

After recordation mail to:

Peter E. Barber, Esquire
Wallace, Jordan, Ratliff, Byers & Brandt
2000-A SouthBridge Parkway, Suite 525
Birmingham, AL 35209

Inst # 1995-13623

05/25/1995-13623
09:09 AM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE

009 MEL 516.00

This Instrument Prepared By:

Parker, Johnson, Cook & Dunlevie
1275 Peachtree Street, N.E.
Suite 700
Atlanta, Georgia 30309

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MORTGAGE AND SECURITY AGREEMENT
(Construction Loan)

THIS MORTGAGE AND SECURITY AGREEMENT (herein "Instrument") is made this 24th day of May, 1995, among the Mortgagor/Grantor, EVANGEL PRESBYTERIAN CHURCH, an Alabama non-profit corporation, whose address is Highway 95, P. O. Box 605, Helena, Alabama 35080 (herein "Borrower"), and the Mortgagee, PRESBYTERIAN INVESTORS FUND, INC., 1750 Century Circle, Suite 24, Atlanta, Georgia 30345 (herein "Lender").

WHEREAS, Borrower is indebted to Lender in the principal sum of THREE HUNDRED TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$325,000.00), which indebtedness is evidenced by Borrower's Construction Note dated of even date herewith (herein "Note"), providing for monthly installments of accrued interest, with the balance of the indebtedness, if not sooner paid, due and payable on June 1, 1996.

TO SECURE TO LENDER (a) the repayment of the indebtedness evidenced by the Note, with interest thereon, and all renewals, extensions and modifications thereof; (b) the repayment of any future advances, with interest thereon, made by Lender to Borrower (herein "Future Advances"); (c) any and all other indebtedness now owing or which may hereafter be owing by Borrower to Lender, however incurred, and all renewal or renewals, and extension or extensions, and modification or modifications, consolidation or consolidations of the Note or other indebtedness, either in whole or in part, whether direct or indirect; (d) the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Instrument; (e) the performance of the covenants and agreements of Borrower herein contained; (f) the performance of the covenants and agreements of Borrower contained in a Construction Loan Agreement between Lender and Borrower dated of even date herewith, as provided in Paragraph 31 hereof (the provisions of Paragraphs (a) - (f) being referred to as the "Secured Indebtedness") Borrower, in consideration of the indebtedness herein recited, irrevocably grants, conveys and assigns to Lender and Lender's successors and assigns, with power of sale, the following described property located in Shelby County, State of Alabama:

See Exhibit "A" attached hereto and incorporated herein by reference thereto.

To have and to hold unto Lender and Lender's successors and assigns, forever, TOGETHER with all buildings, improvements and tenements now or hereafter erected on the property, and all heretofore or hereafter vacated alleys and streets abutting the property, and all easements, rights, appurtenances, rents (subject however to the assignment of rents to Lender herein), royalties, mineral, oil and gas rights and profits, water, water rights, and water stock appurtenant to the property, and all fixtures, trade fixtures, machinery, equipment, engines, boilers, incinerators, building materials, appliances and goods of every nature whatsoever now or hereafter located in, or on, or used, or intended to be used in connection with the property, including, but not limited to, those for the purposes of supplying or distributing heating, cooling, electricity, gas, water, air and light; and all elevators, and related machinery and equipment, fire prevention and extinguishing apparatus, security and access control apparatus, plumbing, bathtubs, water heaters, water closets, sinks, ranges, stoves, refrigerators, dishwashers, disposals, washers, dryers, awnings, storm windows, storm doors, screens, blinds, shades, curtains and curtain rods, mirrors, cabinets, panelling, rugs, attached floor coverings, furniture, pictures, antennas, trees and plants; all and singular the tenements, hereditaments, easements, and appurtenances thereunto belonging or in anywise appertaining, the reversion or reversions, remainder and remainders, rents, issues, and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever of Borrower of, in and to the same, and of, in and to every part and parcel thereof; and any and all awards or payments, including interest thereon, and the right to receive the same, as a result of the exercise of the right of the eminent domain, the alteration of the grade of any street, or any other injury to, taking of, or decrease in the value of the premises herein described, to the extent of all amounts which may be secured by this Deed as of the date of receipt of any such award or payment by Grantee and of the reasonable attorneys' fees, costs and disbursements incurred by Grantee in connection with the collection of such award or payment, and all personalty or items of personal property owned by Borrower and located on, or used in connection with the Property and described on Exhibit "B" attached hereto and incorporated herein by this reference; all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the real property covered by this Instrument; and all of the foregoing, together with said property are herein referred to as the "Property."

Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant, convey and assign the Property, that the Property is unencumbered, except for the Prior Mortgage, as hereinafter defined, and that Borrower will warrant and defend generally the title to the Property against all claims and demands, subject to any easements and restrictions listed in a schedule of exceptions to coverage in a title insurance policy insuring Lender's interest in the Property; which exceptions, if any, have been approved by Lender.

Borrower and Lender covenant and agree as follows:

1. **PAYMENT OF PRINCIPAL AND INTEREST.** Borrower shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Note, any prepayment and late charges provided in the Note and all other sums secured by this Instrument.
2. **FUNDS FOR TAXES, INSURANCE AND OTHER CHARGES.** The remainder of this Paragraph intentionally deleted.
3. **APPLICATION OF PAYMENTS.** Unless applicable law provides otherwise, all payments received by Lender from Borrower under the Note or this Instrument shall be applied by Lender in the following order of priority: (i) amounts payable to Lender by Borrower under paragraph 2 hereof; (ii) interest payable on the Note; (iii) principal of the Note; (iv) interest payable on advances made pursuant to paragraph 8 hereof; (v) principal of advances made pursuant to paragraph 8 hereof; (vi) interest payable on any Future Advance, provided that if more than one Future Advance is outstanding, Lender may apply payments received among the amounts of interest payable

THIS INSTRUMENT IS ALSO DEEMED A FIXTURE FILING AS DEFINED IN THE UNIFORM COMMERCIAL CODE PROVISIONS OF THE ALABAMA STATUTES, AND IS TO BE INDEXED IN THE INDEX OF FINANCING STATEMENTS AS SET FORTH ON EXHIBIT "B" ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE (DESCRIBING DEBTOR, SECURED PARTY, COLLATERAL, AND MAILING ADDRESSES AS SET FORTH IN SAID STATUTES).

Carla Barber

on the Future Advances in such order as Lender, in Lender's sole discretion, may determine; (vii) principal of any Future Advances in such order as Lender, in Lender's sole discretion, may determine; and (viii) any other sums secured by this Instrument in such order as Lender, at Lender's option, may determine; provided, however, that Lender may, at Lender's option, apply any sums payable pursuant to paragraph 8 hereof prior to interest on and principal of the Note, but such application shall not otherwise affect the order of priority of application specified in this paragraph 3.

4. **CHARGES; LIENS.** Borrower shall pay all water and sewer rates, rents, taxes, assessments, premiums, and Other Impositions attributable to the Property by Borrower making payment, when due, directly to the payee thereof, or in such other manner as Lender may designate in writing. Borrower shall promptly discharge any lien which has, or may have, priority over or equality with, the lien of this Instrument, except for the Prior Mortgage and Borrower shall pay, when due, the claims of all persons supplying labor or materials to or in connection with the Property. Without Lender's prior written permission, Borrower shall not allow any lien inferior to this Instrument to be perfected against the Property.

5. **INSURANCE.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured by carriers at all times satisfactory to Lender against loss by fire, rent loss or business interruption, hazards included within the term "extended coverage," and such other hazards, casualties, liabilities and contingencies as Lender shall require and in such amounts and for such periods as Lender shall require. All premiums on insurance policies shall be paid, by Borrower making payment, when due, directly to the carrier, or in such other manner as Lender may designate in writing.

All insurance policies and renewals thereof shall be in a form acceptable to Lender and shall include a standard "New York" mortgage clause, if allowed by state law, in favor of and in form acceptable to Lender. Lender shall have the right to hold the policies, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. At least thirty (30) days prior to the expiration date of a policy, Borrower shall deliver to Lender a renewal policy in form satisfactory to Lender.

In the event of loss, Borrower shall give immediate written notice to the insurance carrier and to Lender. Borrower hereby authorizes and empowers Lender as attorney in fact for Borrower to make proof of loss, to adjust and compromise any claim under insurance policies, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, and to deduct therefrom Lender's expenses incurred in the collection of such proceeds; provided, however, that nothing contained in this paragraph 5 shall require Lender to incur any expense to take any action hereunder. Borrower further authorizes Lender, at Lender's option, (a) to hold the balance of such proceeds to be used to reimburse Borrower for the cost of reconstruction or repair of the Property or (b) to apply the balance of such proceeds to the payment of the sums secured by this Instrument, whether or not then due, in the order of application set forth in paragraph 3 hereof.

If the insurance proceeds are held by Lender to reimburse Borrower for the cost of restoration and repair of the Property, the Property shall be restored to the equivalent of its original condition or such other condition as Lender may approve in writing. Lender may, at Lender's option, condition disbursement of said proceeds on Lender's approval of such plans and specifications of an architect satisfactory to Lender, contractor's cost estimates, architect's certificates, waivers of liens, sworn statements of mechanics and materialmen and such other evidence of costs, percentage completion of construction, application of payments, and satisfaction of liens as Lender may reasonably require. If the insurance proceeds are applied to the payment of the sums secured by this Instrument, any such application of proceeds to principal shall not extend or postpone the due dates of the monthly installments referred to in paragraphs 1 and 2 hereof or change the amounts of such installments. If the Property is sold pursuant to paragraph 27 hereof or if Lender acquires title to the Property, Lender shall have all of the right, title and interest of Borrower in and to any insurance policies and unearned premiums thereon and in and to the proceeds resulting from any damage to the Property prior to such sale or acquisition.

6. **PRESERVATION AND MAINTENANCE OF PROPERTY.** Borrower (a) shall not commit waste or permit impairment or deterioration of the Property, (b) shall not abandon the Property, (c) shall restore or repair promptly and in a good and workmanlike manner all or any part of the Property to the equivalent of its original condition, or such other condition as Lender may approve in writing, in the event of any damage, injury or loss thereto, whether or not insurance proceeds are available to cover in whole or in part the costs of such restoration or repair, excepting normal wear and tear from the Borrower's obligations to restore and repair, (d) shall keep the Property, including improvements, fixtures, equipment, machinery and appliances thereon in good repair and shall replace fixtures, equipment, machinery and appliances on the Property when necessary to keep such items in good repair, (e) shall comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property, and (f) shall give notice in writing to Lender of and, unless otherwise directed in writing by Lender, appear in and defend any action or proceeding purporting to affect the Property, the security of this Instrument or the rights or powers of Lender. Neither Borrower nor any tenant or other person shall remove, demolish or alter any improvement now existing or hereafter erected on the Property or any fixture, equipment, machinery or appliance in or on the Property except when incident to the replacement of fixtures, equipment, machinery and appliances with items of like kind, without the prior consent of Lender.

7. **USE OF PROPERTY.** Unless required by applicable law or unless Lender has otherwise agreed in writing, Borrower shall not allow changes in the use for which all or any part of the Property was intended at the time this Instrument was executed. Borrower shall not initiate or acquiesce in a change in the zoning classification of the Property without Lender's prior written consent.

8. **PROTECTION OF LENDER'S SECURITY.** If Borrower fails to perform the covenants and agreements contained in this Instrument, or if any action or proceeding is commenced which affects the Property or title thereto or the interest of Lender therein, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Lender at Lender's option may make such appearances, disburse such sums and take such action as Lender deems necessary, in its sole discretion, to protect Lender's interest, including, but not limited to, (i) disbursement of attorneys' fees, (ii) entry upon the Property to make repairs, (iii) procurement of satisfactory insurance as provided in paragraph 5 hereof.

Any amounts disbursed by Lender pursuant to this paragraph 8, with interest thereon, shall become additional indebtedness of Borrower secured by this Instrument. Unless Borrower and Lender agree to other terms of payment, such amounts shall be immediately due and payable and shall bear interest from the date of disbursement at the rate stated in the Note unless collection from Borrower of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Borrower under applicable law. Borrower hereby covenants and agrees that Lender shall be subrogated to the lien of any mortgage or other lien discharged, in whole or in part, by the indebtedness secured hereby. Nothing contained in this paragraph 8 shall require Lender to incur any expense or take any action hereunder.

9. **INSPECTION.** Lender may make or cause to be made reasonable entries upon and inspections of the Property.

10. **BOOKS AND RECORDS.** Borrower shall keep and maintain at all times at Borrower's address stated below, or such other place as Lender may approve in writing, complete and accurate books of accounts and records adequate to reflect correctly the results of the operation of the Property and copies of all written contracts, leases and other instruments which affect the Property. Such books, records, contracts, leases and other instruments shall be subject to examination and inspection at any reasonable time by Lender. Upon Lender's request, Borrower shall furnish to Lender, a balance sheet, a statement of income and expenses of the Property and a statement of changes in financial position, each in reasonable detail and certified by Borrower.

11. **CONDEMNATION.** Borrower shall promptly notify Lender of any action or proceeding relating to any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, and Borrower shall appear in and prosecute any such action or proceeding unless otherwise directed by Lender in writing. Borrower authorizes Lender, at Lender's option, as attorney-in-fact for Borrower, to commence, appear in and prosecute, in Lender's or Borrower's name, any action or proceeding relating to any condemnation or other taking of the Property, whether direct or indirect, and to settle or compromise any claim in connection with such condemnation or other taking. The proceeds of any award, payment or claim for damages, direct or consequential, in connection with any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, or for conveyances in lieu of condemnation, are hereby assigned to and shall be paid to Lender.

Borrower authorizes Lender to apply such awards, payments, proceeds or damages, after the deduction of Lender's expenses incurred in the collection of such amounts, at Lender's option, to restoration or repair of the Property or to payment of the sums secured by this Instrument, whether or not then due, in the order of application set forth in paragraph 3 hereof, with the balance, if any, to Borrower. Unless Borrower and Lender otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly installments referred to in paragraphs 1 and 2 hereof or change the amount of such installments. Borrower agrees to execute such further evidence of assignment of any awards, proceeds, damages or claims arising in connection with such condemnation or taking as Lender may require.

12. **BORROWER AND LIEN NOT RELEASED.** From time to time, Lender may, at Lender's option, without giving notice to or obtaining the consent of Borrower, Borrower's successors or assigns or of any junior lienholder or guarantors, without liability on Lender's part and notwithstanding Borrower's breach of any covenant or agreement of Borrower in this Instrument, extend the time for payment of said indebtedness or any part thereof, reduce the payments thereon, release anyone liable on any of said indebtedness, accept a renewal note or notes therefor, modify the terms and time of payment of said indebtedness, release from the lien of this Instrument any part of the Property, take or release other or additional security, reconvey any part of the Property, consent to any map or plan of the Property, consent to the granting of any easement, join in any extension or subordination agreement, and agree in writing with Borrower to modify the rate of interest or period of amortization of the Note or change the amount of the monthly installments payable thereunder. Any actions taken by Lender pursuant to the terms of this paragraph 12 shall not affect the obligations of Borrower or Borrower's successors or assigns to pay the sums secured by this Instrument and to observe the covenants of Borrower contained herein, shall not affect the guaranty of any person, corporation, partnership or other entity for payment of the indebtedness secured hereby, and shall not affect the lien or priority of lien hereof on the Property. Borrower shall pay Lender a reasonable service charge, together with such title insurance premiums and attorneys' fees as may be incurred at Lender's option, for any such action if taken at Borrower's request.

13. **FORBEARANCE BY LENDER NOT A WAIVER.** Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by Lender of payment of any sum secured by this Instrument after the due date of such payment shall not be a waiver of Lender's right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Instrument, nor shall Lender's receipt of any awards, proceeds or damages under paragraphs 5 and 11 hereof operate to cure or waive Borrower's default in payment of sums secured by this Instrument.

14. **ESTOPPEL CERTIFICATE.** Borrower shall, within ten (10) days of a written request from Lender furnish Lender with a written statement, duly acknowledged, setting forth the sums secured by this Instrument and any right of set-off, counterclaim or other defense which exists against such sums and the obligations of this Instrument.

15. **UNIFORM COMMERCIAL CODE SECURITY AGREEMENT.** This Instrument is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the items specified above as part of the Property which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and Borrower hereby grants Lender a security interest in said items. Borrower agrees that Lender may file this Instrument, or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any of the items specified above as part of the Property. Any reproduction of this Instrument or of any other security agreement or financing statement shall be sufficient as a financing statement. In addition, Borrower agrees to execute and deliver to Lender, upon Lender's request, any financing statements, as well as extensions, renewals and amendments thereof, and reproductions of this Instrument in such form as Lender may require to perfect a security interest with respect to said items. Borrower shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements Lender may reasonably require. Without the prior written consent of Lender, Borrower shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said items, including replacements and additions thereto. Upon Borrower's breach of any covenant or agreement of Borrower contained in this Instrument, including the covenants to pay when due all sums secured by this Instrument, Lender shall have the remedies of a secured party under the Uniform Commercial Code and, at Lender's option, may also invoke the remedies provided in paragraph 27 of this Instrument as to such items. In exercising any of said remedies, Lender may proceed against the items of real property and any items of personal property specified above as part of the Property separately or together and in any order whatsoever, without in any way affecting the availability of Lender's remedies under the Uniform Commercial Code or of the remedies provided in paragraph 27 of this Instrument.

16. **LEASES OF THE PROPERTY.** Borrower shall comply with and observe Borrower's obligations as landlord under all leases of the Property or any part thereof. Borrower, at Lender's request, shall furnish Lender with executed copies of all leases now existing or hereafter made of all or any part of the Property, and all leases now or hereafter entered into will be in form and substance subject to the approval of Lender. All leases of the Property, at the option of Lender, shall specifically provide that such leases are subordinate to this Instrument; that the tenant attorns to Lender, such attornment to be effective, at the option of Lender, upon Lender's acquisition of title to the Property; that the tenant agrees to execute such further evidences of attornment as Lender may from time to time request; that the attornment of the tenant shall not be terminated by foreclosure; and that Lender may, at Lender's option accept or reject such attornments. Borrower shall not,

without Lender's written consent, execute, modify, surrender or terminate, either orally or in writing, any lease now existing or hereafter made of all or any part of the Property providing for a term of three (3) years or more, permit an assignment or sublease of such a lease without Lender's written consent, or request or consent to the subordination of any lease of all or any part of the Property to any lien subordinate to this Instrument. If Borrower becomes aware that any tenant proposes to do, or is doing, any act or thing which may give rise to any right to set-off against rent, Borrower shall (i) take such steps as shall be reasonably calculated to prevent the accrual of any right of set-off against rent, (ii) notify Lender thereof and of the amount of said set-offs, and (iii) within ten (10) days after such accrual, reimburse the tenant who shall have acquired such right to set-off or take such other steps as shall effectively discharge such set-off and as shall assure that rents thereafter due shall continue to be payable without set-off or deduction.

17. **REMEDIES CUMULATIVE.** Each remedy provided in this Instrument is distinct and cumulative to all other rights or remedies under this Instrument or afforded by law or equity, and may be exercised concurrently, independently, or successively, in any order whatsoever.

18. **ACCELERATION IN CASE OF BORROWER'S INSOLVENCY.** If Borrower shall voluntarily file a petition under the Federal Bankruptcy Act, as such Act may from time to time be amended, or under any similar or successor federal statute relating to bankruptcy, insolvency, arrangements or reorganizations, or under any state bankruptcy or insolvency act, or file an answer in an involuntary proceeding admitting insolvency or inability to pay debts, or if Borrower shall fail to obtain a vacation or stay of involuntary proceedings brought for the reorganization, dissolution or liquidation of Borrower, or if Borrower shall become adjudged a bankrupt, or if a trustee or receiver shall be appointed for Borrower or Borrower's property, or if the Property shall become subject to the jurisdiction of a federal bankruptcy court or similar state court, or if Borrower shall make an assignment for the benefit of Borrower's creditors, or if there is an attachment, execution or other judicial seizure of any portion of Borrower's assets and such seizure is not discharged within ten (10) days, then Lender may, at Lender's option, declare all of the sums secured by this Instrument to be immediately due and payable without prior notice to Borrower, and Lender may invoke any remedies permitted by paragraph 27 of this Instrument. Any attorneys' fees and other expenses incurred by Lender in connection with Borrower's bankruptcy or any of the other aforesaid events shall be additional indebtedness of Borrower secured by this Instrument pursuant to paragraph 8 hereof.

19. **TRANSFERS OF THE PROPERTY OR BENEFICIAL INTERESTS IN BORROWER; ASSUMPTION.** On sale or transfer of (i) all or any part of the Property, or any interest therein, or (ii) beneficial interests in Borrower (if Borrower is not a natural person or persons but is a corporation, partnership, trust or other legal entity), or (iii) the placing of a junior lien or encumbrance against the Property, Lender may, at Lender's option, declare all of the sums secured by this Instrument to be immediately due and payable, and Lender may invoke any remedies permitted by paragraph 27 of this Instrument. In the event that at any time during the term of this Loan Borrower withdraws, is removed, or in whatever manner leaves the Presbyterian Church in America, then, in such event Lender shall have the right to declare the Loan in default and pursue all available legal remedies against Borrower.

20. **NOTICE.** Except for any notice required under applicable law to be given in another manner, (a) all notices, requests, demands, waivers, or other communications given as provided in this Assignment will be in writing, and unless otherwise specifically provided in this Assignment, will be deemed to have been given: (i) if delivered in person, upon delivery, or (ii) if mailed by certified or registered mail, postage prepaid, and addressed to Owner or Lender at the addresses provided below on the second business day after deposit in the United States mail if addressed to an address located within the same state in which the notice is being mailed or on the third business day after deposit in the United States mail if addressed to an address located within a state other than the state in which the notice is being mailed, or (iii) if sent by overnight express delivery service, enclosed in a prepaid envelope and addressed to Lender or Owner at the addresses provided below, on the first business day after deposit with the service, or (iv) if sent by tested telex, telegram, telecopy, or other form of rapid transmission confirmed by mailing (as provided in this paragraph), at substantially the same time as the rapid transmission. Either Lender or Owner may change its respective address as provided in this paragraph by giving written notice of the change as provided in this paragraph. The addresses for notice are:

(1) NOTICE TO OWNER:

Evangel Presbyterian Church
Highway 95, P. O. Box 605
Helena, Alabama 35080
Attention: Mr. Larry Harris

With a copy to:

Wallace, Jordan, Ratliff, Byers & Brandt, L.L.C.
2000A Southbridge Parkway
Suite 525
Birmingham, Alabama 35209
Attention: Peter E. Barber, Esq.

(2) NOTICE TO LENDER:

Presbyterian Investors Fund, Inc.
1750 Century Circle, Suite 24
Atlanta, Georgia 30345
Attention: Rev. John T. Ottinger

With a copy to:

Parker, Johnson, Cook & Dunlevie
Suite 700
1275 Peachtree Street, N.E.
Atlanta, Georgia 30309
Attention: Amelia Hughes Huskins, Esq.

21. **SUCCESSORS AND ASSIGNS BOUND; JOINT AND SEVERAL LIABILITY; AGENTS; CAPTIONS.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 19 hereof. All covenants and agreements of Borrower shall be joint and several. In exercising any rights hereunder or taking any actions provided for herein, Lender may act through its employees, agents or independent contractors as authorized by Lender. The captions and headings of the paragraphs of this Instrument are for convenience only and are not to be used to interpret or define the provisions hereof.

22. **GOVERNING LAW; SEVERABILITY.** This Instrument shall be governed by the law of the jurisdiction in which the Property is located, time being of the essence of this Agreement. In the event that any provision of this Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Instrument or the Note which can be given effect without the conflicting provisions, and to this end the provisions of this instrument and the Note are declared to be severable. In the event that any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower is interpreted so that any charge provided for in this Instrument or in the Note, whether considered separately or together with other charges levied in connection with this Instrument and the Note, violates such law, and Borrower is entitled to the benefit of such law, such charge is hereby reduced to the extent necessary to eliminate such violation. The amounts, if any, previously paid to Lender in excess of the amounts payable to Lender pursuant to such charges as reduced shall be applied by Lender to reduce the principal of the indebtedness evidenced by the Note. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower has been violated, all indebtedness which is secured by this Instrument or evidenced by the Note and which constitutes interest, as well as all other charges levied in connection with such indebtedness which constitute interest, shall be deemed to be allocated and spread over the stated term of the Note. Unless otherwise required by applicable law, such allocation and spreading shall be effected in such a manner that the rate of interest computed thereby is uniform throughout the stated term of the Note.

23. **WAIVER OF STATUTE OF LIMITATIONS.** Borrower hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien of this Instrument or to any action brought to enforce the Note or any other obligation secured by this Instrument.

24. **WAIVER OF MARSHALLING.** Notwithstanding the existence of any other security interests in the Property held by Lender or by any other party, Lender shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided herein. Lender shall have the right to determine the order in which any or all portions of the indebtedness secured hereby are satisfied from the proceeds realized upon the exercise of the remedies provided herein. Borrower, any party who consents to this Instrument and any party who now or hereafter acquires a security interest in the Property and who has actual or constructive notice hereof hereby waives 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.

25. **ENVIRONMENTAL CONDITIONS.** Borrower warrants and certifies that: (a) Borrower is in compliance with all applicable environmental statutes and regulations, court or administrative orders (including, without limitation, the Resource Conservation and Recovery Act, and the Comprehensive Environmental Response, Compensation, and Liability Act); and (b) to the best of its knowledge, that the Premises does not contain any chemical, material, or substance (including, without limitation, asbestos, asbestos-containing materials, urea formaldehyde foam insulation, transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls in excess of 50 parts per million, petroleum products, hazardous wastes, and/or substances and toxic wastes and/or substances), the storage of which or the exposure to which is prohibited, limited, or regulated, may pose a hazard to the health and safety of the occupants of said Premises or to that of the owners or occupants of real property in proximity thereto. Borrower further covenants and warrants that it shall not cause or allow any lien to be recorded against the Property as a consequence of, or in any way related to, the presence, remediation or disposal of any hazardous chemical, material, or substance, as more particularly described hereinabove, in or relating to the Property, or related, in any way to the activities of Borrower, including any mechanics', materialmen's, supplier's, or laborer's liens, or any state, federal, or local environmental liens relating to such matters. In the event that any such chemicals, materials, or substances referenced above are discovered on or in the Premises, Borrower agrees to take responsibility of and shall pay all costs in connection with any investigation and remedial activity, including, without limitation, all installation, operation, maintenance, testing and monitoring costs, and all power and utility costs that may be applicable to such remedial action. All remedial or removal action of said chemicals, materials, or substances shall be performed in a good, safe, and workmanlike manner, in compliance with all laws and regulations applicable thereto, and Borrower shall diligently pursue such investigation and remedial activity until Borrower is allowed to terminate these activities by those governmental authorities having jurisdiction thereof. Promptly upon Borrower's remediation of the Property as referenced herein, and upon Borrower's complete performance and satisfaction of all of its obligations hereunder, Borrower shall permanently seal and close all monitoring ditches, holes, wells, and other items to industry standards in compliance with all applicable federal, state and local laws, ordinances and regulations, shall and restore the Premises to its condition existing immediately prior to the date of discovery of the damage, which shall include, without limitation, the repair of any surface damage, including paving, caused by the remedial activities referenced herein. Borrower's failure to comply with the warranties and covenants contained herein shall be deemed to be an event of default hereunder, at the option of Lender herein. Borrower further shall furnish to Lender proof, satisfactory to Lender, from time to time as reasonably requested by Lender, that Borrower and the Premises are in full compliance with all such statutes, regulations, ordinances or orders, including, but not limited to proof of required reporting and testing. Borrower further shall furnish to Lender, in form and content satisfactory to Lender, from time to time during the term of the Loan, as reasonably requested by Lender but limited to one per year, at Borrower's sole cost and expense, a satisfactory inspection of the Premises prepared by an inspector approved by Lender, which inspection shall provide that there are no hazardous or toxic wastes, substances, chemicals, materials, pollutants, petroleum products, asbestos-related materials, or polychlorinated biphenyls located on or affecting the Premises.

26. **APPOINTMENT OF RECEIVER; LENDER IN POSSESSION.** Upon Borrower's breach of any covenant or agreement of Borrower in this Instrument, Lender may in person, by agent or by a court-appointed receiver, regardless of the adequacy of Lender's security, enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof including, but not limited to, the execution, cancellation or modification of leases, the collection of all rents and revenues of the Property, the making of repairs to the Property and the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as are deemed best to protect the security of this Instrument. In the event Lender elects to seek the appointment of a receiver for all the Property upon Borrower's breach of any covenant or agreement of Borrower in this Instrument, Borrower hereby expressly consents to the appointment of such receiver. Lender or the receiver shall be entitled to receive a reasonable fee for so managing the Property.

All rents and revenues collected subsequent to delivery of written notice by Lender to Borrower of the breach by Borrower of any covenant or agreement of Borrower in this Instrument shall be applied first to the costs, if any, of taking control of and managing the Property and collecting the rents, including, but not limited to, attorneys' fees, receiver's fees, premiums on receiver's bonds, costs of repairs to the Property, premiums on insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligation or liability of Borrower as lessor or landlord of the Property and then to the sums secured by this Instrument. Lender or the receiver shall have access to the books and records used in the operation and maintenance of the Property and shall be liable to account only for those rents actually received. Lender shall not be liable to Borrower, anyone claiming under or through Borrower or anyone having an interest in the Property by reason of anything done or left undone by Lender under this paragraph 26.

If the rents of the Property are not sufficient to meet the costs, if any, of taking control of and managing the Property and collecting the rents, any funds expended by Lender for such purposes shall become indebtedness of Borrower to Lender secured by this Instrument pursuant to paragraph 8 hereof. Unless Lender and Borrower agree in writing to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof and shall bear interest from the date of disbursement at the rate stated in the Note unless payment of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Borrower under applicable law.

Any entering upon and taking and maintaining of control of the Property by Lender or the receiver and any application of rents as provided herein shall not cure or waive any default hereunder or invalidate any other right or remedy of Lender under applicable law or provided herein.

27. ACCELERATION; REMEDIES. Upon Borrower's breach of any covenant or agreement of Borrower in this Instrument, including, but not limited to, the covenants to pay when due any sums secured by this Instrument, then, after ten business days' written notice and right to cure, Lender at Lender's option may declare all of the sums secured by this Instrument to be immediately due and payable without further demand, and may invoke the power of sale and any other remedies permitted by applicable law or provided herein. Borrower acknowledges that the power of sale herein granted may be exercised by lender without prior judicial hearing. Borrower has the right to bring an action to assert the non-existence of a breach or any other defense of Borrower to acceleration and sale. Lender shall be entitled to collect all costs and expenses incurred in pursuing such remedies, including, but not limited to, reasonable attorney's fees and costs of documentary evidence, abstracts and title reports.

If Lender invokes the power of sale, Lender shall mail a copy of a notice of sale to Borrower in the manner provided in paragraph 20 hereof. Lender shall publish the notice of sale once a week for three consecutive weeks in a newspaper published in Shelby County, Alabama, and thereupon shall sell the Property to the highest bidder at a public auction at the front door of the County Courthouse of said County. Lender may sell the Property in one or more parcels and in such order as Lender may determine. Lender may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or Lender's designee may purchase the Property at any sale.

Lender shall deliver to the purchaser Lender's deed conveying the Property so sold without any covenant or warranty, expressed or implied. The recitals in Lender's deed shall be prima facie evidence of the truth of the statements made therein. Borrower covenants and agrees that the proceeds of the sale shall be applied in the following order: (a) to all costs and expenses of the sale, including, but not limited to, attorney's fees and costs of title evidence; (b) to all sums secured by this Instrument in such order as Lender, in Lender's sole discretion, directs; and (c) the excess, if any, to the person or persons legally entitled thereto.

If the Property is sold pursuant to this paragraph 27, Borrower, or any person holding possession of the Property through Borrower, shall surrender possession of the Property to the purchaser at such sale on demand. If possession is not surrendered on demand, Borrower or such person shall be a tenant holding over and may be dispossessed in accordance with applicable law.

28. RELEASE. Upon payment of all sums secured by this Instrument, this Instrument shall become null and void, and Lender shall release this Instrument. Borrower shall pay Lender's reasonable costs incurred in releasing this Instrument.

29. WAIVER OF EXEMPTIONS, DOWER AND CURTESY. Borrower hereby waives all rights of exemption as to personal property and relinquishes all right of dower and curtesy in the Property.

30. FUTURE ADVANCES. Upon request of Borrower, Lender, at Lender's option so long as this Instrument secures indebtedness held by Lender, may make Future Advances to Borrower. Such Future Advances, with interest thereon, shall be secured by this Instrument when evidenced by promissory notes stating that said notes are secured hereby.

31. CONSTRUCTION LOAN PROVISIONS. Borrower agrees to comply with the covenants and conditions of the Construction Loan Agreement, if any, which is hereby incorporated by reference and made a part of this Instrument. All advances made by Lender pursuant to the Construction Loan Agreement shall be indebtedness of Borrower secured by this Instrument, and such advances may be obligatory as provided in the Construction Loan Agreement. All sums disbursed by Lender prior to completion of the improvements to protect the security of this Instrument up to the principal amount of the Note shall be treated as disbursements pursuant to the Construction Loan Agreement. All such sums shall bear interest from the date of disbursement at the rate stated in the Note, unless collection from Borrower of interest at such rate would be contrary to applicable law in which event such amounts shall bear interest at the highest rate which may be collected from Borrower under applicable law and shall be payable upon notice from Lender to Borrower requesting payment therefor.

From time to time as Lender deems necessary to protect Lender's interests, Borrower shall, upon request of Lender, execute and deliver to Lender, in such form as Lender shall direct, assignments of any and all rights or claims which relate to the construction of the Property and which Borrower may have against any party supplying or who has supplied labor, materials or services in connection with construction of the Property. In case of breach by Borrower of the covenants and conditions of the Construction Loan Agreement, Lender, at Lender's option, with or without entry upon the Property, (i) may invoke any of the rights or remedies provided in the Construction Loan Agreement, (ii) may accelerate the sums secured by this Instrument and invoke those remedies provided in Paragraph 27 hereof, or (iii) may do both. The Note and this Instrument are sold by Lender, from and after such sale the Construction Loan Agreement shall cease to be a part of this Instrument and Borrower shall not assert any right of set-off, counterclaim or other claim or defense arising out of or in connection with the Construction Loan Agreement against the obligations of the Note and this Instrument.

32. PRIOR ENCUMBRANCES. This Mortgage and Security Agreement is subordinate and inferior only to that certain Mortgage having Reliance Trust Company, Trustee as Lender and Evangel Presbyterian Church as Mortgagor, dated March 1, 1993, in the amount of \$260,000.00, recorded as Instrument #1993-5761, Shelby County, Alabama ("Prior Mortgage"). Borrower and Lender agree that any defaults under said Prior Mortgage shall constitute defaults hereunder. Lender may take any action as provided for in the within instrument in an event of default, including, but not limited to, the making of any payments or the performance of any acts necessary to release said defaults, with the cost thereof added to the Secured Indebtedness. Borrower hereby assigns and transfers unto Lender all surplus funds which may come into the hands of holder of a prior indebtedness upon any foreclosure of same, hereby directing that such surplus funds be forthwith paid over to Lender to be applied against the Secured Indebtedness. Borrower hereby agrees not to seek nor to obtain additional advances from the holder or holders of the Prior Mortgage and not to execute or consent to any modification in or extension of the Prior Mortgage without the prior written approval of Lender. Any violation of the within covenant shall constitute an event of default hereunder. In addition to the provisions of Page 1 herein, this Mortgage secures to Lender the repayment of the indebtedness evidenced by the Note, with interest thereon, and all renewals,

extensions, and modifications thereof; the repayment of any future advances, with interest thereon, the payment of all other sums with interest thereon, advanced in accordance herewith to protect the security of this instrument, including, but not limited to, disbursement of fees to superior mortgage holders, attorneys' fees, and other expenses.

IN WITNESS WHEREOF, Borrower has executed this Instrument or has caused the same to be executed by its representatives thereunto duly authorized.

BORROWER:

EVANGEL PRESBYTERIAN CHURCH, an Alabama non-profit corporation

By: Michael D. Beck (SEAL)
Name: MICHAEL D. BECK
Trustee

By: Michael H. Allison (SEAL)
Name: MICHAEL H. ALLISON
Trustee

[CORPORATE SEAL]

David [Signature]
Witness
Peter [Signature]
Witness

Borrower's Address:

Highway 95, P. O. Box 605
Helena, Alabama 35080

CORPORATION ACKNOWLEDGMENT

STATE OF ALABAMA, Shelby County ss:

On this 24th day of May, 1995, I, Peter E. Barber, a Notary Public in and for said county and in said state, hereby certify that Michael Beck and Michael Allison, whose name as Trustees of Evangel Presbyterian Church, a corporation, is signed to the foregoing conveyance, and who are known to me, acknowledged before me that, being informed of the contents of the conveyance, they, as such trustees and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and seal of office.

My Commission Expires:
NOTARY PUBLIC STATE OF ALABAMA AT LARGE.
MY COMMISSION EXPIRES: July 15, 1998.
BONDED THRU NOTARY PUBLIC UNDERWRITERS.

Peter E. Barber
Notary Public

EXHIBIT "A"

PARCEL A

Begin at the Northwest corner of the SE 1/4 of the NE 1/4 of Section 27, Township 20 South, Range 3 West; run thence in an Easterly direction along the North line of said Quarter-Quarter Section for a distance of 1,115.11 feet to a point on the Northwesterly right-of-way of Shelby County Road 95; thence turn an angle to the right of 97 deg. 20 min. and run in a Southwesterly direction along the Northwesterly right-of-way line of said Shelby County Road 95 for a distance of 240.24 feet; thence turn an angle to the right of 82 deg. 40 min. and run in a Westerly direction for a distance of 1,078.61 feet to a point on the West line of the SE 1/4 of the NE 1/4 of Section 27, Township 20 South, Range 3 West; thence turn an angle to the right of 88 deg. 35 min. 49 sec. and run in a Northerly direction along the West line of said Quarter-Quarter Section for a distance of 238.35 feet to the point of beginning. Said parcel containing 6.0 acres.

PARCEL B

ALSO, Commence at the Northwest Corner of the Southeast 1/4 of the Northeast 1/4 of Section 27, Township 20 South, Range 3 West; run thence in a Southerly direction along the West line of said 1/4 1/4 Section for a distance of 238.35 feet to the point of beginning; from the point of beginning thus obtained, thence continue along last described course for a distance of 163.49 feet; thence turn an angle to the left of 88 deg. 35 min. 49 sec. and run in an Easterly direction for a distance of 1,053.57 feet to a point on the Northwesterly right of way line of Shelby County Road #95; thence turn an angle to the left of 82 deg. 40 min. and run in a Northeasterly direction along the Northwesterly line of said Shelby County Road No. 95 for a distance of 164.79 feet; thence turn an angle to the left of 97 deg. 20 min. and run in a Westerly direction for a distance of 1,078.61 feet to the point of beginning; being situated in Shelby County, Alabama. Said parcel containing 4.0 acres.

EXHIBIT "B"

DEBTOR:

Evangel Presbyterian Church
Highway 95, P. O. Box 605
Helena, Alabama 35080

SECURED PARTY:

Presbyterian Investors Fund, Inc.
1750 Century Circle, Suite 24
Atlanta, Georgia 30345

(a) All buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land, and all fixtures, machinery, equipment, building materials, appliances and goods of every nature now or hereafter located on or upon, or intended to be used in connection with, the Land or the improvements thereon, including, but not by way of limitation, those for the purposes of supplying or distributing heating, cooling, electricity, gas, water, air and light; and all elevators and related machinery and equipment; all plumbing; and all personal property and fixtures of every kind and character now or at any time hereafter located in or upon the Land or the improvements thereon, or which may now or hereafter be used or obtained in connection therewith, including, without limitation, fixtures, machinery, equipment, appliances, vehicles (excluding Debtor's personal automobiles, if any), building supplies and materials, books and records, chattels, inventory, accounts, farm products, consumer goods, general intangibles and personal property of every kind and nature whatsoever now or hereafter owned by Debtor and located in, on or about, or used or intended to be used with or in connection with the use, operation or enjoyment of the Land or any improvements thereon, including all extensions, additions, improvements, betterments, after-acquired property, renewals, replacements and substitutions, or proceeds from a permitted sale of any of the foregoing, and all the right, title and interest of Debtor in any such fixtures, machinery, equipment, appliances, vehicles and personal property subject to or covered by any prior security agreement, conditional sales contract, chattel mortgage or similar lien or claim, together with the benefit of any deposits or payments now or hereafter made by Debtor or on behalf of Debtor, all trade names, trademarks, service marks, logos and goodwill related thereto which in any way now or hereafter belong, relate or appertain to the Land or any improvements thereon or any part thereof or are now or hereafter acquired by Debtor; and all inventory, accounts, chattel paper, documents, equipment, fixtures, farm products, consumer goods and general intangibles constituting proceeds acquired with cash proceeds of any of the property described herein, and all other interests of every kind and character in all of the real, personal, intangible and mixed properties described herein which Debtor may now own or at any time hereafter acquire, all of which are hereby declared and shall be deemed to be fixtures and accessions to the Land and a part of the Land as between the parties hereto and all persons claiming by, through or under them.

(b) All of the interest of Debtor in all easements, rights-of-way, licenses, operating agreements, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, oil and gas and other minerals, flowers, shrubs, crops, trees, timber and other emblements now or hereafter located on the Land or under or above the same or any part or parcel thereof, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances, reversion and reversions, remainder and remainders, whatsoever, in any way belonging, relating or appertaining to the Land or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Debtor.

(c) All income, rents, issues, royalties, profits, revenues and other benefits of the Land from time to time accruing, all payments under leases or tenancies, proceeds of insurance, condemnation awards and payments and all payments on account of oil and gas and other mineral leases, working interests, production payments, royalties, overriding royalties, rents, delay rents, operating interests, participating interests and other such entitlements, and all the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of Debtor of, in and to the same (hereinafter collectively referred to as the "Revenues"); reserving only the right to Debtor to collect the Revenues as provided in the Deed And Agreement executed by Debtor in favor of Secured Party.

(d) All construction or development contracts, subcontracts, architectural agreements, labor, material and payment bonds, and plans and specifications relating to the construction of improvements on the Land including, without limitation (i) any engineering or architectural agreements entered into with respect to the design and other engineering or architectural services; (ii) the plans and specifications for the construction of said improvements prepared by any engineer or architect; and (iii) any agreements entered into with contractors, suppliers, materialmen or laborers with respect to construction of improvements on the Land.

(e) If applicable, any and all management contracts, agreements, or other correspondence entered into by and between Debtor and third parties for the management of the collateral secured hereby.

(f) Together with any and all additional items of personal property, furnishings, fixtures, equipment, furniture, trade fixtures, and other items of property not heretofore referenced above, including any and all musical instruments, church pews, chairs, pulpits, podiums, and all other items used in connection with the operation of the premises as a church and related church functions

Inst # 1995-13623

05/25/1995-13623
09:09 AM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE

009 MEL 516.00