

## SECOND AMENDMENT

TO

### MORTGAGE ASSIGNMENT OF RENTS AND LEASES and SECURITY AGREEMENT

(and other Agreements)

**THIS AMENDMENT** amends that certain Mortgage, Assignment of Rents and Leases and Security Agreement (hereinafter "Mortgage") executed on June 1, 1995 by **ENVIROBUILD, INC.** (hereinafter "Borrower") in favor of **COLONIAL BANK** (hereinafter "Bank"), and all other agreements between Bank and Borrower pertaining thereto (hereinafter "Loan Documents").

**WHEREAS**, the Mortgage is recorded as Instrument 1995-14789 in the Office of the Judge of Probate of Shelby County, Alabama, and pertains to the property described on Exhibit "A" attached hereto.

**WHEREAS**, the Mortgage was amended on July 11, 1996, by an Amendment (hereinafter "First Amendment") which is recorded as Instrument 1995-18313 in the Office of the Judge of Probate of Shelby County, Alabama.

**WHEREAS**, Borrower has requested Bank to release from the Mortgage, the property described on Exhibit "C" attached hereto, and Bank has agreed to release such property, provided Borrower mortgages to Bank as security for the obligations of Borrower to Bank the property described on Exhibit "B" attached hereto.

**WHEREAS**, Bank has release the property described on Exhibit "C" from the Mortgage and Loan Documents by separate instrument.

**NOW THEREFORE**, in consideration of the terms and conditions contained herein, and to induce Bank to release the property described on Exhibit "C" attached hereto, the Mortgage and Loan Documents are hereby amended as follows:

The term "Land" used in the Mortgage shall include the property described on Exhibit "B" attached hereto, in addition to the property described on Exhibit "A" attached hereto.

In that regard and in order to secure the payment of the Debt (as defined in the

# 1996-28635

08/30/1996-28635  
12:16 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
008 MCD 26.00

Mortgage as amended by the First Amendment) and in compliance with all the stipulations contained in the Mortgage, the Borrower does hereby grant, bargain, sell, and convey unto Mortgagee, their successors, and assigns the following (hereinafter along with the property described in the Mortgage, the "Mortgaged Property"):

a) The Land situated in Shelby County, Alabama and described on Exhibit "A" and Exhibit "B" attached hereto and incorporated herein by this reference;

b) Together with all buildings, structures, and improvements of every nature whatsoever now or hereafter situated on the Land, and all fixtures, fittings, buildings materials, machinery, equipment, furniture and furnishings and personal property of every nature whatsoever now or hereafter owned by the Mortgagor and used or intended to be used in connection with or with the operation of the Mortgaged Property, and the buildings, structures or other improvements located thereon, including all extensions, additions, improvements, betterments, renewals, substitutions, replacements and accessions to any of the foregoing, whether such fixtures, fittings, building materials, machinery, equipment, furniture, furnishings and personal property are actually located on or adjacent to the Land or not and whether in storage or otherwise wheresoever the same may be located;

c) Together with all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, licenses, rights, titles, interest, privileges, liberties, tenements, hereditaments, and appurtenances whatsoever, in any way belonging, relating or appertaining to any of the Mortgaged Property, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by the Mortgagor, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of the Mortgagor of, in and to the same, including but not limited to: i) all rents, royalties, profits, issues and revenues of the Mortgaged Property from time to time accruing, whether under leases or tenancies now existing or hereafter created; and ii) all judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the Mortgaged Property or any part thereof under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the Mortgaged Property or the improvements thereon or any part thereof, or to any rights appurtenant thereto, including any award for change of grade of streets. Mortgagee is hereby authorized on behalf of and in the name of Mortgagor to execute and deliver valid acquittance for, and appeal from, any such judgments or awards. Mortgagee may apply all such sums or any part thereof so received, after the payment of all its expenses, including costs and attorney's fees, on any of the indebtedness secured hereby in such manner as it elects or, at its option, the entire amount or any part thereof so received may be released;

d) Together with all leases, written or oral, and all agreements for use or occupancy of any portion of the Mortgaged Property with respect to which the



Mortgagor is the lessor, any and all extensions and renewals of said leases and agreements and any and all further leases or agreements, now existing or hereafter made, including subleases thereunder, upon or covering the use or occupancy of all or any part of the Mortgaged Property (all such leases, subleases, agreements and tenancies heretofore mentioned, being hereinafter collectively referred to as the "Leases");

e) Together with any and all guaranties of the lessees' and any sublessees' performance under any of the Leases;

f) Together with the immediate and continuing right to collect and receive all of the rents, income, receipts, revenues, issues and profits now due or which may become due or to which the Mortgagor may now or shall hereafter (including during the period of redemption, if any) become entitled or may demand or claim, arising or issuing from or out of the Leases or from or out of the Mortgaged Property or any part thereof, including, but not limited to, minimum rents, additional rents, percentage rents, common area maintenance charges, parking charges, tax and insurance premium contributions, and liquidated damages following default, the premium payable by any lessee upon the exercise of any cancellation privilege provided for in any of the Leases, and all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by destruction or damage to the Mortgaged Property, together with any and all rights and claims of any kind that the Mortgagor may have against any such lessee under the Leases or against any subtenants or occupants of the Mortgaged Property (all such moneys, rights and claims in this paragraph described being hereinafter referred to as the "Rents"); provided, however, so long as no Event of Default has occurred, the Mortgagor shall have the right under a license granted hereby to collect, receive and retain the Rents (but not prior to accrual thereof);

g) Together with any award, dividend or other payment made hereafter to the Mortgagor in any court procedure involving any of the lessees under the Leases in any bankruptcy, insolvency or reorganization proceedings in any state or federal court and any and all payments made by lessees in lieu of rent. Mortgagor hereby appoints the Mortgagee as the Mortgagor's irrevocable attorney in fact to appear in any action and/or to collect any such award, dividend, or other payment;

h) Together with any awards hereafter made for any taking of or injury to said Mortgaged Property through eminent domain or otherwise, including awards or damages for change of grade, and also any return premiums or other payments upon any insurance at any time provided for the benefits of Mortgagee, all of which awards, damages, premiums, and payments are hereby assigned to Mortgagee and may be at any time collected by it; and

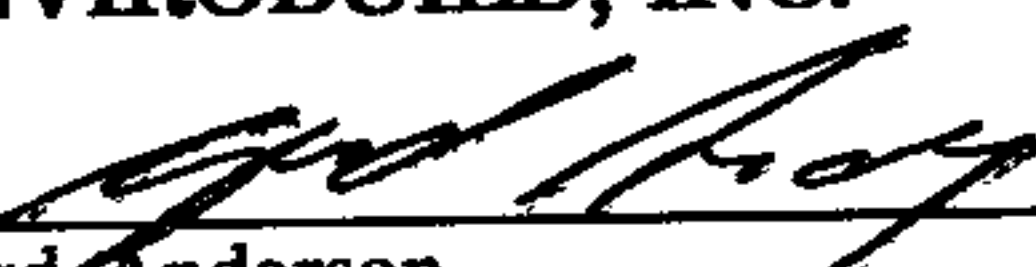
i) All cash and non-cash proceeds and all products of any of the foregoing items or types of property described above, including, but not limited to, all insurance, contract and tort proceeds and claims.

The Loan Documents are further hereby amended to include the property described on Exhibit "B" in addition to the property described on Exhibit "A" attached hereto and attached to the Loan Documents.

All of the terms and provisions of the Mortgage, First Amendment, and Loan Documents not specifically amended herein, are hereby reaffirmed, ratified and restated. This Amendment amends the Mortgage, First Amendment, and Loan Documents and is not an novation thereof.

IN WITNESS WHEREOF, we have hereunto set our hands and seals effective this 7 day of August, 1996.

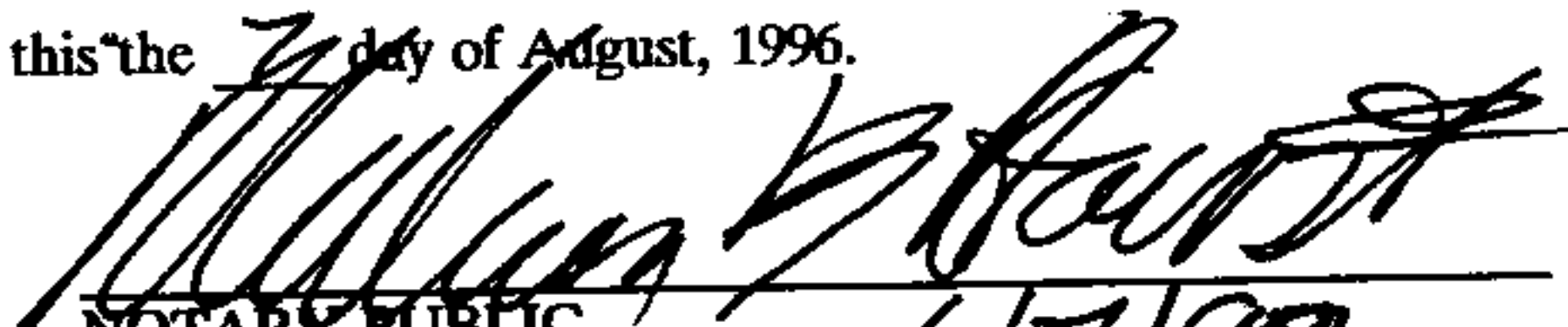
**ENVIROBUILD, INC.**

By:   
Gerd Anderson (Its President)

STATE OF ALABAMA     )  
SHELBY COUNTY        )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Gerd Anderson, whose name as President of ENVIROBUILD, INC., is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he as such officer, and with full authority, executed the same voluntarily, as an act of said corporation, acting in his capacity as aforesaid.

Given under my hand and official seal, this the 7 day of August, 1996.

  
NOTARY PUBLIC  
My Commission Expires: 6/7/99

**THIS INSTRUMENT PREPARED BY AND AFTER  
RECORDATION SHOULD BE RETURNED TO:**

William B. Hairston III  
ENGEL HAIRSTON & JOHANSON, P.C.  
4th Floor, 109 North 20th Street  
Birmingham, Alabama 35203  
(205) 328-4600

**EXHIBIT "A"**  
**TO**  
**SECOND AMENDMENT**  
**TO**  
**MORTGAGE**  
**ASSIGNMENT OF RENTS AND LEASES**  
**AND SECURITY AGREEMENT**

Mortgagor/Borrower:      **ENVIROBUILD, INC.**  
Mortgagee/Bank:          **COLONIAL BANK**

\*\*\*\*\*

A parcel of land situated in the SE¼ of Section 5 and in the NE¼ of Section 8, Township 21, South, Range 2 West, in Shelby County, Alabama, and being more particularly described as follows: Beginning at the southeast corner of Section 5, township 21, south, Range 2 West; thence south 3 degrees 34 minutes 17 seconds East along the easterly boundary line of the NE¼ of the NE¼ of Section 9, of said township and range a distance of 291.75 feet to a point on the northerly right of way line of Shelby county, Highway No. 339 (40' right of way from centerline); thence North 78 degrees 54 minutes 39 seconds west along said right of way line, a distance of 25.92 feet to a point; thence North 65 degrees 54 minutes 43 seconds West along said right of way line, a distance of 60.42 feet to a point; thence north 3 degrees 33 minutes 53 seconds west and leaving said right of way line, a distance of 258.90 feet to a point; thence South 87 degrees 42 minutes 42 seconds west, a distance of 261.26 feet to a point; thence North 49 degrees 05 minutes 57 seconds west, a distance of 299.96 feet to a point; thence south 40 degrees 54 minutes 03 seconds west, a distance of 59.92 feet to a point; thence South 63 degrees 30 minutes 58 seconds West, a distance of 150.33 feet to a point; thence South 87 degrees 42 seconds west, a distance of 148.35 feet to a point; thence North 70 degrees 33 minutes 14 seconds West, a distance of 135.55 feet to a point; thence North 35 degrees 26 minutes 58 seconds West, a distance of 274.91 feet to a point; thence North 19 degrees 34 minutes 08 seconds East, a distance of 531.58 feet to a point; thence North 70 degrees 25 minutes 52 seconds West, a distance of 61.00 feet to a point; thence around a curve in a clockwise direction having a delta angle of 31 degrees 20 minutes 40 seconds, an arc distance of 150.44 feet, a radius of 275.00 feet, an a chord of North 54 degrees 45 minutes 32 seconds west, a distance of 148.57 feet to a point; thence south 50 degrees 54 minutes 48 seconds West, a distance of 217.25 feet to a point; thence North 27 degrees 50 minutes 21 seconds West, a distance of 126.80 feet to a point; thence North 13 degrees 15 minutes 34 seconds West, a distance of 127.24 feet to a point; thence South 40 degrees 48 minutes 08 seconds West, a distance of 383.62 feet to a point; thence South 27 degrees 04 minutes 29 seconds West, a distance of 150.00 feet to a point; thence North 76 degrees 07 minutes 44 seconds West, a distance of 224.38 feet to a point; thence South 13 degrees 52 minutes 16 seconds West, a distance of 328.64 feet to a point; thence around a curve in a counterclockwise direction having a delta angle of 83 degrees 45 minutes 40 seconds, an arc distance of 36.55 feet, a radius of 25.00 feet, and a chord South 28 degrees 00 minutes 34 seconds East, a distance of 33.38 feet to a point; thence North 76 degrees 07 minutes 26 seconds West, a distance of 94.34 feet to a point; thence around a curve in a counterclockwise direction having a delta angle of 83 degrees 14 minutes 37 seconds, an arc distance of 36.32 feet a radius of 25.00 feet and a chord of North 55 degrees 29 minutes 35 seconds East, a distance of 33.21 feet to a point; thence North 13 degrees 52 minutes 16 seconds East, a distance of 364.78 feet to a point; thence North 49 degrees 11 minutes 52 seconds West, a distance of 284.94 feet to a point; thence North 40 degrees 48 minutes 38 seconds East, a distance of 542.19 feet to a point; thence South 64 degrees 10 minutes 00 seconds West, a distance of



## EXHIBIT "A" (continued)

323.20 feet to a point; thence North 29 degrees 43 minutes 42 seconds West, a distance of 387.84 feet to a point; thence North 19 degrees 08 minutes 13 seconds East, a distance of 169.83 feet to a point; thence North 60 degrees 16 minutes 18 seconds East, a distance of 346.09 feet to a point; thence south 79 degrees 48 minutes 02 seconds West, a distance of 231.39 feet, to a point; thence North 46 degrees 06 minutes 12 seconds West, a distance of 357.02 feet to a point; thence North 43 degrees 53 minutes 48 seconds East, a distance of 706.28 feet to a point on the northerly boundary of the NW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 5; thence North 88 degrees 00 minutes 44 seconds East, along said northerly boundary a distance of 452.28 feet to the NW corner of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said section; thence North 88 degrees 06 minutes 12 seconds east along the northerly boundary of said  $\frac{1}{4}$ - $\frac{1}{4}$  section, a distance of 1329.89 feet to the NE corner of said  $\frac{1}{4}$ - $\frac{1}{4}$  section; thence South 4 degrees 38 minutes 37 seconds East along the easterly boundary of the SE $\frac{1}{4}$  of said section a distance of 2625.01 feet to the point of beginning.

NOTE: This property is now known as Saddle Lake Farms, a condominium as recorded in Map Book 20, page 20-A and 20-B in the Probate Office of Shelby County, Alabama. LESS AND EXCEPT those Lots heretofore released by Colonial Bank.

**EXHIBIT "B"**  
**TO**  
**SECOND AMENDMENT**  
**TO**  
**MORTGAGE**  
**ASSIGNMENT OF RENTS AND LEASES**  
**AND SECURITY AGREEMENT**  
**FINANCING STATEMENT (UCC-3)**

Mortgagor/Borrower:      ENVIROBUILD, INC.  
Mortgagee/Bank:          COLONIAL BANK

**ADDITIONAL PROPERTY**

\*\*\*\*\*

A parcel of land situated in the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 5, township 21 South, Range 2 West and being more particularly described as follows:

Begin at the SE corner of the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 5, Township 21 South, Range 2 West, said point being the POINT OF BEGINNING; thence S 88 deg 00'44" W along the southerly boundary of said  $\frac{1}{4}$ - $\frac{1}{4}$  section, and along the northerly boundary of Lot 35 of Saddle Lake Farms, a condominium, as recorded in Map Book 20 page 20-A, in the Office of the Judge of Probate of Shelby County, Alabama, a distance of 461.79' to the southeasterly edge of a dirt road; thence N 5 deg 11'04" E along said edge of dirt road a distance of 6.44' to a point on a curve to the right having a radius of 111.46' and a central angle of 34 deg. 59'59"; thence along said edge of dirt road and the arc of said curve a distance of 68.09' said arc subtended by a chord which bears N 22 deg. 41'04" E a distance of 67.03' to the end of said curve; thence N 40 deg. 11'03" E along said edge of dirt road a distance of 43.42'; thence N 43 deg. 34'04" E along said edge of dirt road a distance of 54.43'; thence N 42 deg. 23'02" E along said edge of dirt road a distance of 53.37'; thence N 41 deg. 28'05" E along said edge of dirt road a distance of 51.22' to a point on a curve to the left having a radius of 260.45' and a central angle of 16 deg. 56'05"; thence along said edge of dirt road and the arc of said curve a distance of 76.98', said arc subtended by a chord which bears N 32 deg. 59'34" E a distance of 76.70', to a point on a reverse curve to the right having a radius of 253.42' and a central angle of 12 deg. 00'39"; thence along said edge of dirt road and the arc of said curve a distance of 53.12', said arc subtended by a chord which bears N 30 deg. 31'51" E a distance of 53.03', to a point on a compound curve to the right having a radius of 3346.24' and a central angle of 01 deg. 05'06"; thence along said edge of dirt road and the arc of said curve a distance of 63.36', said arc subtended by a chord which bears N 37 deg. 04'44" E a distance of 63.36', to the end of said arc; thence N 48 deg. 01'29" E and leaving said edge of dirt road a distance of 201.77' to the easterly boundary of said  $\frac{1}{4}$ - $\frac{1}{4}$  section; thence S 4 deg. 53'58" E along said easterly boundary a distance of 500.00' to the POINT OF BEGINNING.

**EXHIBIT "C"**  
**TO**  
**SECOND AMENDMENT**  
**TO**  
**MORTGAGE**  
**ASSIGNMENT OF RENTS AND LEASES**  
**AND SECURITY AGREEMENT**

Mortgagor/Borrower:      ENVIROBUILD, INC.  
Mortgagee/Bank:          COLONIAL BANK

**PROPERTY BEING RELEASED**

\*\*\*\*\*

Unit 35-A of a Resurvey of Lot 35 Saddle Lake Farms Condominium, a Condominium, and Saddle Lake Farms, a Condominium, First Addition as established by Declaration of Condominium as recorded in Instrument 1995-17533 and amendment thereto recorded in Instrument 1996-21491 and Articles of Incorporation of Saddle Lake Farms Association, Inc. as recorded in Instrument 1995-17530, in the Office of the Judge of Probate of Shelby County, Alabama together with an undivided interest in the common elements of Saddle Lake Farms Condominium as set out in the said Declaration of Condominium, said Unit being more particularly described in the floor plans and Architectural drawings of Saddle Lake Farms Condominium as recorded in Map Book 20, page 20 A & B and Map Book 21, page 95, in the Probate Office of Shelby County, Alabama.

Inst # 1996-28635

08/30/1996-28635  
12:16 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
008 HCD 26.00