a general partner of such Entity or any other Person;
- (l) has caused and at all times shall cause there to be at least one duly appointed member of the board of directors (an "Independent Director") of such Entity, if it is a corporation (and if such Entity is a partnership, the corporate general partner of such partnership shall have at least one duly appointed member of its board of directors) who shall not have been at the time of such individual's appointment, and may not have been at any time during the preceding two years (a) a stockholder who holds in excess of one percent (1%) of the outstanding securities of any class of stock of such Entity or any of its subsidiaries or affiliates (including any corporate general partner of such Entity) (a "Stockholder"), or an officer or employee of, such Entity, if it is a corporation (or if such Entity is a partnership, the corporate general partner of such partnership), or any of its subsidiaries or affiliates, (b) a supplier of goods or

services to such Entity, if such supplier received in the preceding year in excess of five percent (5%) of its gross revenues from such Entity or its affiliates subsidiaries (a "Supplier")(c) a person or other entity controlling any such Stockholder or Supplier or (d) a member of the immediate family of (i) any such Stockholder, officer, employee, Supplier or (ii) of any other director of such Entity (or any general partner of such Entity). (As used herein, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person or entity, whether through ownership of voting securities, by contract or otherwise);

- (m) has not caused and shall not cause the board of directors of such Entity, if such Entity is a corporation (or if such Entity is a partnership, any corporate general partner of such Entity) to take any action, under the terms of any certificate of incorporation, by-laws or any voting trust agreement with respect to any general partner common stock, requiring the unanimous affirmative vote of 100% of the members of the board of directors, unless at the time of such action there shall be at least one member who is an Independent Director;
- (n) shall hold its assets in its own name and shall conduct its business in such Entity's own name (and if such Entity is a partnership, its general partner and any partners of such general partner) and any shareholders of such Entity or any affiliates of such Entity (or of such general partner) each shall hold their respective assets in their own name and each such party shall conduct its business only in its own name;
- (o) shall maintain a sufficient number of employees in light of its contemplated business;
- (p) shall provide for its operating expenses and liabilities to come from its own funds and its general partners or shareholders shall provide for its operating expenses or liabilities from its own funds;

- (q) shall not acquire obligations or securities of, or make loans or advances to, any of its partners or shareholders, and any partners or shareholders of such Entity's partners or shareholders shall not acquire obligations or securities of, or make loans or advances to, any of its partners or shareholders;
- (r) shall not make any distributions to its partners or shareholders except as permitted in the Loan Documents or Operative Documents and its partners or shareholders shall not make any distributions to its partners or shareholders in violation of the Loan Documents or the Operative Documents;
- (s) shall continuously maintain, and if such Entity is a partnership, shall cause its shareholders, and if such Entity is a partnership, its general partner and any shareholder of such general partner to continuously maintain the resolutions, agreements and other instruments underlying the subject transaction official records;
- (t) will not fail to correct, and to cause its shareholders, or if such Entity is a partnership, its partners and any shareholder of any general partners to correct any known misunderstanding regarding the separate identity of such Entity and its shareholders, or if such Entity is a partnership, its partners and the shareholders of such partners, the general partner and the general partner or shareholders of the general partner with respect to the foregoing and the general partner and the general partner or the shareholders of the general partner will not fail to correct any known misunderstanding regarding the separate identity of the partnership, the general partner, or the general partner or the shareholders of the general partner;
- (u) has (and if such Entity is a partnership, the general partner shall have) a corporate charter or partnership agreement that provides that any claim for indemnification which any director, officer or partner of such Entity (or of such general partner) may have against such Entity (or such general partner) shall be subordinate to the

obligations of such Entity under the Loan Documents.

- (v) will not undertake any of the following actions without the unanimous consent of the directors of the corporation, including the independent director, or if such entity is a partnership, the unanimous consent of the partners and the unanimous consent of the directors, including the independent director, or any corporation that is a general partner of such partnership.
 - (a) file a bankruptcy or insolvency petition or otherwise institute insolvency proceedings;
 - (b) dissolve, liquidate, consolidate, merge or sell all or substantially all of the assets of the Corporation;
 - (c) engage in any business activity other than as provided in clause (a) above; or
 - (d) amend its corporate charter or partnership agreement;
- (w) has a corporate charter or partnership agreement that requires such Entity, and if such Entity is a partnership, each general partner thereof, to comply with clauses (a) through (v) above (excluding, however, with respect to any corporate general partner of any partnership, clauses, (e), (j), and (v), and such Entity, and each general partner, shall comply with all of the provisions of its corporate charter or partnership agreement, until one year and one day after the Indebtedness shall have been paid in full;
- (x) shall have delivered to Mortgagee a nonconsolidation opinion, in form and substance reasonably satisfactory to Mortgagee, with respect to such Entity and its shareholders or, if such Entity is a partnership, with respect to such Entity and its partners and the shareholders of such partners; and
- (y) shall not be wholly or in excess of ten percent (10%) beneficially owned, directly or indirectly, by an entity that may be subject

to rehabilitation under state insurance laws
or (ii) the FDI Act.

"Sublease" shall mean the Lease, dated the date hereof, between Mortgagor, as lessor, and Sublessee, as lessee, affecting the Premises, a memorandum of which Sublease is intended to be recorded in the Land Records prior to the recording of this Mortgage.

"Sublessee" shall mean AmSouth Bank N.A., a national banking association, and its permitted successors and assigns, as lessee under the Sublease.

"Subordinate Mortgage" shall mean the Subordinate Mortgage dated the date hereof by Mortgagor in favor of Sublessee, securing Mortgagor's obligation to return the security deposit posted under the Sublease, which Subordinate Mortgage is intended to be recorded in the Land Records after the recording of the Assignment of Rents and is affected by the Intercreditor Agreement.

Inst # 1994-17864

06/03/1994-17864
12:28 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
072 MCD 122354.50
-20-