

MORTGAGE AND SECURITY AGREEMENT

and UCC Financing Statement for Fixture Filing

Dated: April 30, 1996

PIER GROUP, INC.
a Delaware corporation

having an office at:

Price & Marshall, Inc.
Two Penn Plaza
Suite 1585
New York, New York 10121

the Mortgagor,

TO

FIRST INTERSTATE BANK OF TEXAS, N.A.,
as Agent

having an office at:
309 West Seventh Street
Fort Worth, Texas 76102

the Mortgagee

LOCATION OF PREMISES:

Street Address:	
Town or City of:	<u>Birmingham</u>
County of:	<u>Shelby</u>
State of:	<u>Alabama</u>

This instrument was prepared by, and after
recording, please return by mail to:

Haynes and Boone, L.L.P.
1300 Burnett Plaza
801 Cherry Street
Fort Worth, Texas 76102
Attn: William D. Ratliff, III

Inst # 1996-14796

05/06/1996-14796
04:09 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
041 MCD 1757.85

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MORTGAGE AND SECURITY AGREEMENT
and UCC Financing Statement For Fixture Filing

THIS MORTGAGE AND SECURITY AGREEMENT AND UCC FINANCING STATEMENT FOR FIXTURE FILING (the "Mortgage"), made as of the 30th day of April, 1996, by PIER GROUP, INC., a Delaware corporation having an office at Two Penn Plaza, Suite 1585, New York, New York 10121 ("Mortgagor"), to FIRST INTERSTATE BANK OF TEXAS, N.A., as agent for the Banks, having an office at 309 West Seventh Street, Fort Worth, Texas 76102 ("Mortgagee").

W I T N E S S E T H:

A. Mortgagor, Mortgagee and Banks have executed and delivered that certain Restated Revolving Credit Agreement dated as of December 30, 1992, as extended, renewed and/or modified from time to time (the Revolving Credit Agreement, as amended from time to time, is referred to as the "Credit Agreement") (all capitalized terms used in this Deed of Trust shall have the meanings set forth in the Credit Agreement, unless otherwise specifically provided herein), pursuant to which Mortgagee and Banks have agreed to lend to Mortgagor an amount up to \$1,098,841.00 to purchase the Land and construct improvements thereon, on the terms and conditions specified in the Credit Agreement, which provides in part for the following: the establishment of a revolving credit facility pursuant to which Agent and the Banks (as defined in the Credit Agreement) shall make Advances to Mortgagor in an aggregate outstanding principal amount that shall not exceed at any one time the amount set forth in the Credit Agreement, which Advances shall be evidenced by Revolving Credit Notes (the Revolving Credit Notes, together with all amendments, renewals, increases, extensions, modifications and substitutions thereof, being collectively called the "Notes"). The Notes contain provision that the interest rates, payment terms and/or balances due on the loans evidenced by the Notes may be indexed, adjusted, renewed or renegotiated as provided in the Notes. (This Mortgage, the Credit Agreement, the Notes, and all instruments and documents delivered pursuant to any of them, together with all amendments, renewals, increases, extensions, modifications and substitutions thereof, are sometimes collectively referred to herein as the "Loan Documents").

B. The parties have agreed that Mortgagor shall execute and deliver this Mortgage to secure, for the benefit of Mortgagee and Banks (i) the payment and performance of all of Mortgagor's Obligations provided for or arising under the Loan Documents, and (ii) the payment and performance of the other obligations hereinafter specified.

C. The real property, improvements and other properties defined hereinafter as the "Mortgaged Properties" and covered hereby are subject to the terms and provisions of a certain Lease Agreement (the "Tenant Lease") entered into by Mortgagor, as the "Lessor", and Pier 1 Imports (U.S.), Inc., a Delaware corporation, as the "Lessee" (the "Lessee").

NOW, THEREFORE, to secure (i) the repayment of all of Mortgagor's Obligations, including, without limitation, the repayment of all Advances now outstanding or to be made in the future, and the payment of all interest accruing thereon, according to the provisions of the Loan Documents, (ii) the reimbursement to Mortgagee of any and all costs and expenses (including reasonable attorneys' fees and expenses) incurred or paid by Mortgagee on account of any collection efforts or litigation at law or in equity which may arise in respect to Mortgagee's rights and/or remedies under the Loan Documents, or this Mortgage, or in obtaining possession of the Mortgaged Properties (as hereinafter defined) after any sale which may be made as hereinafter provided, (iii) the payment, performance and observance of the covenants, warranties, agreements and conditions contained herein and in the Loan Documents, (iv) the payment by Mortgagor to Mortgagee of all sums, if any, as may be expended by Mortgagee in the performance of any obligation of Mortgagor hereunder, and the payment of any and all other indebtedness which this Mortgage by its terms secures, and (v) all other indebtedness, of whatever kind or character, direct or indirect, absolute or contingent, owing or which may hereafter become owing by Mortgagor to Mortgagee and Banks, whether such indebtedness is evidenced by note, open account, overdraft, endorsement, surety agreement, guaranty or otherwise (all of the aforesaid are hereinafter collectively called the "Indebtedness", and in order to charge with such performance and with such payments the Mortgaged Properties hereinafter described, and the rents, revenues, issues, income and profits thereof, Mortgagor does hereby mortgage, grant, bargain, sell, convey, transfer and assign to Mortgagee, and to Mortgagee's assigns forever, for the benefit of Mortgagee:

I. Real Property. That certain lot, piece or parcel of land more particularly described as on Exhibit "A" annexed hereto and made a part hereof (the land described on Exhibit "A" hereto is hereinafter called the "Land"); and

II. Improvements. Any and all buildings, structures, open parking areas and other improvements, and any and all accessions, additions, replacements, substitutions or alterations thereof or appurtenances thereto, now or at any time hereafter situated, placed or constructed upon the Land or any part thereof and improvements (collectively, together with all building equipment, the "Improvements"), all of its right, title and interest, if any, in and to the streets and roads abutting the Land to the center lines thereof, strips and gores within or adjoining the Land, the air space and right to use said air space above the Land, all rights of ingress and egress by motor vehicles to parking facilities on or within the Land, all easements now or hereafter affecting the Land or the Improvements, and all royalties and rights pertaining to the use and enjoyment of the Land or the Improvements, including, without limitation, alley, drainage, crop, timber, agricultural, horticultural, mineral, water, oil and gas rights (the Land and

the Improvements are sometimes collectively called the "Real Property"; and

III. Fixtures and Personalty. All (i) materials, supplies, equipment, apparatus and other items now or hereafter attached to, installed on or in the Real Property or which in any manner are deemed to be fixtures attached to the Real Property under the laws of the state in which the Real Property is located, including the Uniform Commercial Code, and all tangible and intangible personal property attached to, installed on or placed or used on or within, in connection with or acquired for such attachment, installation, placement or use, or which arises out of the development, improvement, financing, leasing, operation or use of, the Real Property, the Fixtures or any other goods located on or in the Real Property, and additions thereto and substitutions or replacements thereof, including, but not limited to, all screens, awnings, shades, blinds, curtains, draperies, carpets, rugs, furniture and furnishings, heating, lighting, plumbing, ventilating, air conditioning, refrigerating, incinerator and/or compacting and elevator plants, stoves, ranges, vacuum cleaning systems, call systems, sprinkler systems and other fire prevention and extinguishing apparatus and materials, motors, machinery, pipes, appliances, equipment, fittings and fixtures, and the trade name, good will and books and records relating to the business operated on the Real Property, (ii) inventory, goods, consumer goods, crops, growing crops, farm products, vegetation (including, but not limited to, plants, flowers, trees and bushes), contract rights, plans and specifications, surveys, bank deposits, accounts, chattel paper, instruments, money, general intangibles, documents, and other intangible and intangible personal property, acquired, obtained or arising in connection with the Real Property, and (iii) all additions, accessions, accessories, amendments, and modifications thereto, extensions, renewals, enlargements and proceeds thereof, substitutions therefor, and income and profits arising or derived therefrom. Without limiting the foregoing, Mortgagor hereby grants to Mortgagee a security interest in all of its present and future "equipment" and "general intangibles" (as said quoted terms are defined in the Uniform Commercial Code) and Mortgagee shall have, in addition to all rights and remedies provided herein, and in any other agreements, commitments and undertakings made by, Mortgagor to Mortgagee, all of the rights and remedies of a secured party" under the Uniform Commercial Code. To the extent permitted under applicable law, this Mortgage shall be deemed to be a "security agreement" (as defined in the Uniform Commercial Code). If the lien of this Mortgage is subject to a security interest covering any such personal property, then all of the right, title and interest of Mortgagor in and to any and all such property is hereby assigned to Mortgagee, together with the benefits of all deposits and payments now or hereafter made thereon by Mortgagor (all fixtures and other personal property, both tangible and intangible, covered by this Paragraph III are collectively called the "Personalty"; and

IV. Leases. All of the rights, benefits, privileges and interests of the "lessor" under the Tenant Lease, together with all other leases, lettings and licenses of the Real Property and/or any other property or rights encumbered or conveyed hereby, or any part thereof, now or hereafter entered into and all right, title and interest of Mortgagor thereunder, including, without limitation, cash and securities deposited thereunder, the right to receive and collect the rents, issues and profits payable thereunder (the "Rents") and the right to enforce, whether by action at law or in equity or by other means, all provisions, covenants and agreements thereof, together with any amendments, or supplements thereto and any lease agreement pertaining to the Real Property now or hereafter entered into by Mortgagor with respect to the Real Property, including, without limitation, (i) all amounts payable to Mortgagor thereunder, (ii) all damages and other amounts payable to Mortgagor in the event of any expiration or termination of any lease or by operation of law or otherwise; and (iii) all rights, claims, powers, privileges and remedies of Mortgagor, whether arising by statute or at law or in equity or otherwise, consequent on any failure on the part of any party to perform or comply with any term of any lease covered hereby. Immediately upon the execution and delivery of this Mortgage, all Rents payable under the Tenant Lease or any amendment, supplement or replacement thereof shall be payable to the Collection Account (all leases, lettings and licenses, and all rights, claims, privileges and remedies relating thereto, and all other rights and interests covered by this Paragraph IV, are collectively called the "Leases");

V. Premiums and Awards. All unearned premiums accrued, accruing or to accrue under insurance policies now or hereafter obtained by Mortgagor and all proceeds of the conversion, voluntary or involuntary, of the Real Property and/or any other property or rights encumbered or conveyed hereby, or any part thereof, into, cash or liquidated claims, including, without limitation, proceeds of hazard and title insurance and all awards and compensation heretofore and hereafter made to the present and all subsequent owners of the Real Property and/or any other property or rights encumbered or conveyed hereby or any easement therein, including, but not limited to, awards for any change of grade of streets (all premiums, awards and other rights and interests covered by this Paragraph V are collectively called the "Premiums and Awards");

VI. Rights and Appurtenances. All rights, privileges, tenements, hereditaments, rights-of-way, easements, appendages, and appurtenances in any way appertaining to the Real Property, and all rights, titles and interests of Mortgagor in and to any streets, ways, alleys, strips or gores of land adjoining the Land or any part thereof, which Mortgagor now owns or at any time hereafter acquires; all plans and specifications for the Improvements; all contracts and subcontracts relating to the Improvements; all deposits (including tenant security deposits), funds, accounts, contract rights, instruments, documents, general intangibles (including trademarks, service marks, trade names and

symbols used in connection with the Mortgaged Properties); all permits, licenses, franchises, certificates and other rights and privileges obtained in connection with the Mortgaged Properties; and all other interests of every kind and character which Mortgagor now has or any time hereafter acquires in or with respect to the above-described real and personal property and all property which is used or useful in connection therewith, including rights of ingress and egress, easements, licenses and all reversionary rights and interests of Mortgagor with respect to such property (all such rights and interests being called the "Rights and Appurtenances"); and

VII. Extensions, Improvements, Etc. All rights, titles and interests of Mortgagor in and to all extensions, improvements, betterments, renewals, substitutions and replacements of, and any additions and appurtenances to, the Real Property and/or any other property or rights encumbered or conveyed hereby, hereafter acquired by or released to Mortgagor or constructed, assembled or placed by Mortgagor on the Real Property, the Improvements and/or any other property or rights encumbered or conveyed hereby, and all conversions of the security constituted thereby which, immediately upon such acquisition, release, construction, assembling, placement or conversion, as the case may be, and in each such case without any further mortgage, conveyance, assignment or other act by Mortgagor, shall become subject to the lien of this Mortgage as fully and completely, and with the same effect, as though now owned by Mortgagor and specifically described herein (the Land, the Improvements, the Personalty, the Leases, the Premiums and Awards, the Rights and Appurtenances and all other rights, titles and interests described above, are collectively called the "Mortgaged Properties").

TO HAVE AND TO HOLD the Mortgaged Properties unto the Mortgagee and its successors and assigns until the Indebtedness is paid in full for the benefit of Mortgagee.

SUBJECT, HOWEVER, only to the Tenant Lease and the other exceptions to title which are described in Exhibit "B", attached hereto and made a part hereof for all purposes (the "Permitted Exceptions").

AND Mortgagor covenants and agrees with Mortgagee as follows:

ARTICLE I

Representations and Warranties of Mortgagor

Mortgagor represents and warrants to Mortgagee as follows:

Section 1.01. Title to the Mortgaged Properties. Mortgagor has good and marketable title to the Mortgaged Properties free and clear of all liens, charges, encumbrances, security interests and adverse claims whatsoever except the Permitted Exceptions.

This Mortgage is and will remain a valid and enforceable first lien on the Mortgaged Properties subject only to the Permitted Exceptions, and Mortgagor will preserve such title and will forever warrant and defend the validity and priority of the lien hereof against the claims of all persons and parties whatsoever.

Section 1.02. Mortgage Authorized. The execution and delivery of this Mortgage, the Notes and the other Loan Documents have been duly authorized by the directors of Mortgagor and there is no provision in the certificate of incorporation or by-laws of Mortgagor requiring further consent for such action by any other entity or person. Mortgagor is duly organized, validly existing and is in good standing under the laws of the State of Delaware and has (i) all necessary licenses, authorizations, registrations, permits and/or approvals and (ii) full power and authority to own its properties and carry on its business as presently conducted and the execution and delivery by it of, and the performance of its obligations under this Mortgage and the Loan Documents will not result in Mortgagor being in default under any provision of its certificate of incorporation or by-laws or of any mortgage, lease, credit or other agreement to which it is a party or which affects it or the Mortgaged Properties, or any part thereof.

Section 1.03. Operation of the Mortgaged Properties. (i) Mortgagor has or will obtain or cause to be obtained all necessary certificates, licenses, authorizations, registrations, permits and/or approvals necessary for the operation of the Mortgaged Properties in accordance with the terms of the Leases, including but not limited to, a permanent certificate of occupancy and all required environmental permits, all of which are or will be as of the day of the Final Advance in full force and effect to the extent required under the Tenant Lease and not, to the knowledge of Mortgagor, subject to any revocation, amendment, release, suspension, forfeiture or the like, and (ii) the present use and/or occupancy of the Real Property does not conflict with or violate any such certificate, license, authorization, registration, permit and/or approval, or any applicable law, ordinance, statute, rule, order, requirement or regulation. The Mortgaged Properties and the intended use thereof by Mortgagor comply and will comply at all times hereafter with all applicable restrictive covenants, zoning ordinances, and building codes, flood disaster laws, applicable health and environmental laws and regulations, and all other laws, rules and regulations.

Section 1.04. Credit Agreement. All of the representations and warranties made by Mortgagor in the Credit Agreement are hereby restated and reaffirmed as if set forth at length herein.

Section 1.05. No Exemption. No part of the Mortgaged Properties form any part of any property owned, used or claimed by Mortgagor as a business homestead or a residential homestead, or is exempt from sale under the laws of the State of Alabama,

and Mortgagor disclaims and renounces all and every such claim thereto.

Section 1.06. Information. All information, reports, papers and data given to Mortgagee with respect to Mortgagor or others obligated under the terms of the Loan Documents are accurate, complete and correct in all material respects and do not omit any fact the inclusion of which is necessary to prevent the facts contained therein from being materially misleading. All information material to the transactions contemplated herein has been expressly disclosed in writing by Mortgagor to Mortgagee.

Section 1.07. Taxes and Other Payments. Mortgagor has filed all federal, state, county, municipal and city income and other tax returns required to have been filed by it and has paid all taxes which have become due pursuant to such returns or pursuant to any assessments received by it, and Mortgagor does not know of any basis for any additional assessment in respect of any such taxes. Mortgagor has paid or will pay in full (except for such retainages as may be permitted or required to be withheld by Mortgagor pending completion of the Improvements) all sums owing or claimed for labor, material, supplies, personal property (whether or not constituting a fixture hereunder) and services of every kind and character used, furnished or installed in the Real Property and Improvements and no claim for same currently exists or will be permitted to become past due. Notwithstanding the foregoing, however, Mortgagor shall have the right to contest in good faith by appropriate proceedings the payment of any claim, tax or assessment; provided, that as a condition thereto Mortgagor shall furnish to Mortgagee a surety bond or other security satisfactory to Mortgagee in its sole discretion fully protecting Mortgagee from the adverse consequences of any such contest, unless otherwise permitted by the Tenant Lease.

Section 1.08. Litigation. There are no actions, suits or proceedings pending or, to the knowledge of Mortgagor, threatened against or affecting Mortgagor or the Mortgaged Properties or involving the validity or enforceability of this Mortgage or the priority of the lien and security interest hereof, and no event has occurred (including specifically Mortgagor's execution of the Loan Documents and its consummation of the loan represented thereby) which will violate, be in conflict with, result in the breach of or constitute (with due notice or lapse of time, or both) a default under, any Legal Requirement (as hereinafter defined) or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of Mortgagor's property other than the lien and security interest created by the Loan Documents. The term "Legal Requirement" as used herein, shall mean any present or future judicial decision, statute, ruling, rule, regulation, permit or ordinance of any Governmental Authority (as hereinafter defined), the provisions of any Lease, and any restrictions, reservations, conditions, easements or other covenants or agreements of record affecting

the Mortgaged Properties and included within the Permitted Exceptions. The term "Governmental Authority" shall mean any court, board, agency, commission, office or authority of any nature whatsoever for any governmental unit (federal, state, county, district, municipal, city or otherwise), whether now or hereafter in existence.

Section 1.09. No Defaults. Mortgagor is not in default under any of the Loan Documents, and no event has occurred which by notice, the passage of time or otherwise would constitute an event of default under any of the Loan Documents, and Mortgagor is not in default in the payment of any indebtedness for borrowed money or under the terms and provisions of any agreement or instrument evidencing any such indebtedness; and, to Mortgagor's knowledge, and Mortgagor is not in default with respect to any order, writ, injunction, decree or demand of any court or of any other requirement of any Governmental Authority.

Section 1.10. Access and Utilities. The Real Property has adequate rights of access to public ways and all water, sanitary sewer and storm drain facilities. All public utilities necessary or convenient to the full use and enjoyment of the Real Property and Improvements are available at the boundaries of the Real Property to serve the Real Property and Improvements. All roads necessary for the full utilization of the Real Property and Improvements for their intended purposes have been completed and provide uninterrupted, continuous and adequate paved access to the Real Property and the Improvements in accordance with all Governmental Requirements.

Section 1.11. Licenses; Permits. Mortgagor has obtained from each Governmental Authority and from each beneficiary of each restrictive covenant all licenses, permits, authorizations, consents and approvals necessary for the operation of the Improvements for their anticipated use.

Section 1.12. Lien Potential. Mortgagor has not made any contract or arrangement of any kind, which has given rise to (or the performance of which by the other party thereto would give rise to) a lien or claim of lien on the Real Property, Improvements, or other collateral covered by the Loan Documents, except for the collateral documents executed in connection with the Loan Documents.

Section 1.13. Solvency. Mortgagor is now solvent, by any definition, and no bankruptcy or insolvency proceedings are pending, threatened, or contemplated by or against Mortgagor.

Section 1.14. Environmental Warranties. The Real Property is in compliance with all federal, state and local laws, including statutes, regulations, ordinances, codes, rules and other restrictions and requirements relating to environmental pollution, contamination or other impairment of nature, any hazardous or other toxic substances of any nature, whether liquid, solid and/or gaseous, including smoke, vapor, fumes, soot,

acids, alkalis, chemicals, waste, by-products and recycled materials, including, without limitation, the Federal Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Clean Water Act, the Federal Resource Conservation and Recovery Act of 1976, the Federal Comprehensive Environmental Responsibility Clean Up Act of 1980, Regulations of the Environmental Protection Agency, Regulations of the Nuclear Regulatory Agency, Regulations of any State Department of Natural Resources or State Environmental Protection Agency, and local Health Department Ordinances (collectively, "Environmental Laws"). No asbestos or asbestos-containing materials have been installed, used, incorporated into or disposal of in the Improvements or on the Land at any time. No underground tanks or containers of any nature are located on the Real Property, or were located on the Real Property and subsequently moved or filled. There are no polychlorinated biphenyls (PBC) located upon or in the Real Property, including but not limited to any electrical transformers, flares and light fixtures with bomb blasts, cooling oils, or any other similar equipment or device of any nature. There are no conditions likely to exist during the term of this Mortgage, or in the foreseeable future, which would require or are likely to require clean up, removal, remedial action, or other responsive action pursuant to any Environmental Laws by Mortgagor, or which would subject Mortgagor to damages, penalties, injunctive relief or clean up costs under any Environmental Laws. No permits, licenses or approvals are required under any Environmental Laws relative to the Real Property. Neither the Real Property nor Mortgagor are subject to any judgment, decree, order or citation which relates to or arises out of a violation of any Environmental Law, or that requires Mortgagor to clean up, remove or take remedial action or other responsive action pursuant to any Environmental Law. There are not now, nor to Mortgagor's knowledge after reasonable investigation, have there ever been any substances classified as hazardous, or toxic under any Environmental Law, stored, deposited, treated, recycled or disposed of on, under, or at the Real Property. Mortgagor will fully comply with all applicable Environmental Laws relative to the Real Property at all times in the future.

Section 1.15. Purpose of Loan. Mortgagor represents and warrants that the Loan evidenced by the Notes and secured by this Mortgage is a "commercial loan" as defined under the laws of the State of Texas and that Mortgagor is engaging in this transaction exclusively for business, commercial or investment purposes.

ARTICLE II

Covenants of Grantor

Section 2.01. Payments of the Indebtedness. Mortgagor will punctually pay the Indebtedness in same day funds as provided herein and in the Loan Documents, all in the coin and currency of the United States of America which is legal-tender for the payment of public and private debts.

Section 2.02. Compliance with Tenant Lease. Mortgagor shall at all times fully perform and comply with all of the covenants, warranties, representations, and other obligations imposed upon or assumed by it as Lessor under the Tenant Lease, shall always keep the same in full force and effect in accordance with its terms and without any modifications thereto unless expressly approved in writing by Mortgagee and shall cause the Lessee under the Tenant Lease to at all times fully perform and comply with all of the Lessee's covenants, warranties, representations and their obligations imposed upon or assumed by it under the Tenant Lease. Upon Mortgagor's failure or alleged failure (notwithstanding that the alleged failure may be contested by Mortgagor) to do so, Mortgagee shall have the absolute and immediate right to perform any or all of the same and to enter upon the Land and the Improvements and take such other actions as Mortgagee, in its opinion, deems necessary or desirable in order to prevent or cure any such failure by Mortgagor or the Lessee and to fully enforce the obligations of the Lessor and Lessee under the Tenant Lease. Mortgagor shall not, without Mortgagee's prior written consent thereto, (i) terminate, cancel, modify or amend the Tenant Lease, or (ii) take or consent to the taking of any action in regard to the Tenant Lease which could in any manner adversely affect the Mortgaged Properties or the rights and interests of Mortgagee hereunder. In the event the Tenant Lease shall for any reason terminate at a time when this Mortgage remains in full force and effect, then notwithstanding such termination there shall be automatically included within the terms hereof, all covenants of the Lessee thereunder with respect to the Mortgaged Properties and Mortgagor shall perform such covenants for the benefit of Mortgagee.

Section 2.03. Environmental Laws. Mortgagor covenants to operate or cause the Lessee to operate the Mortgaged Properties (whether or not such property constitutes a "Facility" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA")), so that no cleanup or other obligation arises in respect of CERCLA or other applicable Environmental Law which would constitute a lien or charge on the Mortgaged Properties prior to that of this Mortgage. If any such claim be made or any obligation should nevertheless arise hereafter, Mortgagor agrees that it will, at its own expense, (a) promptly cure same and (b) indemnify Mortgagee from any liability, responsibility or obligation in respect thereof or in respect of any cleanup or other liability as successor, secured party or otherwise (regardless of whether or not Mortgagee may be deemed to be an owner or operator" under CERCLA) for any reason including, but not limited to, the enforcement of Mortgagee's rights as a secured party under this Mortgage or any obligation of law.

Section 2.04. Insurance; Coverage.

A. Mortgagor shall keep the Improvements insured against (i) damage by fire and the other hazards covered by the standard extended coverage all risk insurance policy, and (ii) damage by

vandalism, malicious mischief, and such other hazards against which Mortgagee shall require insurance, and each policy of insurance required pursuant to this Section 2.04 shall be endorsed to name Mortgagee as a mortgagee-loss payee thereunder, as its interest may appear, with loss payable to Mortgagee without contribution or assessment under standard mortgagee clause. All insurance policies and endorsements required pursuant to this Section 2.04 shall be fully paid for, nonassessable and contain such provisions (including, without limitation, inflation guard and replacement cost endorsements) and expiration dates and shall be in such form and amounts and issued by such insurance companies with a rating of "A" or better as established by Best's Rating Guide, or an equivalent rating with such other publication of a similar nature as shall be in current use, or such other companies, as shall be approved by Mortgagee. Mortgagee hereby approves the amounts of insurance carried by Mortgagor for the above-described risks as of the date hereof and until such time, if any, as Mortgagee shall reasonably determine that greater or lesser amounts of coverage are required for the Improvements, due regard being given to the site and type of the building, the type of construction, the location, utilities and occupancy or any replacements and substitutions therefor. At such time or from time to time as Mortgagee may give written notice to Mortgagor requiring additional or less insurance coverage for the Mortgaged Properties, Mortgagor shall promptly obtain and deliver to Mortgagee replacement insurance policies complying with Mortgagee's request and with the provisions of this Section 2.04.

B. In addition to the insurance policies above described, Mortgagor shall keep and maintain in effect insurance policies in respect of rental loss, workers' compensation, employers' liability coverage, comprehensive public liability insurance, and such other insurance as Mortgagee may require; all in such form, with such coverage, in such amounts and issued by such insurance companies with a rating of "A" or better as established by Best's Rating Guide or equivalent rating of such other publications of similar nature as shall be in current use, as shall be approved by Mortgagee.

C. Without limiting the foregoing, each policy of insurance required hereunder shall provide that such policy may not be cancel led, expire, or be terminated (whether due to nonpayment of premiums, surrender by the insured, or other reason) except upon fifteen (15) days' prior written notice to Mortgagee and that no act or thing done by Mortgagor shall invalidate the policy as against Mortgagee. In addition, Mortgagee may require Mortgagor to carry such other insurance on the Improvements in such amounts as may from time to time be reasonably required by institutional lenders, against insurable casualties (including, without limitation, risks of war and nuclear explosion) which at the time are commonly insured against in the case of premises similarly situated, due regard being given to the site and the type of the building, the type of construction, the stage of

construction, location, utilities and occupancy or any replacements or substitutions therefor.

D. Mortgagor shall additionally keep the Improvements insured against loss by flood if the Mortgaged Properties are located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards and in which the Flood Insurance act of 1968 and the Flood Disaster Protection Act of 1973 are applicable, as the same may have been or may hereafter be amended or modified (and any successor acts thereto), in an amount at least equal to the outstanding Indebtedness or the maximum limit of coverage available with respect to the Improvements under said Act, whichever is less, and in a company or companies to be approved by Mortgagee.

E. Mortgagor shall assign and deliver each policy or policies (or true copies thereof) of all such insurance to Mortgagee, which policy or policies shall have endorsed thereon a standard mortgagee clause (provided, however, Mortgagee shall have fifteen (15) days' notice from the insurer prior to the expiration, cancellation or termination of any policy) in the name of Mortgagee, so and in such manner and form that Mortgagee and its successors and assigns shall at all times have and hold said policy or policies as collateral and further security for the payment of the Indebtedness until the full payment of the Indebtedness. In addition, from time to time upon the occurrence of any change in the use, operation or value of the Mortgaged Properties or any part thereof, or in the event of the unavailability of insurance in the area in which the Mortgaged Properties are located, Mortgagor shall promptly notify Mortgagee of such change and shall, within five (5) days after demand by Mortgagee, take out such additional amounts and/or such other kinds of insurance as Mortgagee may reasonably require. Otherwise, Mortgagor shall not take out or permit any separate or additional insurance which is contributing in the event of loss unless it is endorsed in favor of Mortgagee in accordance with the requirements hereof and otherwise satisfactory to Mortgagee in all respects. Insurance required hereunder may be carried by Mortgagor pursuant to blanket policies, provided that all other requirements herein set forth are satisfied and that the underlying policy in respect of the Mortgaged Properties is assigned and delivered to Mortgagee as herein required.

F. In the event that Mortgagor fails to keep the Mortgaged Properties insured in compliance with this Section 2.04, Mortgagee may, but shall not be obligated to, obtain insurance and pay the premiums therefor and Mortgagor shall, on demand, reimburse Mortgagee for all sums, advances and expenses incurred in connection therewith. Mortgagor shall deliver copies of all original policies to Mortgagee together with the endorsements thereto required hereunder.

G. The proceeds of insurance paid on account of any damage or destruction to the Mortgaged Properties or any part thereof shall be paid over to Mortgagee to be applied as hereinafter

provided. Notwithstanding anything to the contrary contained herein or in any provision of the applicable law, the proceeds of insurance policies coming into the possession of Mortgagee shall not be deemed trust funds and Mortgagee shall be entitled to dispose of such proceeds as hereinafter provided in Section 2.05.

Section 2.05. Restoration of the Improvements. Notwithstanding anything contained herein to the contrary, in the event of damage to or destruction of the Mortgaged Properties or any part thereof, and provided no Event of Default has occurred and is continuing hereunder, Mortgagor shall repair, restore and/or rebuild the portion of the Mortgaged Properties so damaged or destroyed in accordance with the provisions of the Tenant Lease if then in effect, and Mortgagee shall cause all insurance proceeds to be made available to Mortgagor for such repair, restoration or rebuilding from terms and conditions reasonably satisfactory to Mortgagee. In the event the Tenant Lease is not in effect at the time of any damage or destruction, then all insurance proceeds shall be paid into the Collection Account to be held and applied in accordance with the terms of the Lease Assignment.

Section 2.06. Condemnation Awards.

A. Mortgagor, immediately upon obtaining knowledge of the institution of any proceedings for the condemnation of the Mortgaged Properties or any portion thereof, will notify Mortgagee of the pendency of such proceedings. Mortgagee may participate in any such proceedings and Mortgagor from time to time will deliver to Mortgagee all instruments requested by it to permit such participation. All awards and compensation payable to Mortgagor as a result of any condemnation or other taking or purchase in lieu thereof, of the Mortgaged Properties or any part thereof, are hereby assigned to and shall be paid to Mortgagee. Mortgagor hereby authorizes Mortgagee to collect and receive such awards and compensation, to give proper receipts and acquittances therefor and, in Mortgagee's sole discretion, to apply the same toward the payment of the Indebtedness, notwithstanding the fact that the Indebtedness may not then be due and payable, or to the restoration of the Improvements.

B. Notwithstanding the voiding of the original sale(s) or leasing(s) of all or any portion of the Mortgaged Properties, Mortgagor shall continue to pay the Indebtedness at the time and in the manner provided for its payment in the Credit Agreement and in this Mortgage and the Indebtedness shall not be reduced until any payment therefor shall have been actually received and applied by Mortgagee to the discharge of the Indebtedness. Mortgagee may apply any such payment to the discharge of the Indebtedness whether or not then due and payable in such priority and proportions as Mortgagee in its discretion shall deem to be proper. If the Mortgaged Properties are sold, through foreclosure or otherwise, prior to the receipt by Mortgagee of such payment, Mortgagee shall have the right, whether or not a deficiency judgment shall have been sought, recovered or denied,

to receive said payment, or a portion thereof sufficient to pay the Indebtedness, whichever is less. Mortgagor, after obtaining the prior written consent of Mortgagee, shall file and prosecute its claim or claims for any such payment in good faith and with due diligence and cause the same to be collected and paid over to Mortgagee, and hereby irrevocably authorizes and empowers Mortgagee, in the name of Mortgagor or otherwise, to collect and receipt for any such payment and to file and prosecute such claim or claims, and although it is hereby expressly agreed that the same shall not be necessary in any event, Mortgagor shall, upon demand of Mortgagee, make, execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning any such payment to Mortgagee, free and clear of any encumbrances of any kind or nature whatsoever.

Section 2.07. Costs of Defending and Upholding the Lien. If any action or proceeding is commenced to which action or proceeding Mortgagee is made a party or in which it becomes necessary to defend or uphold the lien of the Mortgage, Mortgagor shall, on demand, reimburse Mortgagee for all expenses (including, without limitation, reasonable attorneys fees and disbursements and reasonable appellate attorneys' fees and disbursements) incurred by Mortgagee in any such action or proceeding. In any action or proceeding to foreclose this Mortgage or to recover or collect the Indebtedness, the provisions of law relating to the recovering of costs, disbursements and allowances shall prevail unaffected by this covenant.

Section 2.08. Additional Advances and Disbursements. Mortgagor shall pay, or cause to be paid in accordance with the terms of the Lease, all payments and charges on all liens, encumbrances, ground and other leases and security interests which affect or may affect or attach or may attach to the Mortgaged Properties, or any part thereof, and in default thereof, Mortgagee shall have the right, but shall not be obligated, to pay, upon five (5) days notice to Mortgagor, such payments and charges and Mortgagor shall, on demand, reimburse Mortgagee for amounts so paid. In addition, upon default of Mortgagor in the performance of any other terms, covenants, conditions or obligations by it to be performed hereunder or under any such lien, encumbrance, lease or security interest, Mortgagee shall have the right, but shall not be obligated, to cure such default in the name and on behalf of Mortgagor. All sums advanced and reasonable expenses incurred at any time by Mortgagee pursuant to this Section 2.08 or as otherwise provided under the terms and provisions of this Mortgage or under applicable law shall bear interest from the date that such sum is advanced or expenses incurred, to and including the date of reimbursement, computed at a rate equal to the sum of the Adjusted Prime Rate plus five percent (5%) per annum, such rate to change as and when such Adjusted Prime Rate changes, but not to exceed the Highest Lawful Rate (the "Default Rate"). All interest payable hereunder shall be computed on the basis of a 360-day year over the actual number of days elapsed. Any such

amounts advanced or incurred by Mortgagee, together with the interest thereon, shall be payable on demand and shall, until paid, be secured by this Mortgage as a lien on the Mortgaged Properties and shall be part of the Indebtedness.

Section 2.09. Costs of Enforcement. Mortgagor agrees to bear and pay all expenses (including, without limitation, reasonable attorneys' fees and disbursements and reasonable appellate attorneys' fees and disbursements for legal services of every kind) of or incidental to the enforcement of any provision hereof, or the enforcement, compromise or settlement of this Mortgage, the Loan Documents or the Indebtedness, and for the curing thereof, or for defending or asserting the rights and claims of Mortgagee in respect thereof, by litigation or otherwise. All rights and remedies of Mortgagee shall be cumulative and may be exercised singly or concurrently. Notwithstanding anything herein contained to the contrary, Mortgagor: (i) hereby waives trial by jury; and (ii) will not (a) at any time insist upon or plead, or in any manner whatever claim or take any benefit or advantage of any stay or extension or moratorium law, any exemption from execution, or sale of the Mortgaged Properties or any part thereof, wherever enacted, now or at any time hereafter in force, which may affect the covenants and terms of performance of this Mortgage, nor (b) claim, take or insist upon any benefit or advantage of any law now or hereafter in force providing for the valuation or appraisal of the Mortgaged Properties, or any part thereof, prior to any sale or sales thereof which may be made pursuant to any provision hereof, or pursuant to the decree, judgment or order of any court of competent jurisdiction; nor (c) after any such sale or sales, claim or exercise any right under any statute heretofore or hereafter enacted to redeem the property so sold or any part thereof; (iii) hereby expressly waives all benefit or advantage of any such law or laws; and (iv) covenants not to hinder, delay or impede the execution of any power herein granted or delegated to Mortgagee, but to suffer and permit the execution of every power as though no such law or laws had been made or enacted. Mortgagor for itself and all who may claim under it, waives, to the extent that it lawfully may, all right to have the Mortgaged Properties (or any part thereof) marshalled upon any foreclosure hereof.

Section 2.10. Filing Charges, Recording Fees, Taxes, etc. Mortgagor shall pay or cause to be paid any and all taxes, charges, filing, registration and recording fees, excises and levies imposed upon Mortgagee by reason of the Loan Documents or this Mortgage or any deed of trust supplemental hereto, any security instrument with respect to any interest of Mortgagor in and to any fixture or personal property at the Mortgaged Properties or any instrument of further assurance, other than income, franchise, succession, inheritance, business and similar taxes, and shall pay all other taxes, if any, required to be paid on the debt evidenced by the Loan Documents. In the event Mortgagor fails to make such payment within ten (10) days after written notice thereof to Mortgagor, then Mortgagee shall have

the right, but shall not be obligated, to pay the amount due, and Mortgagor shall, on demand, reimburse Mortgagee for said amount, together with interest thereon computed at the Default Rate.

Section 2.11. Indemnity. Mortgagor agrees that it shall indemnify, defend and hold harmless Mortgagee from and against all loss, liability, obligation, claim, damage, penalty, cause of action, cost and expense, including those caused in whole or in part by Mortgagee's sole or concurrent negligence and including without limitation any assessments, levies, impositions, judgments, reasonable attorneys fees and disbursements, cost of appeal bonds and printing costs, imposed upon or incurred by or asserted against Mortgagee by reason of (a) this Mortgage; (b) any accident, injury to or death of persons or loss of or damage to property occurring on or about the Mortgaged Properties; (c) any use, non-use or condition of the Mortgaged Properties; (d) any failure on the part of Mortgagor to perform or comply with any terms of this Mortgage; (e) the performance of any labor or services or the furnishing of any materials or other property in respect of the Mortgaged Properties or any part for maintenance or otherwise; (f) the imposition of any mortgage, real estate or governmental tax incurred as a result of this Mortgage, the Notes or the interest of Mortgagee and Banks in the Real Property, other than income tax payable by, or other taxes personal to, Mortgagee or Banks; or (g) any violation or alleged violation by Mortgagor of any law. Any amounts payable under this Section 2.11 shall be due and payable on demand and until paid shall bear interest at the Default Rate.* If any action is brought against Mortgagee by reason of any of the foregoing occurrences, Mortgagor will, upon Mortgagee's request, defend and resist such action, suit or proceeding, at Mortgagor's sole cost and expense by counsel approved by Mortgagee. Notwithstanding any provisions of this Section 2.11 to the contrary, Mortgagor shall not indemnify and hold harmless Mortgagee and Banks against any claims and liabilities arising solely from the gross negligence or willful misconduct of Mortgagor.

Section 2.12. Inspection. Mortgagor will permit Mortgagee, Banks and their respective agents, representatives and employees, to inspect the Mortgaged Properties at all reasonable times.

Section 2.13. Defense of Actions. If the title of Mortgagee to, or the interest of Mortgagee and Banks in, the Mortgaged Properties hereby conveyed, or any part thereof, or the respective rights and obligations of Mortgagor and Mortgagee pursuant to this Mortgage, shall be endangered or shall be attacked, directly or indirectly, Mortgagor hereby authorizes Mortgagee, at Mortgagor's expense, to take all necessary and proper steps for the defense of such title or interest, including the employment of counsel, the prosecution or defense of litigation and the compromise or discharge of claims made against such title or interest in the Mortgaged Properties. Mortgagor will indemnify and hold Mortgagee harmless from and against any and all loss, cost, damage, liability or expense incurred by

Mortgagee in protecting its interests hereunder in such an event. (including all court costs and attorneys' fees).

Section 2.14. Title Insurance. Mortgagor agrees that it will, at all times until the Indebtedness has been paid in full, provide Mortgagee with a Mortgagee Policy of Title Insurance, in the form and insuring marketable title as required by Mortgagee (to the extent marketable title insurance is available in the state where the Mortgaged Properties are located) insuring this Mortgage as a first and prior lien deed of trust against the Real Property in the full amount of that portion of the Indebtedness allocated by Mortgagee to the Mortgaged Properties, and subject to no liens or other encumbrances other than the Permitted Exceptions. The cost of all such title insurance shall be paid by Mortgagor.

Section 2.15. Notices by Governmental Authority, Fire and Casualty Losses, Etc. Mortgagor shall timely comply with and promptly furnish to Mortgagee true and complete copies of any official notice or claim by any Governmental Authority pertaining to the Real Property. Mortgagor shall promptly notify Mortgagee of any fire or other casualty or any notice of taking or eminent domain action or proceeding affecting the Mortgaged Properties.

Section 2.16. Tax Receipts. Mortgagor shall furnish Mortgagee with receipts of tax statements marked "Paid" to evidence the payment of all taxes levied on the Real Property on or before 30 days prior to the date such taxes become delinquent.

Section 2.17. Security Agreement. This Mortgage constitutes a security agreement from the Mortgagor to the Mortgagee under the Uniform Commercial Code. Mortgagor hereby agrees to execute and deliver on demand, and hereby irrevocably constitutes and appoints Mortgagee, the attorney-in-fact of Mortgagor, to execute, deliver and, if appropriate, to file with the appropriate filing office or offices, such financing statements or other instruments as Mortgagee may request or require in order to perfect the security interest granted hereby or continue the effectiveness of the same.

ARTICLE III

Default and Foreclosure

If an Event of Default shall occur, Mortgagee may, at Mortgagee's election and by and through Mortgagee or otherwise, exercise any or all of the following rights, remedies and recourses, in addition to any other remedy which Mortgagee may have:

Section 3.01. Acceleration and Future Advances. Mortgagee may declare the entire Indebtedness, including, without limitation, the Notes and all amounts payable under the Credit Agreement, and all accrued but unpaid interest thereon, court costs and attorney's fees hereunder immediately due and payable,

without notice, notice of acceleration, presentment, protest, demand or action of any nature whatsoever (each of which hereby is expressly waived by Mortgagor), whereupon the same shall become immediately due and payable. Additionally, and in addition to all rights and remedies Mortgagee may have under the Credit Agreement and the other Loan Documents, or at law or in equity, Mortgagee and Banks shall not be required to make any further advances on the Revolving Credit Note or other Loan Documents upon the occurrence of an Event of Default or an event which, with the giving of notice or passing of time, would constitute an Event of Default.

Section 3.02. Entry on the Real Property. Mortgagee may enter upon the Real Property and take exclusive possession thereof and of all books, records and accounts relating thereto without notice and without being guilty of trespass. If Mortgagor remains in possession of all or any part of the Real Property after an Event of Default and without Mortgagee's prior written consent thereto, Mortgagee may, without notice to Mortgagor, invoke any and all legal remedies to dispossess Mortgagor, including specifically one or more actions for forcible entry and detainer, trespass to try title and writ of restitution. Nothing contained in the foregoing sentence shall, however, be construed to impose any greater obligation or any prerequisites to acquiring possession of the Real Property after an Event of Default than would have existed in the absence of such sentence.

Section 3.03. Operation of Mortgaged Properties. Mortgagee may hold, lease, manage, operate or otherwise use or permit the use of the Mortgaged Properties, either itself or by other persons, firms or entities, in such manner, for such time and upon such other terms as Mortgagee may deem to be prudent and reasonable under the circumstances (making such repairs, alterations, additions and improvements thereto and taking any and all other action with reference thereto, from time to time, as Mortgagee shall deem necessary or desirable), and apply all Rents and other amounts collected by Mortgagee in connection therewith in accordance with the provisions of Section 3.13 herein. Mortgagor hereby irrevocably appoints Mortgagee as the attorney-in-fact of Mortgagor, with full power of substitution, and in the name of Mortgagor, if Mortgagee elects to do so, to (a) endorse the name of Mortgagor on any checks or drafts representing proceeds of the insurance policies, or other checks or instruments payable to Mortgagor with respect to the Mortgaged Properties, (b) prosecute or defend any action or proceeding incident to the Mortgaged Properties, and (c) take any action with respect to the Mortgaged Properties that Mortgagee may at any time and from time to time deem necessary or appropriate. Mortgagee shall have no obligation to undertake any of the foregoing actions, and if Mortgagee should do so, it shall have no liability to Mortgagor for the sufficiency or adequacy of any such actions taken by Mortgagee.

Section 3.04. Foreclosure and Sale.

A. Mortgagee, at its option, may, to the extent permitted by the laws of the State of Alabama, proceed with foreclosure to sell the Mortgaged Properties, or any part thereof, at public sale or commence a suit or other appropriate action to foreclose this Mortgage in accordance with the applicable foreclosure laws of the State of Alabama. Except as otherwise provided by the laws of the State of Alabama, any private sale made hereunder shall be made by public outcry to the highest bidder for cash in front of the Court House door in Houston County, Alabama, either by Mortgagee or by an auctioneer selected by Mortgagee, after first having given twenty-one (21) days' notice of the time, place and terms of the sale and a description of the Mortgaged Properties by publication once a week for three (3) consecutive weeks prior to the sale in a newspaper published in Houston County, Alabama. Nothing contained in this paragraph shall be construed to limit in any way Mortgagee's right to sell the Mortgaged Properties by public or private sale after entry of a judgment by any court of competent jurisdiction ordering the same. After such sale, Mortgagee may make to the purchaser or purchasers thereunder good and sufficient assignments, deeds, bills of sale, and other instruments, in the name of Mortgagor, conveying the Mortgaged Properties, or a part thereof, so sold to the purchaser or purchasers with general warranty of title by Mortgagor, in accordance with the applicable statutes of the State of Alabama. The sale of a part of the Mortgaged Properties shall not exhaust the foreclosure remedy or the power of sale of Mortgagee, but sales may be made from time to time until the Indebtedness is paid and performed in full. It shall not be necessary to have present or exhibit at any such sale any of the Personalty.

B. In addition to the rights and powers of sale granted under the preceding subsection 3.04A, if default is made in the payment of any installment of the Indebtedness, Mortgagee, at its option, at once or at any time thereafter while any matured installment remains unpaid, without declaring the entire Indebtedness to be due and payable, may proceed with foreclosure in satisfaction of such installment to sell the Mortgaged Property subject to such unmatured indebtedness and the assignments, liens and security interests securing its payment, in the same manner as provided in the preceding provisions of subsection 3.04A. After such sale, Mortgagee may make or cause to be made due conveyance to the purchaser or purchasers. Sales made without maturing the Indebtedness may be made hereunder whenever there is a default in the payment of any installment of the Indebtedness without exhausting the foreclosure remedy or the power of sale of Mortgagee granted hereby, and without affecting in any way the foreclosure remedy or the power of sale of Mortgagee granted under this subsection 3.04B. The unmatured balance of the Indebtedness (except as to any proceeds of any sale which Mortgagee may apply as a prepayment of the Indebtedness) or the assignments, liens and security interests securing payment of the Indebtedness.

C. It is intended by each of the foregoing provisions of subsections 3.04A and 3.04B that Mortgagee may foreclose on and proceed to sell not only the Real Property but also the Personalty and other interests constituting a part of the Mortgaged Properties, or any part thereof, along with the Real Property, or any part thereof, all as a unit and as part of a single sale, or Mortgagee may foreclose on and proceed to sell any part of the Mortgaged Properties separately from the remainder of the Mortgaged Properties. The sale or sales of less than the whole of the Mortgaged Properties shall not exhaust the foreclosure remedy or the power of sale of Mortgagee herein granted, and the Mortgagee is specifically empowered to make or cause to be made successive sale or sales under such power until the whole of the Mortgaged Properties shall be sold; and if the proceeds of such sale or sales of less than the whole of such Mortgaged Properties shall be less than the aggregate of the Indebtedness and the expense of executing this Mortgage, the assignments, liens and security interests hereof shall remain in full force and effect as to the unsold portion of the Mortgaged Properties just as though no sale or sales of less than the whole of the Mortgaged Properties had occurred, but Mortgagee shall have the right, at its sole election, to foreclose on and to sell less than the whole of the Mortgaged Properties.

D. It is agreed that, in any assignments, deeds, bills of sale, notices of sale, or postings, given by Mortgagee, any and all statements of fact or other recitals therein made as to the identity of Mortgagee, or as to the occurrence or existence of any default, or as to the acceleration of the maturity of the Indebtedness, or as to the request to sell, the notice of sale, the giving of notice to all debtors legally entitled thereto, the time, place, terms and manner of sale and receipt, distribution and application of the money realized therefrom, and without being limited by the foregoing, as to any other act or thing having been duly done by Mortgagee, shall be taken by all courts of law and equity as prima facie evidence that the said statements or recitals state facts and are without further question as to be so accepted, and Mortgagor does hereby ratify and confirm any and all acts that Mortgagee may lawfully do in the premises by virtue hereof.

E. Mortgagor may proceed by suit or suits at law or in equity, to enforce the payment and performance of the Indebtedness in accordance with the terms hereof or of the Notes or the other Loan Documents, to foreclose or otherwise enforce the assignments, liens and security interests created or evidenced by the other Loan Documents, or this Mortgage as against all, or any part of, the Mortgaged Properties, and to have all or any of the Mortgaged Properties sold under the judgment or decree of a court of competent jurisdiction.

Section 3.05. Divestment of Rights; Tenant at Sufferance. After sale of the Real Property, or any portion thereof, Mortgagor will be divested of any and all interest and claim thereto, including any interest or claim to all insurance

policies, bonds, loan commitments and other intangible property covered hereby. Additionally, with respect to the Real Property, Fixtures and Personalty, after a sale of all or any portion thereof, Mortgagor will be considered a tenant at sufferance of the purchaser of the same, and said purchaser shall be entitled to immediate possession thereof, and if Mortgagor shall fail to vacate the Real Property immediately, the purchaser may and shall have the right, without further notice to Mortgagor, to go into any justice court in any precinct or county in which the Real Property is located and file an action in forcible entry and detainer, which action shall lie against Mortgagor or its assigns or legal representatives, as a tenant at sufferance. This remedy is cumulative of any and all remedies the purchaser may have hereunder or otherwise.

Section 3.06. Receiver.

A. Upon, or at any time after, commencement of foreclosure of the lien and security interest provided for herein or any legal proceedings hereunder, Mortgagee may make application to a court of competent jurisdiction, as a matter of strict right and without notice to Mortgagor or regard to the adequacy of the Mortgaged Properties for the repayment of the Indebtedness, for appointment of a receiver of the Mortgaged Properties, and Mortgagor does hereby irrevocably consent to such appointment. Any such receiver shall have all the usual powers and duties of receivers in similar cases, including the full power to rent, maintain and otherwise operate the Mortgaged Properties upon such terms as may be approved by the court, and shall apply such Rents in accordance with the provisions of Paragraph 3.13 herein.

B. Mortgagee may exercise any and all other rights, remedies and recourses granted under the Loan Documents or now or hereafter existing in equity, at law, by virtue of statute or otherwise.

Section 3.07. Separate Sales. The Mortgagee may sell all or any portion of the Mortgaged Properties together or in lots or parcels and in such manner and order as Mortgagee, in its sole discretion, may elect. The sale or sales by the Mortgagee of less than the whole of the Mortgaged Properties shall not exhaust the power of sale herein granted, and the Mortgagee is specifically empowered to make successive sale or sales under such power until the whole of the Mortgaged Properties shall be sold; and if the proceeds of the sale or sales of less than the whole of such Mortgaged Properties shall be less than the aggregate of the Indebtedness and the expense of executing this trust, this Mortgage and the lien, security interest and assignment hereof shall remain in full force and effect as to the unsold portion of the Mortgaged Properties just as though no sale or sales had been made; provided, however, that Mortgagor shall never have any right to require the sale or sales of less than the whole of the Mortgaged Properties, but Mortgagee shall have the right, at its sole election, to request the Mortgagee to sell less than the whole of the Mortgaged Properties. As among the

various counties in which items of the Mortgaged Properties may be situated, sales in such counties may be conducted in any order that the Mortgagee may deem expedient; and any one or more of such sales may be conducted in the same month, or in successive or different months, as the Mortgagee may deem expedient. If default is made hereunder, the holder of the Indebtedness or any part thereof on which the payment is delinquent shall have the option to proceed as if under a full foreclosure, conducting the sale as herein provided without declaring the entire Indebtedness due, and if sale is made because of default of an installment, or a part of an installment, such sale may be made subject to the unmatured part of the Notes and the Indebtedness; and such sale, if so made, shall not in any manner affect the unmatured part of the Indebtedness but as to such unmatured part, this Mortgage shall remain in full force and effect as though no sale had been made under the provisions of this paragraph. Any number of sales may be made hereunder without exhausting the right of sale for any unmatured part of the Indebtedness secured hereby.

Section 3.08. Remedies Cumulative, Concurrent and Nonexclusive. Mortgagee shall have all rights, remedies and recourses granted in the Loan Documents and available at law or equity (including specifically those granted by the Uniform Commercial Code) and same (a) shall be cumulative and concurrent; (b) may be pursued separately, successively or concurrently against Mortgagor, maker or others obligated under the Notes, or against the Mortgaged Properties, or against any one or more of them at the sole discretion of Mortgagee; (c) may be exercised as often as occasion therefor shall arise, it being agreed by Mortgagor that the exercise or failure to exercise any of the same shall in no event be construed as a waiver or release thereof or of any other right, remedy or recourse; and (d) are intended to be, and shall be, nonexclusive.

Section 3.09. Release of and Resort to Collateral. Any part of the Mortgaged Properties may be released by Mortgagee without affecting, subordinating or releasing the lien, security interest and assignment hereof against the remainder. The lien, security interest, and other rights granted hereby shall not affect or be affected by any other security taken for the same indebtedness or any part thereof. The taking of additional security, or the rearrangement, extension or renewal of the Indebtedness, or any part thereof, shall not release or impair the lien, security interest and other rights granted hereby or affect the liability of any endorser, guarantor or surety, or improve the right of any permitted junior lienholder; and this Mortgage, as well as any instrument given to secure any rearrangement, renewal or extension of the Indebtedness secured hereby, or any part thereof, shall be and remain a first and prior lien, except as otherwise provided herein, on all of the Mortgaged Properties not expressly released until the Indebtedness is completely paid.

Section 3.10. Waiver of Redemption, Notice and Marshalling of Assets. To the fullest extent permitted by law, Mortgagor

hereby irrevocably and unconditionally waives and releases (a) all benefits that might accrue to Mortgagor by any present or future laws exempting the Real Property from attachment, levy or sale on execution or providing for any appraisement, valuation, stay of execution, exemption from civil process, redemption or extension of time for payment; (b) all notices of any Event of Default (except as may be provided for under the terms hereof) or of Mortgagee's or Mortgagee's intent to exercise or election to exercise or the actual exercise of any right, remedy or recourse provided herein, including without limitation, notice of intent to accelerate and notice of acceleration; (c) any right to appraisal or marshalling of assets or a sale in inverse order of alienation; (d) the exemption of homestead; and (e)) the administration of estates of decedents, or other matter whatever to defeat, reduce or affect the right of Mortgagee under the terms of this Mortgage, to sell the Mortgaged Properties for the collection of the Indebtedness secured hereby (without any prior or different resort for collection) or the right of Mortgagee, under the terms of this Mortgage, to the payment of the Indebtedness out of the proceeds of sale of the Mortgaged Properties in preference to every other person and claimant whatever (only reasonable expenses of such sale being first deducted). Mortgagor expressly waives and relinquishes any right or remedy which it may have or be able to assert by reason of the provisions of the Uniform Commercial Code pertaining to the rights and remedies of sureties.

Section 3.11. Discontinuance of Proceedings. In case Mortgagee shall have proceeded to invoke any right, remedy or recourse permitted under the Loan Documents and shall thereafter elect to discontinue or abandon the same for any reason, Mortgagee shall have the unqualified right so to do and, in such event, Mortgagor and Mortgagee shall be restored to their former positions with respect to the Indebtedness, the Loan Documents, the Mortgaged Properties and otherwise, and the rights, remedies, recourses and power of Mortgagee shall continue as if same had never been invoked.

Section 3.12. Form and Substance. All documents, certificates, insurance policies, and other items required under this Mortgage to be executed and/or delivered to Mortgagee shall be in form and substance satisfactory to Mortgagee.

Section 3.13. Application of Proceeds; Deficiency Obligation.

A. The proceeds of any sale of, and the Rents and other income generated by the holding, leasing, operating or other use of, the Mortgaged Properties shall be applied by Mortgagee (or the receiver, if one is appointed) to the extent that funds are so available therefrom in the following orders of priority: (a) first, to the payment of the costs and expenses of taking possession of the Mortgaged Properties and of holding, using, leasing, maintaining, repairing, improving and selling the same, including, without limitation, (i) receiver's fees; (ii) costs of

advertisement; (iii) attorneys' and accountants' fees; and (iv) court costs, if any; (b) second, to the payment of all amounts, other than the principal amount and accrued but unpaid interest, on the Notes, together with interest thereon as provided therein; (c) third, to the payment of all accrued but unpaid interest due on the Notes; (d) fourth, to the payment of the principal amount outstanding on the Notes and all other Indebtedness; (e) fifth, to the Collection Account provided in the Credit Agreement to be held and disbursed in accordance with the provisions of the Credit Agreement, and (f) sixth, to Mortgagor or any other party legally entitled thereto.

B. Subject to the foregoing, the proceeds of any sale of, and the Rents and other income generated by the holding, leasing, operating or other use of the Mortgaged Properties shall be applied by Mortgagee (or the receiver, if one is appointed) to the extent that funds are so available therefrom: (1) first, to reduce that portion of the Indebtedness then remaining unpaid for which Mortgagor and any other party liable on the Indebtedness are not personally liable and (2) second, to reduce that portion of the Indebtedness then remaining unpaid for which Mortgagor and any other party liable on the Indebtedness are personally liable. Mortgagor and any other party liable on the Indebtedness shall be liable for any deficiency remaining in the Indebtedness subsequent to the sale referenced in this Section.

Section 3.14. Purchase by Mortgagee. Mortgagee shall have the right to become the purchaser at the sale of the Mortgaged Properties hereunder pursuant to any other means and shall have the right to be credited on the amount of its bid therefor all or any part of the Indebtedness due and owing as of the date of such sale, in such manner, order and amount as determined by Mortgagee.

Section 3.15. Disaffirmation of Contracts. The purchaser at any foreclosure sale hereunder may disaffirm any easement granted, or rental, lease or other contract made in violation of any provisions of this Mortgage and may take immediate possession of the Real Property free from, and despite the terms of, such grant of easement and rental, lease or other contract.

Section 3.16. Instrument Effective as a Mortgage. This instrument shall be effective as a mortgage, and upon the occurrence of an event of default may be foreclosed as to the Mortgaged Property in any manner permitted by the laws of the State of Alabama or any other state in which any part of the Mortgaged Properties are situated. Any foreclosure suit may be brought by Mortgagee or any holder(s) of the Indebtedness. If a foreclosure hereunder is commenced by Mortgagee, Mortgagee may, at any time before the sale, abandon the sale and may then institute suit for the collection of the Notes, and for the foreclosure or enforcement of the assignments, liens and security interests hereof. If Mortgagee should institute a suit for the collection of the Note(s) and for a foreclosure or enforcement of the assignments, liens, and security interests hereof, it may, at

any time before the entry of a final judgment in said suit, dismiss the same, and sell the Mortgaged Properties, or any part thereof, in accordance with the provisions of this Mortgage.

Section 3.17. Completion of Improvements. The Mortgagee shall have the right to enter upon the Real Property for the purposes of completing the improvements to continue any and all outstanding contracts for the execution and completion of the improvements and to make and enter into any further contracts which may be necessary either in its own name or in the name of Mortgagor.

ARTICLE IV

SECURITY AGREEMENT

Section 4.01. Security Interest. This Mortgage shall be construed as a Mortgage on real property, and it shall also constitute and serve as a security agreement on personal property within the meaning of, and shall constitute until the grant of this Mortgage shall terminate as provided in Article II hereof, a first and prior pledge and assignment and a first and prior lien and security interest under the Uniform Commercial Code of the State of Alabama with respect to the Personalty, Fixtures, Leases, Rents, Premiums and Awards, and Rights and Appurtenances (collectively, the "UCC Collateral"). Mortgagor has granted bargained conveyed, assigned, transferred and set over, and by these presents does grant, bargain, convey, assign, transfer and set over unto Mortgagee (acting as both a trustee and agent for the Mortgagee under the terms hereof) a first and prior security interest in and to all of Mortgagor's right, title and interest in, to and under the UCC Collateral, in trust, to secure the full and timely payment of the Indebtedness and the full and timely performance and discharge of the Obligations. Upon the occurrence of an Event of Default, Mortgagor shall gather all of the UCC collateral at a location designated by the Mortgagee for sale pursuant to the terms hereof. The foregoing shall not effect in any manner whatsoever the Lease Assignment defined in the Credit Agreement.

Section 4.02. Financing Statements. Mortgagor shall execute and deliver to Mortgagee, in form and substance satisfactory to Mortgagee, such financing statements and such further assurances as Mortgagee may, from time to time, consider reasonably necessary to create, perfect and preserve Mortgagee's security interest herein granted, and Mortgagee may cause such statements and assurances to be recorded and filed at such times and places as may be required or permitted by law to so create, perfect and preserve such security interest. Pursuant to the Uniform Commercial code of the State of Alabama, this Mortgage shall be effective as a Financing Statement filed as a Fixture filing from the date of its filing for record covering the Fixtures, Personalty and other UCC Collateral. The address of Mortgagor, as Debtor, and Mortgagee, as Secured Party, are as set forth herein. The above described goods are or are to become

fixtures related to the Land and Improvements of which Mortgagor is the record title owner.

Section 4.03. Uniform Commercial Code Remedies. The Mortgagee and the Mortgagor shall each have the right to proceed under the Uniform Commercial Code, as to all or any part of the UCC Collateral and other security granted hereunder, in addition to, and not in limitation of, the other rights, remedies and recourses afforded by the Loan Documents and at law, and in conjunction therewith to exercise all of the rights, remedies and powers of a secured party under the Uniform Commercial Code, including, without limitation, taking possession of the UCC Collateral and other security pursuant to Section 9-503 of the Uniform Commercial Code. Upon the occurrence of any event of default hereunder, the Mortgagor shall assemble all of the UCC Collateral and make the same available within the Improvements. Any notification required by Section 9-504 of the Uniform Commercial Code shall be deemed reasonably and properly given if mailed certified mail, return receipt requested, postage prepaid, by the Mortgagee to the Mortgagor at Mortgagor's address specified herein at least 10 days before any sale or other disposition of the UCC Collateral (or any other security granted hereunder), or any portion thereof. Disposition of the UCC Collateral (or any other security granted hereunder), or any portion thereof, shall be deemed commercially reasonable if made pursuant to a public offering advertised at least twice in a newspaper of general circulation in the community where the Mortgaged Properties are located.

Section 4.04. No Obligation of Mortgagee. The assignment and security interest herein granted shall not be a mortgagee in possession of the Mortgaged Properties, to obligate Mortgagee to operate the Mortgaged Properties or attempt to do the same, or take any action, incur expenses or perform or discharge any obligation, duty or liability whatsoever under any of the Leases or otherwise.

ARTICLE V

Miscellaneous

Section 5.01. Credits Waived. Mortgagor will not claim nor demand nor be entitled to any credit or credits against the Indebtedness for so much of the taxes assessed against the Mortgaged Properties or any part thereof, as is equal to the tax rate applied to the amount due on this Mortgage or any part thereof, and no deductions shall otherwise be made or claimed from the taxable value of the Mortgaged Properties or any part thereof by reason of this Mortgage or the Indebtedness secured hereby.

Section 5.02. No Releases. Mortgagor agrees, that in the event the Mortgaged Properties (or any part thereof or interest therein) are sold and Mortgagee enters into an agreement with the then owner of the Mortgaged Properties extending the time of

payment of the Indebtedness, or otherwise modifying the terms hereof, Mortgagor shall continue to be liable to pay the Indebtedness according to the tenor of any such agreement unless expressly released and discharged in writing by Mortgagee.

Section 5.03. Notices. All notices, requests, demand and other communications hereunder shall be in writing (including telex, telecopier or similar writing) and shall be given to such party at its address, telex or telecopier number set forth below or such other address or telex or telecopier number as such party may hereafter specify by notice to the other parties listed below.

If to Mortgagee: First Interstate Bank of Texas, N.A.
309 West Seventh Street, Suite 1100
Fort Worth, Texas 76102
Attention: Ms. Robin Hamilton
Vice President
Telex: 817-885-1110
Telecopier: 817-885-1188

With a Copy to: William D. Ratliff, III
Haynes and Boone, L.L.P.
1300 Burnett Plaza
801 Cherry Street
Fort Worth, Texas 76102-4706
Telecopier: 817-347-6650
Telephone: 817-347-6608

If to Mortgagor: Pier Group, Inc.
301 Commerce Street, Suite 600
Fort Worth, Texas 76102
Attention: Charles L. Horn
Telex: 203955
Telecopier: 817-332-5727
Telephone: 817-878-8000

Each such notice, request or other communication shall be effective (i) if given by telex, when such telex is transmitted and the appropriate answerback is received, (ii) if given by telecopier or other form of facsimile transmission, when the recipient confirms legible transmission thereof, or (iii) if given by any other means, when delivered at the address specified in this Section 5.03. Any party may, at any time by giving five days' written notice to the other parties, designate any other address in substitution of the foregoing address to which notices shall be given.

Section 5.04. Binding Obligations. The provisions and covenants of this Mortgage shall run with the land, shall be binding upon Mortgagor and shall inure to the benefit of Mortgagee, subsequent holders of this Mortgage, and the respective successors and assigns of the foregoing. For the purpose of this Mortgage, the term "Mortgagor" shall include and refer to Mortgagor named herein, any subsequent owners of the

Mortgaged Properties (or any part thereof or interest therein), and their respective heirs, executors, legal representatives, successors and assigns.

Section 5.05. Governing Law; Controlling Agreement.

A. THE ENFORCEMENT OF THIS MORTGAGE SHALL BE GOVERNED, CONSTRUED AND INTERPRETED BY THE LAWS OF THE STATE OF TEXAS, EXCEPT THAT THE PROVISIONS HEREOF RELATING TO THE CREATION AND ENFORCEMENT OF LIENS AND SECURITY INTERESTS SHALL BE GOVERNED BY THE LAWS OF THE STATE WHERE THE MORTGAGED PROPERTIES ARE LOCATED. Except as provided in the immediately preceding sentence, this Mortgage is performable in Tarrant County, Texas, and Mortgagor waives the right to be sued elsewhere.

B. All agreements between Mortgagor and Mortgagee, whether now existing or hereafter arising and whether written or oral, are hereby limited so that in no contingency, whether by reason of demand or acceleration of the maturity of the Notes or otherwise, shall the interest contracted for, charged, received, paid or agreed to be paid to Mortgagee exceed the maximum amount permissible under applicable law. If, from any circumstance whatsoever, interest would otherwise be payable to Mortgagee in excess of the maximum lawful amount, the interest payable to Mortgagee shall be reduced to the maximum amount permitted under applicable law; and if from any circumstance Mortgagee shall ever receive anything of value deemed interest by applicable law in excess of the maximum lawful amount, an amount equal to any excessive interest shall be applied to the reduction of the principal of the Indebtedness and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of principal of the Indebtedness, such excess shall be refunded to Mortgagor. All interest paid or agreed to be paid to Mortgagee shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full period until payment in full of the principal so that the interest on the Indebtedness for such full period shall not exceed the maximum amount permitted by applicable law. This section shall control all agreements between Mortgagor and Mortgagee.

Section 5.06. Captions. The captions of the Sections of this Mortgage are for the purpose of convenience only and are not intended to be a part of this Mortgage and shall not be deemed to modify, explain, enlarge or restrict any of the provisions hereto.

Section 5.07. Further Assurances. Mortgagor shall do, execute, acknowledge and deliver, at the sole cost and expense of Mortgagor, all and every such further acts, deeds, conveyances, mortgages, assignments, estoppel certificates, notices of assignment, transfers and assurances as Mortgagee may require from time to time in order to better assure, convey, grant, assign, transfer and convey unto Mortgagee, the rights now or hereafter intended to be granted to Mortgagee under this Mortgage, any other instrument executed in connection with this

Mortgage or any other instrument under which Mortgagor may be or may hereafter become bound to convey, mortgage or assign to Mortgagee for carrying out the intention of facilitating the performance of the terms of this Mortgage. Mortgagor hereby appoints Mortgagee its attorney-in-fact to execute, acknowledge and deliver for and in the name of Mortgagor any and all of the instruments mentioned in this Section 5.07 and this power, being coupled with an interest, shall be, irrevocable as long as any part of the Indebtedness remains unpaid.

Section 5.08. Severability. Any provision of this Mortgage which is prohibited or unenforceable in any jurisdiction or prohibited or unenforceable as to any person or entity shall, as to such jurisdiction, person or entity be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provisions in any other jurisdiction or as to any other person or entity.

Section 5.09. General Conditions.

A. All covenants hereof shall be construed as affording to Mortgagee rights additional to and not exclusive of the rights conferred under the provisions of any other applicable law.

B. This Mortgage cannot be altered, amended, modified or discharged orally and no executory agreement shall be effective to modify or discharge it in whole or in part, unless it is in writing and signed by the party against whom enforcement of the modification, alteration, amendment or discharge is sought.

C. No remedy herein conferred upon or reserved to Mortgagee is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission of Mortgagee in exercising any right or power accruing upon any Event of Default shall impair any such right or power, or shall be construed to be a waiver of any such Event of Default, or any acquiescence therein. Acceptance of any payment (other than a monetary payment in cure of a monetary default) after the occurrence of an Event of Default shall not be deemed a waiver of or a cure of such Event of Default and every power and remedy given by this Mortgage to Mortgagee may be exercised from time to time as often as may be deemed expedient by Mortgagee. Nothing in this Mortgage or in the Notes or in any other Loan Document shall limit or diminish the obligation of Mortgagor to pay the Indebtedness in the manner and at the time and place therein respectively expressed.

D. No waiver by Mortgagee will be effective unless it is in writing and then only to the extent specifically stated. Without limiting the generality of the foregoing, any payment made by Mortgagee for insurance premiums, taxes, assessments, water rates, sewer rentals, levies, fees or any other charges affecting

the. Mortgaged Properties, shall not constitute a waiver of Mortgagor's default in making such payments and shall not obligate Mortgagee to make any further payments.

E. Mortgagee shall have the right to appear in and defend any action or proceeding, in the name and on behalf of Mortgagor, which Mortgagee, in its discretion, determines may adversely affect the Mortgaged Properties or this Mortgage. Mortgagee shall also have the right to institute any action or proceeding which Mortgagee, in its discretion, determines should be brought to protect its interest in the Mortgaged Properties or its rights hereunder. All costs and expenses incurred by Mortgagee in connection with such actions or proceedings, including, without limitation, reasonable attorneys' fees and expenses and reasonable appellate attorneys fees and expenses, shall be paid by Mortgagor on demand and shall be secured by this Mortgage.

F. In the event of the passage after the date of this Mortgage of any law of any governmental authority having jurisdiction hereof or the Mortgaged Properties, deducting from the value of land for the purpose of taxation, affecting any lien thereon or changing in any way the laws for the taxation of mortgages or debts secured by mortgages for federal, state or local purposes, or the manner of the collection of any such taxes, so as to affect this Mortgage, Mortgagor shall promptly pay or shall cause Lessee to promptly pay to Mortgagee, on demand, all taxes, costs and charges for which Mortgagee is or may be liable as a result thereof; provided that if said payments shall be prohibited by law, render the Notes usurious or subject Mortgagee or Banks to any penalty or forfeiture, then and in such event the Indebtedness shall, at the option of Mortgagee, be immediately due and payable.

G. Mortgagor hereby appoints Mortgagee as its attorney-in-fact in connection with the Fixtures and Personalty covered by this Mortgage, where permitted by law, to file on its behalf any financing statements or other statements in connection therewith with the appropriate public office signed by Mortgagee, as secured party. This power, being coupled with an interest, shall be irrevocable so long as any part of the Indebtedness remains unpaid.

H. If Mortgagee purchases the Mortgaged Properties pursuant to a foreclosure under this Mortgage, or accepts a deed to the Mortgaged Properties in lieu of a foreclosure, Mortgagor hereby authorizes Mortgagee to withhold the amount of tax, if any, required to be withheld under Section 1445 of the Internal Revenue Code of 1986, as amended (or any successor provision thereto), out of any sums payable to Mortgagor from such foreclosure sale or assignment in lieu thereof, as the case may be, after payment of all parties other than Mortgagor who are entitled to be paid out of any foreclosure or assignment proceeds, as if Mortgagor were a foreign person, unless Mortgagor certifies its nonforeign status as the time of such foreclosure

sale or assignment, as the case may be, by executing and delivering to Mortgagee a certificate satisfactory to Mortgagee.

I. The information set forth on the cover hereof is hereby incorporated herein.

J. Mortgagor acknowledge that it has received a true copy of this Mortgage provided without charge.

K. For purposes of this Mortgage, whenever the circumstances or the context of this Mortgage so requires, the singular shall be construed as the plural, the masculine shall be construed as the feminine and/or the neuter and vice versa.

Section 5.10. Mortgage Made Pursuant to the Credit Agreement. This Mortgage is made pursuant to the Credit Agreement and this Mortgage is subject to all of the provisions of the Credit Agreement, the terms and conditions of which are hereby incorporated in this Mortgage in their entirety.

Section 5.11. Lease in Effect. Notwithstanding any term or condition of this Mortgage to the contrary, to the extent that any term or condition of this Mortgage precludes or preempts Mortgagor and/or the Lessee from exercising any of the rights available to Mortgagor and/or the Lessee under the Tenant Lease or conflicts with any term or condition of the Tenant Lease, then the provisions of the Tenant Lease shall control for so long as and to the extent that such conflicting or inconsistent term or condition contained in the Tenant Lease shall remain in full force and effect. In furtherance and not in limitation of the foregoing, for so long as the comparable provisions of the Tenant Lease shall be in full force and effect, Mortgagor's obligations regarding insurance coverage, insurance proceeds, restoration of the Mortgaged Properties, condemnation proceedings and awards in connection with the Mortgaged Properties shall be governed by the terms and conditions of the Tenant Lease and not by sections 2.04, 2.05 and 2.06 hereof.

Section 5.12. Multi-site Real Estate Transaction. Mortgagor acknowledges that this Mortgage is one of a number of other Loan Documents which secure the Indebtedness. Mortgagor agrees that the lien of this Mortgage shall be absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever of Mortgagee and, without limiting the generality of the foregoing, the lien hereof shall not be impaired by any acceptance by Mortgagee of any security for or guarantors upon any of the Indebtedness or by any failure, neglect or omission on the part of Mortgagee to realize upon or protect any of the Indebtedness or any collateral security therefor including the other Loan Documents. The lien hereof shall not in any manner be impaired or affected by any release (except as to the property released), sale, pledge, surrender, compromise, settlement, renewal, extension, indulgence, alteration, changing, modification or any disposition of any of the Indebtedness or any of the collateral security therefor,

including the other Loan Documents or of any guarantee thereof. Mortgagee may, at its discretion, foreclose, exercise any power of sale, or exercise any other remedy available to it under any or all of the other Loan Documents without first exercising or enforcing any of its rights and remedies hereunder, or may foreclose, exercise any power of sale, or exercise any other right available under this Mortgage without first exercising or enforcing any of its rights or remedies under any or all of the other Loan Documents. Such exercise of Mortgagee's rights and remedies under any or all of the other Loan Documents shall not in any manner impair the Indebtedness or the lien of this Mortgage, and any exercise of the rights or remedies of the Mortgage hereunder shall not impair the lien of any of the other Loan Documents or any of Mortgagee's rights and remedies thereunder. Mortgagor specifically consents and agrees that Mortgagee may exercise its rights and remedies hereunder and under the other Loan Documents separately or concurrently and in any order that Mortgagee may deem appropriate.

Section 5.13. Corporate Obligation Only. Mortgagor's obligations hereunder are intended to be the corporate obligations of Mortgagor only, and, accordingly, no recourse for the payment of the Indebtedness secured hereby, or for any claim based thereon or otherwise in respect thereof, shall be had against any incorporator, shareholder, officer or director, as such, past, present or future, of Mortgagor or of any successor corporation, or against any direct or indirect parent corporation of Mortgagor or any other subsidiary of any such direct or indirect parent corporation or any incorporator, shareholder, officer or director, as such, past, present or future, of any such parent or other subsidiary, it being understood that Mortgagor is a special purpose corporation formed for the purpose of the transaction contemplated in the Credit Agreement and the Lease on the express understanding aforesaid. Nothing contained in this Section 5.13 shall be construed to limit the exercise or enforcement, in accordance with the terms of this Mortgage or any of the Loan Documents or Other Loan Documents, of rights and remedies against Mortgagor or its assets or affect or impair any guaranty given in connection with the Indebtedness or the Lease.

Section 5.14. Actions of Mortgagee. Notwithstanding any term or provision of this Mortgage to the contrary, it is understood and agreed that so long as any sums remain outstanding under the Notes or are available to be advanced under the Credit Agreement, Agent and its successors and assigns shall be entitled to exercise any and all rights and remedies available to Mortgagee hereunder.

Section 5.15. Release. Provided no Event of Default shall have occurred and be continuing under this Mortgage if a conveyance, sale or transfer of title to all or a portion of the Mortgaged Properties shall occur pursuant to the terms of the Lease, Mortgagee shall release in part or in whole, as the case may be, the Mortgaged Properties from the lien of this Mortgage upon payment to Mortgagee in cash of (i) one hundred percent

(100%) of the Total Cost (as defined in the Tenant Lease) paid or incurred with respect to the portion of the Mortgaged Properties to be released pursuant to the terms of the Tenant Lease, (ii) any other sums which may then be payable to Mortgagee pursuant to the Credit Agreement and (iii) the legal fees and disbursements, if any, of counsel for Mortgagee incurred in connection with the preparation and processing of each such release. Mortgagee shall further release portions of the Mortgaged Properties from the lien and provisions of this Mortgage upon the substitution of other mortgaged properties in accordance with the provisions of the Tenant Lease. The release of any portion of the Mortgaged Properties hereunder shall be conditioned upon the concurrent release of such portion from the Tenant Lease in accordance with the terms and provisions of the Tenant Lease and, where substitute property is to be concurrently leased to Mortgagor pursuant to the Tenant Lease, then only if such substitute property is concurrently included within the Mortgaged Properties hereunder and the other terms and provisions of this Mortgage with respect to such substitute property have been satisfied, including, without limitation, the delivery to Mortgagee of a mortgagee policy of title insurance insuring the lien of this Mortgage as a first and prior lien covering such substitute property and subject to no encumbrance other than those approved in writing by Mortgagee.

Section 5.16. Applicable to Leasehold Mortgages. If this Mortgage grants a mortgage or creates a lien on a leasehold estate, then the following provision shall apply in addition to those set forth hereinabove:

A. Mortgagor has good, marketable, and insurable title to the rights and interest of the "lessee" (the "Ground Lessee") under, and the leasehold estate created by, the ground lease agreement (the "Ground Lease") covered hereby and included within the Mortgaged Properties hereunder, free and clear of all mortgages, liens, encumbrances, leases, tenancies, security agreements, covenants, conditions, restrictions, rights, easements, judgments or other matters affecting title except the Permitted Exceptions. The Ground Lease is a valid and subsisting lease according to its tenor and effect, and Mortgagor has the good and lawful title, right and power to mortgage and convey its interest thereunder pursuant to this Mortgage without any consent or approval of the "lessor" (the "Ground Lessor") thereunder or any other party. The duties and obligations to be kept and performed under the Ground Lease on the part of the Ground Lessor and the Ground Lessee have been fully performed and discharged in full to and including the date hereof and neither the Ground Lessee nor the Ground Lessor is in default thereunder. A true, correct and complete executed counterpart of the Ground Lease has been delivered by Mortgagor to Mortgagee, together with all modifications and amendments thereto as described on Exhibit "C", attached hereto. Except as described on Exhibit "C" hereto, the Ground Lease has not been modified or amended in any respect.

B. Mortgagor shall (i) at all times fully perform and comply with all covenants, warranties, representations and other obligations imposed upon or assumed by it as Ground Lessee under the Ground Lease and always keep the same in full force and effect; and (ii) upon Mortgagor's failure or alleged failure (notwithstanding that the alleged failure may be contested by Mortgagor) so to do, Mortgagee shall have the absolute and immediate right to perform the same and to enter upon the Land and to take such other actions as Mortgagee, in its opinion, deems necessary or desirable in order to prevent or to cure any such failure by Mortgagor.

C. Mortgagor shall not, without Mortgagee's prior written consent thereto, (i) terminate, cancel, modify or amend the Ground Lease; or (ii) take or consent to the taking of any action in regard to the fee simple title to the Land demised by the Ground Lease and the Leasehold Estate so created thereby to merge the same, but rather the said fee title and leasehold estate shall always be separate and distinct.

D. Mortgagor will obtain from the Ground Lessor such estoppel letters and other documents and will take such action and execute such additional instruments and documents, as Mortgagee may from time to time request to better assure to Mortgagee the validity and priority of the first lien of this Mortgage against the Leasehold Estate created by the Ground Lease and to protect and preserve Mortgagee's rights thereunder.

E. Mortgagor acknowledges receipt of an exact copy of this Mortgage.

Section 5.17. Construction Mortgage. This Mortgage shall be and is a construction mortgage securing an obligation incurred for the construction of the Improvements on the Land, including the acquisition costs of the Land and any notes issued in extension and renewal thereof or substitution therefor. Mortgagor affirms, acknowledges and warrants that prior to the recordation of this Mortgage in the real property records of the Shelby County, Alabama, no contract will have been entered into nor will any improvements have been constructed upon the Land nor will any material have been delivered to the Land in regard to the project for which the loans evidenced by the Notes have been and are to be made. Such loans are to be advanced in accordance with the Credit Agreement and will be advanced in installments from time to time in accordance with the terms of the Credit Agreement as construction progresses.

Section 5.18. NO ORAL AGREEMENTS. THIS WRITTEN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

IN WITNESS WHEREOF, this Mortgage has been duly executed by
Mortgagor to be effective as of the date first above written.

ATTEST:

Michael A. Carter
MICHAEL A. CARTER

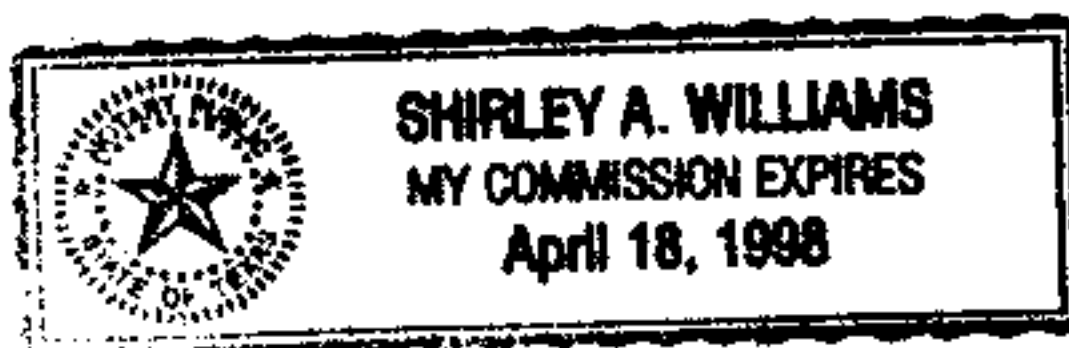
PIER GROUP, INC., a Delaware
corporation

By: *G. Michael Tilton*
G. Michael Tilton,
Vice President

THE STATE OF TEXAS §
 §
COUNTY OF TARRANT §

I, the undersigned, a Notary Public in and for the State of
Texas, hereby certify that G. Michael Tilton, whose name as Vice
President of Pier Group, Inc., a Delaware corporation, is signed
to the foregoing Mortgage and who is known to me, acknowledged
before me on this day that, being informed of the contents of the
Mortgage, he, as such officer and with full authority, executed
the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 30th day of
April, 1996.



Shirley A. Williams
Notary Public in and for the
State of Texas

F-0020389.02

EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL I

Lot D-1 of PIER I IMPORTS SURVEY, as recorded in Map Book 21, page 13, in the office of the Judge of Probate of Shelby County, Alabama.

Situated in the Southeast 1/4 of the Southeast 1/4 of Section 36, Township 18 South, Range 2 West, Shelby County, Alabama and being more particularly described as follows:

Commence at the Southeast corner of said 1/4-1/4 section and run north along the east line of said 1/4-1/4 section 876.66 feet to the Southeast corner of INVERNESS CORNERS OUTPARCEL "D"; thence 90 degrees 00 minutes 00 seconds left and run westerly for 152.80 feet to the P.O.B. of the parcel herein described; thence continue along the last stated course for 17.14 feet; thence 118 degrees 57 minutes 14 seconds right and run northeasterly for 74.30 feet to the beginning of a curve to the left, said curve having a radius of 30.00 feet and subtending a central angle of 90 degrees 00 minutes 00 seconds; thence run northwesterly along the arc of said curve for 47.12 feet to the end of said curve; thence at tangent to said curve run northwesterly 191.11 feet to point on a curve on the back of curb of INVERNESS CORNERS ACCESS DRIVE; said curve having a radius of 100.00 feet and a central angle of 21 degrees 23 minutes 43 seconds; thence run northwesterly along said back of curb and arc of curve 37.34 feet to the Point of Tangent; thence run northeasterly along said back of curb 110.82 feet to a Point on Curve on the southwesterly right of way of U.S. Highway No. 280, said curve having a radius of 3474.05 feet and a central angle of 04 degrees 00 minutes 46 seconds; thence right 89 degrees 21 minutes 54 seconds to the tangent of said curve and run southeasterly along said southwesterly right of way and arc of curve 243.31 feet to a point on said curve; said point being 32.39 feet as measured along the arc of said curve west of the east line of said 1/4-1/4 section line; thence 94 degrees 38 minutes 52 seconds right from tangent of said curve and run southwesterly for 254.51 feet to the Point of Beginning.

PARCEL II

Perpetual and non-exclusive easement for access on an over the site development; use of parking facilities and through all common areas and private use areas, for purposes of ingress and egress to the adjacent shopping center appurtenant to Parcel I all as created by that certain Reciprocal Easement Agreement dated the 30 day of April, 1996 by and between Metropolitan Life Insurance Company and Pier Group, Inc. as recorded in Instrument 1996, Page 14793, in the Office of the Judge of Probate of Shelby County, Alabama.

PARCEL III

Non-Exclusive Easement for access as set forth in instrument dated 26 day of April, 1996 by and between Metropolitan Life Insurance Company and Pier Group, Inc. recorded in Instrument 1996, Page 4794, in the Office of the Judge of Probate of Shelby County, Alabama.

EXHIBIT "B"

Permitted Encumbrances

1. Taxes due in the year 1996, a lien, but not yet payable. Parcel #58-02-7-36-0-001-027-013.
2. Rights of third parties over and across subject premises by virtue of any easements, cross easements or reciprocal easement agreements.
3. Set back lines and easements as shown by survey of Paragon Engineers, Inc. dated 11-14-89.
4. Permit to Alabama Power Company recorded in Deed Book 126, Page 189.
5. Easements to Alabama Power Company recorded in Deed Book 342, Page 367, Real Book 240, Page 985 and Real Book 340, Page 804.
6. Restrictions recorded in Real Book 268, Page 605.
7. Buffer Zone as established in Real Book 268, Page 605.
8. Easement agreement recorded in Instrument No. 1993-7530.
9. Oil, gas and mineral, and mining rights and all rights incident thereto including release of damages are not insured herein.
10. Rights, restrictions, terms, and other conditions contained in that certain Reciprocal Easement Agreement by and between Metropolitan Life Insurance Company and Pier Group, Inc. heretofore recorded in the Office of the Judge of Probate of Shelby County, Alabama.
11. Terms and conditions contained in that certain Easement Agreement by and between Metropolitan Life Insurance Company and Pier Group, Inc. heretofore recorded in the Office of the Judge of Probate of Shelby County, Alabama.
12. Building set back lines, easements and buffer area as set forth in the survey of Joseph A. Miller amended as of 4-19-96.
13. Terms and conditions of that certain Limited Warranty Deed from Metropolitan Life Insurance Company to Pier Group, Inc., including the Declaration of Protective Covenants attached as Exhibit "B" thereto, heretofore recorded in the Office of the Judge of Probate of Shelby County, Alabama.

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