

LEASEHOLD MORTGAGE, ASSIGNMENT, SECURITY AGREEMENT AND FINANCING STATEMENT

STATE OF ALABAMA)

COUNTY OF Shelby)

THIS LEASEHOLD MORTGAGE, ASSIGNMENT, SECURITY AGREEMENT AND FINANCING STATEMENT (this "Mortgage") dated as of Dec. 4, 1996 is executed and delivered by Mortgagor for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by Mortgagor.

ARTICLE 1

Certain Definitions: Granting Clauses: Secured Indebtedness

Section 1.1 Certain Definitions and Reference Terms. Unless otherwise defined herein, terms used herein shall have the meanings ascribed to them in the Credit Agreement (hereinafter defined). In addition to other terms defined herein, each of the following terms shall have the meaning assigned to it:

- (a) "Mortgagor": Pinnacle Towers Inc., a Delaware corporation.
- (b) "Lender": NationsBank of Texas, N. A.

The Credit Agreement dated as of September 10, 1996 between Mortgagor and Lender, pursuant to which the Notes and this Mortgage are executed, as amended, restated, or otherwise modified from time to time, is a "Credit Agreement" referred to in Section 1.4 hereof and a "Loan Paper" for all purposes of this Mortgage.

Section 1.2 Mortgaged Property. Mortgagor, in order to secure the payment of the indebtedness hereinafter referred to and the performance of the obligations, covenants, agreements, warranties and undertakings of Mortgagor hereinafter described, does hereby IRREVOCABLY GRANT, BARGAIN, SELL, ALIEN, REMISE, RELEASE, CONVEY, MORTGAGE, TRANSFER, ASSIGN, CONFIRM or SET OVER to Mortgagee (as hereinafter defined), all of Mortgagor's present and future estate, right, title and interest in and to the following described property, whether such property is now or hereafter in existence:

- (a) all rights, power and privileges of Mortgagor under that certain Lease Agreement described on Exhibit A attached hereto between the Lessor named therein ("Existing Lessor") and Mortgagor, as Lessee (together with any renewals and extension thereof, the "Existing Lease");
- (b) such interest in the real estate as may be conveyed by or accessory to the Existing Lease (the "Land") described in Exhibit B attached hereto and incorporated herein by reference, and (i) all buildings, structures, and other improvements now or hereafter situated or to be situated on the Land, including, without limitation, all Towers now owned or hereafter situated or to be situated on the Land (the "Improvements"); and (ii) all right, title and interest of Mortgagor in and to (1) all streets, roads, alleys, easements, rights-of-way, licenses, rights of ingress and egress, existing or proposed, abutting, adjacent, used in connection with or pertaining to the Land or the Improvements; and (2) any strips or gores between the Land and abutting or adjacent properties (the Land, the Improvements and other rights, titles and interests referred to in this clause (a) sometimes collectively called the "Premises"); (c) all fixtures, accessions, equipment, systems,

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machinery, goods, building and construction materials, supplies, and articles of personal property, of every kind and character, now owned or hereafter acquired by Mortgagor, which are now or hereafter attached to or situated in, on or about the Land or the Improvements, or used in or necessary to the complete and proper planning, development, use, occupancy or operation thereof, or acquired (whether delivered to the Land or stored elsewhere) for use or installation in or on the Land or the Improvements, and all renewals and replacements of, substitutions for and additions to the foregoing (the properties referred to in this clause (c) sometimes collectively called the "Accessories", all of which are hereby declared to be permanent accessions to the Land); (d) all (i) Mortgagor's right, title and interest in and to plans and specifications for the Improvements, and any and all changes thereto; (ii) Mortgagor's rights, but not liability for any breach by Mortgagor, under all commitments (including any commitment for financing to pay any of the secured indebtedness, as defined below including the Commitments), insurance policies, architectural, engineering, construction, management, leasing, and other contracts related to the Premises or the Accessories or the design, construction, use or operation thereof; (iii) deposits (including Mortgagor's rights in tenants' security deposits, deposits with respect to utility services to the Premises, and any deposits or reserves under any Loan Paper for taxes, insurance or otherwise), money, accounts, instruments, documents, notes and chattel paper arising from or by virtue of any transactions related to the Premises or the Accessories (without derogation of Article 3 hereof); (iv) permits, licenses, franchises, certificates, development rights, commitments and rights for utilities, and other rights and privileges obtained in connection with the Premises or the Accessories; (v) leases, rents, royalties, bonuses, issues, profits, revenues and other benefits of the Premises and the Accessories (without derogation of Article 3 hereof); and (vi) engineering, accounting, title, legal, and other technical or business data concerning the Mortgaged Property which are in the possession of Mortgagor or in which Mortgagor can otherwise grant a security interest; and (e) all (i) proceeds of or arising from the properties, rights, titles and interests referred to above in this Section 1.2, including but not limited to proceeds of any sale, lease or other disposition thereof, proceeds of each policy of insurance relating thereto (including premium refunds), proceeds of the taking thereof or of any rights appurtenant thereto, including change of grade of streets, curb cuts or other rights of access, by eminent domain or transfer in lieu thereof for public or quasi-public use under any Law, and proceeds arising out of any damage thereto; and (ii) other interests of every kind and character which Mortgagor now has or hereafter acquires in, to or for the benefit of the properties, rights, titles and interests referred to above in this Section 1.2 and all property used or useful in connection therewith, including but not limited to rights of ingress and egress and remainders, reversions and reversionary rights or interests; and if the estate of Mortgagor in any of the property referred to above in this Section 1.2 is a leasehold estate, this conveyance shall include, and the lien, security title and security interest created hereby shall encumber and extend to, all other or additional title, estates, interests or rights which are now owned or may hereafter be acquired by Mortgagor in or to the property demised under the lease creating the leasehold estate; TO HAVE AND TO HOLD the foregoing rights, interests and properties, and all rights, estates, powers and privileges appurtenant thereto (herein collectively called the "Mortgaged Property").

TO HAVE AND TO HOLD the foregoing rights, interests and properties, and all rights, estates, powers and privileges appurtenant thereto (herein collectively called the "Mortgaged Property"), unto Mortgagee, upon the terms, provisions and conditions herein set forth.

This conveyance shall include and the lien, security interest and assignment created hereby shall encumber and extend to all other, further or additional title, estates, interest or rights which may exist now or at any time be acquired by Mortgagor in or to the property demised under the Existing Lease creating a leasehold estate related to or covering all or any of the Mortgaged Property and including Mortgagor's rights, if any, to purchase the property demised under the Existing Lease and, if fee simple title to any of such property shall ever become vested in Mortgagor, such fee simple interest shall be encumbered by this Mortgage in the same manner as if Mortgagor had fee simple title to such property as of the date of execution hereof.

Section 1.3 Security Interest. In order to further secure the payment of the secured indebtedness hereinafter referred to, and the performance of the obligations, covenants, agreements, warranties, and undertakings of Mortgagor hereinafter described, Mortgagor hereby grants to Mortgagee a security interest in all of the Mortgaged Property which constitutes personal property or fixtures (herein sometimes collectively called the "Collateral"). In addition to its rights hereunder or otherwise, Mortgagee shall have all of the rights of a secured party under the Alabama Uniform Commercial Code, or under the Uniform Commercial Code in force in any other state to the extent the same is applicable law.

Section 1.4 Notes, Loan Papers, Other Obligations. Subject to the provisions of Section 6.25 hereof, this Mortgage is made to secure and enforce the payment and performance of the following promissory notes, obligations, indebtedness and liabilities:

(a) **Notes.** The maximum principal amount of \$16,323.00 of the indebtedness represented by the Note and all other notes given in substitution therefor or in modification, renewal or extension thereof, in whole or in part, including without limitation, the promissory note dated September 10, 1996 in the principal amount of \$100,000,000 executed by Mortgagor with a final maturity date of September 30, 2004 (such note, as from time to time supplemented, amended, extended or modified and all other notes given in substitution therefor, or in modification, renewal or extension thereof, in whole or in part, being hereinafter called the "Note", and Lender, or the subsequent holder or holders at the time in question of the Note or any part thereof or interest therein or any of the secured indebtedness, as hereinafter defined, being herein called "Mortgagee");

(b) **Credit Agreement.** All indebtedness and other obligations of Mortgagor under that certain Credit Agreement dated of even date herewith among Mortgagor and Mortgagee, pertaining to the repayment or use of the proceeds of the loan evidenced by the Notes;

(c) **Loan Papers.** All indebtedness and other Obligations owed to Mortgagee now or hereafter incurred or arising pursuant to or permitted by the provisions of the Notes, the Credit Agreement, this Mortgage or any other instrument now or hereafter evidencing, governing, guaranteeing or securing the secured indebtedness, as hereinafter defined, or any part thereof or otherwise executed in connection with the loan evidenced or governed by the Notes or the Credit Agreement (the Notes, the Credit Agreement, this Mortgage and such other documents, as they or any of them may have been or may be from time to time supplemented, amended or modified, being herein sometimes collectively called the "Loan Papers"); and

(d) **Other Obligations.** Subject to the provisions of Section 6.25 hereof, all other loans and future advances made by Mortgagee to Mortgagor and all other debts, obligations and liabilities of Mortgagor of every kind and character now or hereafter existing in favor of Mortgagee, whether direct or indirect, primary or secondary, joint or several, fixed or contingent, secured or unsecured, and whether originally payable to Mortgagee or to a third party and subsequently acquired by Mortgagee, if the written evidence of such loans, debts, obligations and liabilities specifically provide that they are secured by this Mortgage, it being contemplated that Mortgagor may hereafter become indebted to Mortgagee for such further debts, obligations and liabilities; provided, however, and notwithstanding the foregoing provisions of this paragraph (d), this Mortgage shall not secure any such other loan, advance, debt, obligation or liability with respect to which Mortgagee is by applicable law prohibited from obtaining a lien on real estate.

Each amount due and owing by Mortgagor to Mortgagee pursuant to this Mortgage or any other Loan Paper shall, except to the extent otherwise specified in the document evidencing the indebtedness, bear interest from the date of such expenditure or payment until paid, at the rate per annum provided in the Notes for interest on past due principal owed on the Notes; and all such

amounts, together with such interest thereon, shall be a part of the secured indebtedness and shall be secured by this Mortgage. The amount and nature of any such expense and the time when paid shall be fully established by the certificate of Mortgagee or any of Mortgagee's officers or agents.

Section 1.5 Secured Indebtedness. The indebtedness referred to in Section 1.4, and all renewals, extensions and modifications thereof, and all substitutions therefor, in whole or in part, are hereinafter sometimes referred to as the "secured indebtedness" or the "indebtedness secured hereby."

ARTICLE 2

Representations, Warranties and Covenants

Section 2.1 Mortgagor represents, warrants, and covenants as follows:

(a) Title and Permitted Encumbrances. Mortgagor has, in Mortgagor's own right, and Mortgagor covenants to maintain, lawful, good and indefeasible title to the Mortgaged Property, free and clear of all liens, charges, claims, security interests, and encumbrances except for (i) the matters, if any, set forth under the heading "Permitted Encumbrances" in Exhibit A hereto, which are Permitted Encumbrances only to the extent the same are valid and subsisting and affect the Mortgaged Property, (ii) the security title and security interests evidenced by this Mortgage and any financing statements in favor of Mortgagee, (iii) statutory liens on the Mortgaged Property for ad valorem taxes and standby fees which are not yet delinquent, (iv) other encumbrances approved by Mortgagee, (v) Permitted Liens and (vi) other liens, security title and security interests (if any) in favor of Mortgagee (the matters described in the foregoing clauses (i), (ii), (iii), (iv), (v), and (vi) being herein called the "Permitted Encumbrances"). Mortgagor, and Mortgagor's successors and assigns, will warrant and forever defend title to the Mortgaged Property, subject as aforesaid against the claims and demands of all Persons claiming or to claim the same or any part thereof by, through or under Mortgagor, but not otherwise. Mortgagor will punctually pay, perform, observe and keep all covenants, obligations and conditions in or pursuant to any Permitted Encumbrance, except to the extent a failure to do so would not cause a Material Adverse Change, and will not modify or permit modification of any Permitted Encumbrance without the prior written consent of Holder, which consent shall not be unreasonably withheld with respect to any modification that is necessary to the development and construction of the Improvements. Inclusion of any matter as a Permitted Encumbrance does not constitute approval or waiver by Holder of any existing or future violation or other breach thereof by Mortgagor, by the Mortgaged Property or otherwise. No part of the Mortgaged Property constitutes all or any part of the homestead of Mortgagor. If any right or interest of Holder in the Mortgaged Property or any part thereof shall in the reasonable opinion of Mortgagee, be endangered or shall be attacked directly or indirectly, Mortgagee is hereby authorized and empowered to take such steps as in their reasonable discretion may be proper and necessary for the defense of any such legal proceedings or the protection of such right or interest of Holder, including the employment of independent counsel, the prosecution or defense of litigation, and the compromise and discharge of adverse claims. All reasonable expenditures so made shall be a demand obligation (which obligation Mortgagor hereby promises to pay) owing by Mortgagor to Holder with interest as provided in the Credit Agreement (subject to Section 11.08 thereof) and the Holder shall be subrogated to all rights of the Person receiving such payment.

(b) No Transfers or Encumbrances. Reference is made to the Credit Agreement for provisions regarding Defaults upon certain transfers of, and encumbrances against, the Mortgaged Property, Mortgagor's interest therein, and interests in Mortgagor.

(c) Existing Lease. The Existing Lease on the real property described in Exhibit A is in full force and effect; no event of Default nor default has occurred and is continuing thereunder; the Existing Lease is not subject to any defenses, offsets, or counterclaims and there have been no renewals and/or extensions of, or supplements, modifications, or amendments to the

Existing Lease; and Mortgagor is in the possession of the premises covered by, and leased under the Existing Lease. No other lease or rental agreement, oral or written, relates to Mortgagor's use or occupancy of the Mortgaged Property other than the Existing Lease.

(d) Existing Lease. Mortgagor shall punctually and properly perform, observe, and otherwise comply with each and every covenant, agreement, requirement and condition set forth in the Existing Lease to the extent that the failure to do so would be reasonably likely to result in a Material Adverse Change, and do or cause to be done all things necessary or appropriate to keep the Existing Lease in full force and effect and to preserve and keep unimpaired the rights of Mortgagor and the Mortgagee thereunder, and Mortgagor shall neither do nor suffer to be done any act of commission or omission which would justify the lessor under the Existing Lease to cancel same, evict Mortgagor, or declare due and eligible all or any part of the rental and other sums payable thereunder in advance of the time specified therein for the payment thereof. Mortgagor will not, without the express prior written consent of Lender, surrender, forfeit, cancel or terminate, or permit the surrender, forfeiture, cancellation, or termination of the Existing Lease in whole or in part, whether or not a default shall have occurred and shall be continuing thereunder. Mortgagor will not, without the express prior written consent of Lender, amend, modify or impair, or permit the amendment, modification or impairment of the Existing Lease in any manner, which would materially adversely affect rights of Mortgagor or Lender thereunder. Mortgagor shall promptly notify the Mortgagee in writing of the occurrence of an event of default (or any event, which, with the lapse of time or notice or both, could become such a default) on the part of or caused by any party to the Existing Lease. If for any reason Mortgagor cannot timely make any payment under the Existing Lease or perform or comply with any of its obligations under the Existing Lease, Mortgagor shall notify the Mortgagee in sufficient time to enable the Mortgagee (but the Mortgagee shall not be obligated) to timely make such payments and/or to perform or comply with such other obligations. Mortgagor has in its own right good, perfect and indefeasible title to rights conveyed by the Existing Lease.

ARTICLE 3

Assignment of Leases and Rents

Section 3.1 Assignment. As additional security for the indebtedness secured hereby, Mortgagor hereby assigns to Mortgagee all Rents (hereinafter defined) and all of Mortgagor's rights in and under all Leases (hereinafter defined). Upon the occurrence and during the continuance of a Default hereunder, Mortgagee shall have the right, power and privilege (but shall be under no duty) to demand possession of the Rents, which demand shall to the fullest extent permitted by applicable law be sufficient action by Mortgagee to entitle Mortgagee to immediate and direct payment of the Rents (including delivery to Mortgagee of Rents collected for the period in which the demand occurs and for any subsequent period), for application as provided in this Mortgage, all without the necessity of any further action by Mortgagee, including, without limitation, any action to obtain possession of the Land, Improvements or any other portion of the Mortgaged Property. Mortgagor hereby authorizes and directs the tenants under the Leases, upon the occurrence and during the continuance of a Default hereunder, to pay Rents to Mortgagee upon written demand by Mortgagee, without further consent of Mortgagor, without any obligation to determine whether a default has in fact occurred and regardless of whether Mortgagee has taken possession of any portion of the Mortgaged Property, and the tenants may rely upon any written statement delivered by Mortgagee to the tenants. Any such payment to Mortgagee shall constitute payment to Mortgagor under the Leases, and Mortgagor hereby appoints Mortgagee as Mortgagor's lawful attorney-in-fact for giving, and Mortgagee is hereby empowered to give, acquittance to any tenants for such payments to Mortgagee upon the occurrence and during the continuation of a Default. The assignment contained in this Section shall become null and void upon the release of this Mortgage. As used herein (i) "Lease" means each existing or future Lease, sublease (to the extent of Mortgagor's rights thereunder) or other agreement under the terms of which any person has or acquires any right to occupy or use the Mortgaged Property, or any

part thereof, or interest therein, and each existing or future guaranty of payment or performance thereunder, and all extensions, renewals, modifications and replacements of each such lease, sublease, agreement or guaranty; and (ii) "**Rents**" means all of the rents, revenue, income, profits and proceeds derived and to be derived from the Mortgaged Property or arising from the use of enjoyment of any portion thereof or from any Lease including but not limited to liquidated damages following default under any such Lease, security deposits paid in connection with any such Lease, all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by damage to any part of the Mortgaged Property, all of Mortgagor's rights to recover monetary amounts from any tenant in bankruptcy including, without limitation, rights of recovery for use and occupancy and damage claims arising out of Lease defaults, including rejections, under any applicable Debtor Relief Law.

Section 3.2 Covenants, Representations and Warranties Concerning Leases and Rents. Mortgagor covenants, represents and warrants that: (i) upon execution thereof, Mortgagor will have good title (to the extent such is conveyed by the Existing Lease to), and will be the owner of the entire Landlord's (as such term is defined by the Leases) interest in, the Leases and Rents hereby assigned and Mortgagor has authority to assign them; (ii) upon execution thereof, all Leases will be valid and enforceable; (iii) unless otherwise stated in a Permitted Encumbrance, no Rents or Leases have been or will be assigned, mortgaged, pledged or otherwise encumbered and no other person has or will acquire any right, title or interest in such Rents or Leases; (iv) no Rents have been, or will be waived, released, discounted, set off or compromised except in the ordinary course of business, in the exercise of Mortgagor's sound business judgment; (v) except as stated in the Leases or as otherwise disclosed to Mortgagee, Mortgagor has not received any funds or deposits from any tenant for which credit has not already been made on account of accrued Rents; (vi) Mortgagor shall perform all of its obligations under the Leases and enforce the tenants' obligations under the Leases to the extent enforcement is prudent under the circumstances; (vii) Mortgagor will not without the prior written consent of Mortgagee, enter into any Lease after the date hereof other than a Lease, or waive, release, discount, set off, compromise, reduce or defer any Rent (except in the ordinary course of business, in the exercise of Mortgagor's sound business judgment), receive or collect Rents more than one (1) month in advance, grant any rent-free period to any tenant, reduce any lease term or waive, release or otherwise modify any other material obligation under any Lease (except in the ordinary course of business, in the exercise of Mortgagor's sound business judgment), renew or extend any Lease except on then current market lease terms or in accordance with a right of the tenant thereto in such Lease, approve or consent to an assignment of a Lease or a subletting of any part of the premises covered by a Lease (except in the ordinary course of business and exercising sound business judgment), or settle or compromise any claim against a tenant under a Lease in bankruptcy or otherwise; (viii) Mortgagor will not, except in good faith where the tenant is in material default thereunder, or otherwise in the exercise of sound business judgment in the ordinary course of business, terminate or consent to the cancellation or surrender of any Lease unless promptly after the cancellation or surrender a new Lease of such premises is made with a new tenant having a credit standing, in Mortgagor's good faith business judgment, at least equivalent to that of the tenant whose Lease was canceled, on substantially the same terms as the terminated or canceled Lease; (ix) Mortgagor will not execute any Lease except in accordance with the Loan Papers and for actual occupancy by the tenant hereunder; (x) Mortgagor shall give prompt notice to Mortgagee, as soon as Mortgagor first obtains notice, of any material claim, or the commencement of any material action, by any tenant or subtenant under or with respect to a Lease regarding any claimed damage, default, diminution of or offset against Rent, or cancellation of the Lease, and Mortgagor shall defend, at Mortgagor's expense, any proceeding pertaining to any Lease, including, if Mortgagee so requests, any such proceeding to which Mortgagee is a party; (xi) there shall be no merger of the leasehold estates, created by the Leases, with the fee estate of the Land without the prior written consent of Mortgagee; and (xiii) Mortgagee may at any time and from time to time by specific written instrument intended for the purpose, unilaterally subordinate the lien of this Mortgage to any Lease, without joinder or consent of, or notice to, Mortgagor, any tenant or any other person, and

notice is hereby given to each tenant under a Lease of such right to subordinate. No such subordination shall constitute a subordination to any Lien or other encumbrance, whenever arising, or improve the right of any junior lienholder; and nothing herein shall be construed as subordinating this Mortgage to any Lease. Notwithstanding any rights of Mortgagor to grant free rent, rebates, settlements, discounts, waivers, releases and similar concessions, no such grant for any lease may exceed ten percent (10%) of the rent originally contracted for with a tenant without Mortgagee's prior written consent, which consent shall not be unreasonably withheld.

Section 3.3 No Liability of Mortgagee. Mortgagee's acceptance of this assignment shall not be deemed to constitute Mortgagee a "mortgagee in possession," nor obligate Mortgagee to appear in or defend any proceeding relating to any Lease or to the Mortgaged Property, or to take any action hereunder, expend any money, incur any expenses, or perform any obligation or liability under any Lease, or assume any obligation for any deposit delivered to Mortgagor by any tenant and not as such delivered to and accepted by Mortgagee. Mortgagee shall not be liable for any injury or damage to person or property in or about the Mortgaged Property, or for Mortgagee's failure to collect or to exercise diligence in collecting Rents, but shall be accountable only for Rents that it shall actually receive. Neither the assignment of Leases and Rents nor enforcement of Mortgagee's right regarding Leases and Rents (including collection of Rents) nor possession of the Mortgaged Property by Mortgagee nor Mortgagee's consent to or approval of any Lease (nor all of the same), shall render Mortgagee liable on any obligation under or with respect to any Lease or constitute affirmation of, or any subordination to, any Lease, occupancy, use or option. If Mortgagee seeks or obtains any judicial relief regarding Rents or Leases, the same shall in no way prevent the concurrent or subsequent employment of any other appropriate rights or remedies nor shall same constitute an election of judicial relief for any foreclosure or any other purpose. Mortgagee neither has nor assumes any obligations as lessor or Landlord with respect to any Lease. The rights of Mortgagee under this Article 3 shall be cumulative of all other rights of Mortgagee under the Loan Papers or otherwise.

ARTICLE 4 **Default**

Section 4.1 Events of Default. The term "Default" means (i) the occurrence of an Event of Default under the Credit Agreement, (ii) the failure of Mortgagor to timely and properly observe, keep or perform any covenant, agreement or condition required in this Mortgage, (iii) a material default or event of default occurs under the Existing Lease which is not cured during any applicable cure period, (iv) any material provision of the Existing Lease or any other agreement related thereto shall at any time for any reason cease to be valid and binding on any party or beneficiary thereto, or shall be declared to be null and void, or (v) any assignment by Mortgagor of any rights or obligations of Mortgagor under the Existing Lease to any person, except as provided herein.

Section 4.2 Notice and Cure. If any provision of this Mortgage or any other Loan Paper provides for Mortgagee to give to Mortgagor any notice regarding a Default or incipient default, then if Mortgagee shall fail to give such notice to Mortgagor as provided, the sole and exclusive remedy of Mortgagor for such failure shall be to seek appropriate equitable relief to enforce the agreement to give such notice and to have any acceleration of the maturity of the Notes and the secured indebtedness postponed or revoked and foreclosure proceedings in connection therewith delayed or terminated pending or upon the curing of such default in the manner and during the period of time permitted by such agreement, if any, and Mortgagor shall have no right to damages or any other type of relief not herein specifically set out against Mortgagee, all of which damages or other relief are hereby waived by Mortgagor.

ARTICLE 5 Remedies

Section 5.1 Certain Remedies. If a Default shall occur and is continuing, Mortgagee may exercise any one or more of the following remedies, without notice (unless notice is required by applicable statute):

(a) **Acceleration.** Upon the occurrence of any Default, Mortgagee at any time and from time to time may without notice to Mortgagor or any other person declare any or all of the secured indebtedness immediately due and payable and all such secured indebtedness shall thereupon be immediately due and payable, without presentment, demand, protest, notice of protest, notice of acceleration or of intention to accelerate or any other notice or declaration of any kind, all of which are hereby expressly waived by Mortgagor.

(b) **Enforcement of Assignment of Rents.** Prior or subsequent to taking possession of any portion of the Mortgaged Property or taking any action with respect to such possession, Mortgagee may:

(i) Collect and/or sue for the Rents in Mortgagee's own name, give receipts and releases therefor, and after deducting all expenses of collection, including attorneys' fees and expenses, apply the net proceeds thereof to any secured indebtedness as Mortgagee may elect;

(ii) Apply the Rents so collected to the operation and management of the Mortgaged Property, including the payment of reasonable management, brokerage and attorney's fees and expenses, and/or to the secured indebtedness;

(iii) Require Mortgagor to transfer all records thereof to Mortgagee together with original counterparts of the Leases; and

(iv) Take any other action contemplated in Article 3 above.

(c) **Foreclosure.** Upon the occurrence of a Default and at any time thereafter, in addition to the other rights and remedies which Mortgagee may have hereunder and under applicable law or in equity, Mortgagee may immediately proceed by suit or suits at law or in equity to enforce the payment of the secured indebtedness in accordance with the terms of the Notes or to foreclose the lien of this Mortgage as to all or any portion of the Mortgaged Property and to have such property sold under the judgment or decree of a court of competent jurisdiction.

(d) **Uniform Commercial Code.** Without limitation of Mortgagee's rights of enforcement with respect to the Collateral or any part thereof in accordance with the procedures for foreclosure of real estate, Mortgagee may exercise its rights of enforcement with respect to the Collateral or any part thereof under the Alabama Uniform Commercial Code as amended (or under the Uniform Commercial Code in force in any other state to the extent the same is applicable law) and in conjunction with, in addition to or in substitution for those rights and remedies:

(1) Mortgagee may enter upon Mortgagor's premises to take possession of, assemble and collect the Collateral or to render it unusable.

(2) Mortgagee may require Mortgagor to assemble the Collateral and make it available at a place Mortgagee designates which is mutually convenient to allow Mortgagee to take possession or dispose of the Collateral.

(3) Written notice mailed to Mortgagor as provided herein at least five (5) days prior to the date of public sale of the Collateral or prior to the date after which private sale of the Collateral will be made shall constitute reasonable notice.

(4) In the event of a foreclosure sale, the Collateral and the other Mortgaged Property may, at the option of Mortgagee, be sold as a whole.

(5) It shall not be necessary that Mortgagee take possession of the Collateral or any part thereof prior to the time that any sale pursuant to the provisions of this Section is conducted and it shall not be necessary that the Collateral or any part thereof be present at the location of such sale.

(6) Prior to application of proceeds of disposition of the Collateral to the secured indebtedness, such proceeds shall be applied to the reasonable expenses of retaking, holding, preparing for sale or lease, selling, leasing and the like and the reasonable attorneys' fees and legal expenses incurred by Mortgagee.

(7) Any and all statements of fact or other recitals made in any bill of sale or assignment or other instrument evidencing any foreclosure sale hereunder as to nonpayment of the secured indebtedness or as to the occurrence of any default, or as to Mortgagee having declared all of such indebtedness to be due and payable, or as to notice of time, place and terms of sale and of the properties to be sold having been duly given, or as to any other act or thing having been duly done by Mortgagee, shall be taken as prima facie evidence of the truth of the facts so stated and recited.

(8) Mortgagee may appoint or delegate any one or more persons as agent to perform any act or acts necessary or incident to any sale held by Mortgagee, including the sending of notices and the conduct of the sale, but in the name and on behalf of Mortgagee.

(e) Lawsuits. Mortgagee may proceed by a suit or suits in equity or at law, whether for the specific performance of any covenant or agreement herein contained or in aid of the execution of any power herein granted, or for any foreclosure hereunder or for the sale of the Mortgaged Property under the judgment or decree of any court or courts of competent jurisdiction.

(f) Entry on Mortgaged Property. Mortgagee is authorized, subsequent to, and during the continuance of a Default, and, prior or subsequent to the institution of any foreclosure proceedings, to enter upon the Mortgaged Property, or any part thereof, and to take possession of the Mortgaged Property and all books and records relating thereto, and to exercise without interference from Mortgagor any and all rights which Mortgagor has with respect to the management, possession, operation, protection or preservation of the Mortgaged Property. All reasonable costs, expenses and liabilities of every character incurred by Mortgagee in managing, operating, maintaining, protecting or preserving the Mortgaged Property shall constitute a demand obligation of Mortgagor (which obligation Mortgagor hereby expressly promises to pay) to Mortgagee pursuant to this Mortgage. If necessary to obtain the possession provided for above, Mortgagee may invoke any and all remedies to dispossess Mortgagor. In connection with any action taken by Mortgagee pursuant to this Section, Mortgagee shall not be liable for any loss sustained by Mortgagor resulting from any act or omission of Mortgagee in managing the Mortgaged Property unless such loss is caused by the willful misconduct and bad faith of Mortgagee, nor shall Mortgagee be obligated to perform or discharge any obligation, duty or liability of Mortgagor arising under any agreement forming a part of the Mortgaged Property or arising under any Permitted Encumbrance or otherwise arising.

(g) **Receiver.** In addition to all other remedies herein provided for, and subsequent to, and during the continuance of, a Default, Mortgagee shall as a matter of right be entitled to the appointment of a receiver or receivers for all or any part of the Mortgaged Property, whether such receivership be incident to a proposed sale (or sales) of such property or otherwise, and without regard to the value of the Mortgaged Property or the solvency of any person or persons liable for the payment of the indebtedness secured hereby. Mortgagor does hereby irrevocably consent to the appointment of such receiver or receivers, waives any and all right to any hearing or notice of hearing prior to the appointment of such receiver, waives any and all defenses to such appointment, agrees not to oppose any application therefor by Mortgagee, and agrees that such appointment shall in no manner impair, prejudice or otherwise affect the rights of Mortgagee to application of Rents as provided in Article 3 hereof. Any such receiver shall have all the usual powers and duties of receivers in similar cases, upon such terms as may be approved by the court, including, without limitation, the power to (i) take possession of the Mortgaged Property, (ii) exclude Mortgagor and Mortgagor's agents, servants and employees from the Mortgaged Property, (iii) collect the Rents, (iv) complete any construction which may be in progress, (v) maintain the Mortgaged Property and make such repairs and alterations as the receiver deems necessary, (vi) use all stores of materials, supplies, and maintenance equipment on the Mortgaged Property, (vii) pay all taxes and assessments against the Mortgaged Property and all premiums for insurance thereon, (viii) pay all utility and other operating expenses, and all sums due under any prior or subsequent encumbrance, (ix) generally operate the Mortgaged Property including leasing the Mortgaged Property to new tenants or amend or modify current tenant leases and (x) generally do anything which Mortgagor could legally do if Mortgagor were in possession of the Mortgaged Property. The receiver shall apply the Rents in accordance with the provisions of Section 3.1 hereof. Nothing herein is to be construed to deprive Mortgagee of any other right, remedy or privilege it may have under the law to have a receiver appointed. All expenses incurred by the receiver or his agents shall be a demand obligation of Mortgagor (which Mortgagor hereby promises to pay) to Mortgagee pursuant to this Mortgage. Any revenues collected by the receiver shall be applied first to the expenses of the receivership, including reasonable attorneys' fees incurred until repaid, and the balance shall be applied toward the secured indebtedness or in such other manner as the court may direct. Unless sooner terminated with the express consent of Mortgagee, any such receivership will continue until the secured indebtedness has been discharged in full, or until title to the Mortgaged Property has passed after foreclosure sale and all applicable periods of redemption have expired.

(h) **Payment of Expenses.** Mortgagor shall pay on demand all of the Mortgagee's reasonable expenses incurred in any efforts to enforce any terms of this Mortgage, whether or not any lawsuit is filed and whether or not foreclosure is commenced but not completed, including, but not limited to, reasonable legal fees and disbursements, foreclosure costs and title charges, and the same shall be secured by this Mortgage and by all of the other Loan Papers securing all or any part of the secured indebtedness.

(i) **Discontinuance of Proceedings.** In case Mortgagee shall have proceeded to invoke any right, remedy or recourse permitted hereunder or under the other Loan Papers and shall thereafter elect to discontinue or abandon the same for any reason, Mortgagee shall have the unqualified right to do so and, in such an event, Mortgagor and Mortgagee shall be restored to their former positions with respect to the indebtedness secured hereby, the Loan Papers, the Mortgaged Property and otherwise, and the rights, remedies, recourses and powers of Mortgagee shall continue as if the same had never been invoked.

(j) **Mortgagee may File Proofs of Claim.** In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Mortgagor or the principals or general partners in Mortgagor, or their respective creditors or property, Mortgagee, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Mortgagee

allowed in such proceedings for the entire secured indebtedness at the date of the institution of such proceedings and for an additional amount which may become due and payable by Mortgagor after such date.

(k) Other Rights and Remedies. Mortgagee may (i) surrender the insurance policies maintained under this Mortgage and upon receipt shall apply any unearned premiums as a credit on the indebtedness secured hereby and Mortgagor hereby appoints Mortgagee as agent and attorney-in-fact (which is coupled with an interest and is irrevocable) for Mortgagee to collect such premiums, and (ii) exercise any and all other rights and remedies which Mortgagee may have under any Lease, the Loan Papers, or at law or in equity or otherwise.

Section 5.2 Application of Proceeds. The proceeds of any sale or other disposition of any Collateral or the Mortgaged Property in foreclosure of the liens and security interests evidenced hereby shall be applied:

FIRST, to the payment of all necessary costs and expenses incident to any foreclosure, sale or other disposition of the Collateral and/or the Mortgaged Property in connection with this Mortgage and all legal expenses, court costs and charges of every character in the event the Mortgaged Property is foreclosed by suit including, but not limited to, the costs of any appraisals of the Mortgaged Property obtained by Mortgagee, all costs of receivership for the Mortgaged Property advanced by the Mortgagee, all reasonable attorneys' and consultants' fees incurred by Mortgagee, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and costs (which may be estimates as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examination, title insurance policies and similar data and assurances with respect to title, as Mortgagee may deem necessary either to prosecute such suit or to evidence to bidders at any sales that may be had pursuant to such proceedings the true condition of the title to or the value of the Mortgaged Property;

SECOND, to all other items which, under the terms hereof, constitute a part of the secured indebtedness additional to that evidenced by the Notes;

THIRD, to the payment of the secured indebtedness (including specifically without limitation the principal, accrued interest and attorneys' fees due and unpaid on the Notes and the amounts due and unpaid and owed to Mortgagee under this Mortgage) in such manner and order as Mortgagee may elect; and

FOURTH, the remainder, if any there shall be, shall be paid to Mortgagor, or to Mortgagor's successors or assigns, or such other persons as may be entitled thereto by law; provided, however, that if Mortgagee is uncertain which person or persons are so entitled, Mortgagee may interplead such remainder in any court of competent jurisdiction, and the amount of any attorneys' fees, court costs and expenses incurred in such action shall be deemed to be a portion of the secured indebtedness, reimbursable (without limitation) from such remainder.

Section 5.3 Mortgagee as Purchaser. Mortgagee shall have the right to become the purchaser at any private or public sale of any of the Collateral or Mortgaged Property, and any Mortgagee purchasing at any such sale shall have the right to credit upon the amount of the bid made therefor, to the extent necessary to satisfy such bid, the secured indebtedness owing to such Mortgagee, or if such Mortgagee holds less than all of such indebtedness the pro rata part thereof owing to such Mortgagee, accounting to all other mortgagees not joining in such bid in cash for the portion of such bid or bids apportionable to such non-bidding mortgagee or mortgagees.

Section 5.4 Foreclosure as to Matured Debt. Upon the occurrence of a Default, Mortgagee shall have the right to proceed with foreclosure of the liens and security interests hereunder without declaring the entire secured indebtedness due, and in such event any such

foreclosure sale may be made subject to the unmatured part of the secured indebtedness; and any such sale shall not in any manner affect the unmatured part of the secured indebtedness, but as to such unmatured part this Mortgage shall remain in full force and effect just as though no sale had been made. The proceeds of such sale shall be applied as provided in Section 5.3 except that the amount paid under clause SECOND thereof shall be only the matured portion of the secured indebtedness and any proceeds of such sale in excess of those provided for in clauses FIRST and SECOND (modified as provided above) shall be applied to the prepayment (without penalty) of any other secured indebtedness in such manner and order and to such extent as Mortgagee deems advisable, and the remainder, if any, shall be applied as provided in clause THIRD of Section 5.3 hereof. Several sales may be made hereunder without exhausting the right of sale for any unmatured part of the secured indebtedness.

Section 5.5 Remedies Cumulative. All remedies provided for herein and in any other Loan Paper are cumulative of each other and of any and all other remedies existing at law or in equity, and Mortgagee shall, in addition to the remedies provided herein or in any other Loan Paper, be entitled to avail itself of all such other remedies as may now or hereafter exist at law or in equity for the collection of the secured indebtedness and the enforcement of the covenants herein and the foreclosure of the liens and security interests evidenced hereby, and the resort to any remedy provided for hereunder or under any such other Loan Paper or provided for by law or in equity shall not prevent the concurrent or subsequent employment of any other appropriate remedy or remedies.

Section 5.6 Mortgagee's Discretion as to Security. Mortgagee may resort to any security given by this Mortgage or to any other security now existing or hereafter given to secure the payment of the secured indebtedness, in whole or in part, and in such portions and in such order as may seem best to Mortgagee in its sole and uncontrolled discretion, and any such action shall not in anywise be considered as a waiver of any of the rights, benefits, liens or security interests evidenced by this Mortgage.

Section 5.7 Mortgagor's Waiver of Certain Rights. To the full extent Mortgagor may do so, Mortgagor agrees that Mortgagor will not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter in force providing for any appraisement, valuation, stay, extension or redemption, and Mortgagor, for Mortgagor, Mortgagor's successors and assigns, and for any and all persons ever claiming any interest in the Mortgaged Property, to the extent permitted by applicable law, hereby waives and releases all rights of redemption, valuation, appraisement, stay of execution, notice of intention to mature or declare due the whole of the secured indebtedness, notice of election to mature or declare due the whole of the secured indebtedness and all rights to a marshaling of assets of Mortgagor, including the Mortgaged Property, or to a sale in inverse order of alienation in the event of foreclosure of the liens and/or security interests hereby created. Mortgagor shall not have or assert any right under any statute or rule of law pertaining to the marshaling of assets, sale in inverse order of alienation, the exemption of homestead, the administration of estates of decedents, or other matters whatever to defeat, reduce or affect the right of Mortgagee under the terms of this Mortgage to a sale of the Mortgaged Property for the collection of the secured indebtedness without any prior or different resort for collection, or the right of Mortgagee under the terms of this Mortgage to the payment of the secured indebtedness out of the proceeds of sale of the Mortgaged Property in preference to every other claimant whatever. If any law referred to in this Section and now in force, of which Mortgagor or Mortgagor's successors or assigns or any other persons claiming any interest in the Mortgaged Property might take advantage despite this Section, shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to preclude the application of this Section.

Section 5.8 Delivery of Possession After Foreclosure. In the event there is a foreclosure sale hereunder and at the time of such sale, Mortgagor or Mortgagor's successors or assigns are occupying or using the Mortgaged Property, or any part thereof, each and all shall

immediately become the tenant of the purchaser at such sale, which tenancy shall be a tenancy from day to day, terminable at the will of either landlord or tenant, at a reasonable rental per day based upon the value of the property occupied, such rental to be due daily to the purchaser; and to the extent permitted by applicable law, the purchaser at such sale shall, notwithstanding any language herein apparently to the contrary, have the sole option to demand immediate possession following the sale or to permit the occupants to remain as tenants at will. In the event the tenant fails to surrender possession of said property upon demand, the purchaser shall be entitled to institute and maintain a summary action for possession of the property (such as an action for forcible detainer) in any court having jurisdiction.

ARTICLE 6 **Miscellaneous**

Section 6.1 Scope of Mortgage. This Mortgage is a mortgage of both real and personal property, a security agreement, a financing statement and an assignment, and also covers proceeds and fixtures.

Section 6.2 Effective as a Financing Statement. This Mortgage shall be effective as a financing statement filed as a fixture filing with respect to all fixtures included within the Mortgaged Property and is to be filed for record in the real estate records of each county where any part of the Mortgaged Property (including said fixtures) is situated. This Mortgage shall also be effective as a financing statement covering minerals or the like (including oil and gas) and accounts subject to the Alabama Uniform Commercial Code, as amended, and similar provisions (if any) of the Uniform Commercial Code as enacted in any other state where the Mortgaged Property is situated which will be financed at the wellhead or minehead of the wells or mines located on the Mortgaged Property and is to be filed for record in the real estate records of each county where any part of the Mortgaged Property is situated. This Mortgage shall also be effective as a financing statement covering any other Mortgaged Property and may be filed in any other appropriate filing or recording office. The mailing address of Mortgagor is the address of Mortgagor set forth at the end of this Mortgage and the address of Mortgagee from which information concerning the security interests hereunder may be obtained is the address of Mortgagee set forth at the end of this Mortgage.

Section 6.3 Reproduction of Mortgage as Financing Statement. A carbon, photographic or other reproduction of this Mortgage or of any financing statement relating to this Mortgage shall be sufficient as a financing statement for any of the purposes referred to in Section 6.2.

Section 6.4 Notice to Account Debtors. In addition to the rights granted elsewhere in this Mortgage, Mortgagee may at any time during the existence of a Default, or event which with the giving of notice or passage of time, or both, could become a Default notify the account debtors or obligors of any accounts, chattel paper, negotiable instruments or other evidences of indebtedness included in the Collateral to pay Mortgagee directly.

Section 6.5 Waiver by Mortgagee. Mortgagee may at any time and from time to time by a specific writing intended for the purpose: (a) waive compliance by Mortgagor with any covenant herein made by Mortgagor to the extent and in the manner specified in such writing; (b) consent to Mortgagor's doing any act which hereunder Mortgagor is prohibited from doing, or to Mortgagor's failing to do any act which hereunder Mortgagor is required to do, to the extent and in the manner specified in such writing; (c) release any part of the Mortgaged Property or any interest therein from the lien and security interest of this Mortgage; or (d) release any party liable, either directly or indirectly, for the secured indebtedness or for any covenant herein or in any other Loan Paper, without impairing or releasing the liability of any other party. No such act shall in any way affect the rights or powers of Mortgagee hereunder except to the extent specifically agreed to by Mortgagee in such writing.

Section 6.6 No Impairment of Security. The lien, security interest and other security rights of Mortgagee hereunder shall not be impaired by any indulgence, moratorium or release granted by Mortgagee including, but not limited to, any renewal, extension or modification which Mortgagee may grant with respect to any secured indebtedness, or any surrender, compromise, release, renewal, extension, exchange or substitution which Mortgagee may grant in respect of the Mortgaged Property, or any part thereof or any interest therein, or any release or indulgence granted to any endorser, guarantor or surety of any secured indebtedness. The taking of additional security by Mortgagee shall not release or impair the lien, security interest or other security rights of Mortgagee hereunder or affect the liability of Mortgagor or of any endorser, guarantor or surety, or improve the right of any junior lienholder in the Mortgaged Property (without implying hereby Mortgagee's consent to any junior lien).

Section 6.7 Acts Not Constituting Waiver by Mortgagee. Mortgagee may waive any Default without waiving any other prior or subsequent Default. Mortgagee may remedy any Default without waiving the default remedied. Neither failure by Mortgagee to exercise, nor delay by Mortgagee in exercising, any right, power or remedy upon any Default shall be construed as a waiver of such Default or as a waiver of the right to exercise any such right, power or remedy at a later date. No single or partial exercise by Mortgagee of any right, power or remedy hereunder shall exhaust the same or shall preclude any other or further exercise thereof, and every such right, power or remedy hereunder may be exercised at any time and from time to time. No modification or waiver of any provision hereof nor consent to any departure by Mortgagor therefrom shall in any event be effective unless the same shall be in writing and signed by Mortgagee and then such waiver or consent shall be effective only in the specific instance, for the purpose for which given and to the extent therein specified. No notice to nor demand on Mortgagor in any case shall of itself entitle Mortgagor to any other or further notice or demand in similar or other circumstances. Remittances in payment of any part of the secured indebtedness other than in the required amount in immediately available U.S. funds shall not, regardless of any receipt or credit issued therefor, constitute payment until the required amount is actually received by Mortgagee in immediately available U.S. funds and shall be made and accepted subject to the condition that any check or draft may be handled for collection in accordance with the practice of the collecting bank or banks. Acceptance by Mortgagee of any payment in an amount less than the amount then due on any secured indebtedness shall be deemed an acceptance on account only and shall not in any way excuse the existence of a Default hereunder.

Section 6.8 Mortgagor's Successors. If the ownership of the Mortgaged Property or any part thereof becomes vested in a person other than Mortgagor, Mortgagee may, without notice to Mortgagor, deal with such successor or successors in interest with reference to this Mortgage and to the indebtedness secured hereby in the same manner as with Mortgagor, without in any way vitiating or discharging Mortgagor's liability hereunder or for the payment of the indebtedness or performance of the obligations secured hereby. No transfer of the Mortgaged Property, no forbearance on the part of Mortgagee, and no extension of the time for the payment of the indebtedness secured hereby given by Mortgagee shall operate to release, discharge, modify, change or affect, in whole or in part, the liability of Mortgagor hereunder for the payment of the indebtedness or performance of the obligations secured hereby or the liability of any other person hereunder for the payment of the indebtedness secured hereby. Mortgagor agrees that it shall be bound by any modification of this Mortgage or any of the other Loan Papers made by Mortgagee and any subsequent owner of the Mortgaged Property, with or without notice to Mortgagor, and no such modifications shall impair the obligations of Mortgagor under this Mortgage or any other Loan Paper. Nothing in this Section shall be construed to imply Mortgagee's consent to any transfer of the Mortgaged Property.

Section 6.9 Place of Payment; Forum. All secured indebtedness which may be owing hereunder at any time by Mortgagor shall be payable at the place designated in the Notes (or if no

such designation is made, at the address of Mortgagee indicated at the end of this Mortgage). Mortgagor hereby irrevocably submits generally and unconditionally for itself and in respect of its property to the non-exclusive jurisdiction of any Texas state court, or any United States federal court, sitting in the City of Dallas, Texas, and to the non-exclusive jurisdiction of any state or United States federal court sitting in the state in which any of the Mortgaged Property is located, over any suit, action or proceeding arising out of or relating to this Mortgage or the secured indebtedness. Mortgagor hereby agrees and consents that, in addition to any methods of service of process provided for under applicable law, all service of process in any such suit, action or proceeding in any Texas state court, or any United States federal court, sitting in the City of Dallas, Texas may be made by certified or registered mail, return receipt requested, directed to Mortgagor at its address stated in this Mortgage, or at a subsequent address of which Mortgagee received actual notice from Mortgagor in accordance with this Mortgage, and service so made shall be complete five (5) days after the same shall have been so mailed.

Section 6.10 Subrogation to Existing Liens. To the extent that proceeds of the Notes are used to pay indebtedness secured by any outstanding lien, security interest, charge or prior encumbrance against the Mortgaged Property, such proceeds have been advanced by Mortgagee at Mortgagor's request, and Mortgagee shall be subrogated to any and all rights, security interests and liens owned by any owner or holder of such outstanding liens, security interests, charges or encumbrances, however remote, irrespective of whether said liens, security interests, charges or encumbrances are released, and all of the same are recognized as valid and subsisting and are renewed and continued and merged herein to secure the secured indebtedness, but the terms and provisions of this Mortgage shall govern and control the manner and terms of enforcement of the liens, security interests, charges and encumbrances to which Mortgagee is subrogated hereunder. It is expressly understood that, in consideration of the payment of such indebtedness by Mortgagee, Mortgagor hereby waives and releases all demands and causes of action for offsets and payments in connection with the said indebtedness.

Section 6.11 Application of Payments to Certain Indebtedness. If any part of the secured indebtedness cannot be lawfully secured by this Mortgage or if any part of the Mortgaged Property cannot be lawfully subject to the lien and security interest hereof to the full extent of such indebtedness, then all payments made shall be applied on said indebtedness first in discharge of that portion thereof which is not secured by this Mortgage.

Section 6.12 Compliance with Usury Laws. It is the intent of Mortgagor and Mortgagee and all other parties to the Loan Papers to conform to and contract in strict compliance with applicable usury law from time to time in effect. All agreements between Mortgagee and Mortgagor (or any other party liable with respect to any indebtedness under the Loan Papers) are hereby limited by the provisions of this Section which shall override and control all such agreements, whether now existing or hereafter arising and whether written or oral. In no way, nor in any event or contingency (including but not limited to prepayment, default, demand for payment, or acceleration of the maturity of any obligation), shall the interest taken, reserved, contacted for, charged or received under this Mortgage, the Notes or otherwise, exceed the maximum amount permissible under applicable law. If, from any possible construction of any document, interest would otherwise be payable in excess of the maximum lawful amount, any such construction shall be subject to the provisions of this Section and such document shall be automatically reformed and the interest payable shall be automatically reduced to the maximum amount permitted under applicable law, without the necessity of execution of any amendment or new document. If Mortgagee shall ever receive anything of value which is characterized as interest under applicable law and which would apart from this provision be in excess of the maximum lawful amount, an amount equal to the amount which would have been excessive interest shall, without penalty, be applied to the reduction of the principal amount owing on the secured indebtedness in the inverse order of its maturity and not to the payment of interest, or refunded to Mortgagor or the other payor thereof if and to the extent such amount which would have been

excessive exceeds such unpaid principal. The right to accelerate maturity of the Notes or any other secured indebtedness does not include the right to accelerate any interest which has not otherwise accrued on the date of such acceleration, and Mortgagee does not intend to charge or receive any unearned interest in the event of acceleration. 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 stated term (including any renewal or extension) of such indebtedness so that the amount of interest on account of such indebtedness does not exceed the maximum permitted by applicable law. As used in this Section, the term "applicable law" shall mean the laws of the State of Texas or the federal laws of the United States applicable to this transaction, whichever laws allow the greater interest, as such laws now exist or may be changed or amended or come into effect in the future.

Section 6.13 Release of Mortgage. If all of the secured indebtedness be paid as the same becomes due and payable and all of the covenants, warranties, undertakings and agreements made in this Mortgage are kept and performed, and all obligations, if any, of Mortgagee for further advances have been terminated, then, and in that event only, all rights under this Mortgage shall terminate (except to the extent expressly provided herein with respect to indemnifications and other rights which are to continue following the release hereof) and the Mortgaged Property shall become wholly clear of the liens, security interests, conveyances and assignments evidenced hereby, and such liens and security interests shall be released by Mortgagee in due form at Mortgagor's cost. Without limitation, all provisions herein for indemnity of Mortgagee shall survive discharge of the secured indebtedness and any foreclosure, release or termination of this Mortgage.

Section 6.14 Notices. All notices, requests, consents, demands and other communications required or which any party desires to give hereunder or under any other Loan Paper shall be in writing and, unless otherwise specifically provided in such other Loan Paper, shall be deemed sufficiently given or furnished if delivered by personal delivery, by reputable courier or delivery service with proof of delivery, or by registered or certified United States mail, postage prepaid, at the addresses specified at the end of this Mortgage (unless changed by similar notice in writing given by the particular party whose address is to be changed) or by telegram, telex, or facsimile. Any such notice or communication shall be deemed to have been given either at the time of personal delivery or, in the case of delivery service or mail, as of the date of first attempted delivery at the address and in the manner provided herein, or, in the case of telegram, telex or facsimile, upon receipt. This Section shall not be construed in any way to affect or impair any waiver of notice or demand provided in any Loan Paper or to require giving of notice or demand to or upon any person in any situation or for any reason.

Section 6.15 Invalidity of Certain Provisions. A determination that any provision of this Mortgage is unenforceable or invalid shall not affect the enforceability or validity of any other provision and the determination that the application of any provision of this Mortgage to any person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to other persons or circumstances.

Section 6.16 Gender; Titles; Construction; Capitalized Terms. Within this Mortgage, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires. Titles appearing at the beginning of any subdivisions hereof are for convenience only, do not constitute any part of such subdivisions, and shall be disregarded in construing the language contained in such subdivisions. The use of the words "herein," "hereof," "hereunder" and other similar compounds of the word "here" shall refer to this entire Mortgage and not to any particular Article, Section, paragraph or provision. Words importing persons shall include firms, associations, partnerships (including limited partnerships), joint ventures, trusts, corporations and

other legal entities, including public or governmental bodies, agencies or instrumentalities, as well as natural persons. All capitalized terms used in this Mortgage, but not defined herein shall possess the same meaning as they were given in the Credit Agreement.

Section 6.17 Recording. Mortgagor will cause this Mortgage and all amendments and supplements thereto and substitutions therefor and all financing statements and continuation statements relating thereto to be recorded, filed, re-recorded and refiled in such manner and in such places Mortgagee shall reasonably request and will pay all such recording, filing, re-recording and refiling taxes, fees and other charges.

Section 6.18 Lender as Mortgagee. All persons dealing with the Mortgaged Property (other than Mortgagor) shall be entitled to assume that Lender is the only Mortgagee, and may deal with Lender (including without limitation accepting from or relying upon full or partial releases hereof executed by Lender only) without further inquiry as to the existence of other mortgagees, until given actual notice of facts to the contrary or until this Mortgage is supplemented or amended of record to show the existence of other mortgagees.

Section 6.19 Reporting Compliance. Mortgagor agrees to comply with any and all reporting requirements applicable to the transaction evidenced by the Notes and secured by this Mortgage which are set forth in any law, statute, ordinance, rule, regulation, order or determination of any governmental authority, including but not limited to The International Investment Survey Act of 1976, The Agricultural Foreign Investment Disclosure Act of 1978, The Foreign Investment in Real Property Tax Act of 1980 and the Tax Reform Act of 1984 and further agrees upon request of Mortgagee to furnish Mortgagee with evidence of such compliance.

Section 6.20 Mortgagor. Unless the context clearly indicates otherwise, as used in this Mortgage, "Mortgagor" means the grantors named in Section 1.1 hereof or any of them. The obligations of Mortgagor hereunder shall be joint and several. If any Mortgagor, or any signatory who signs on behalf of any Mortgagor, is a corporation, partnership or other legal entity, Mortgagor and any such signatory, and the person or persons signing for it, represent and warrant to Mortgagee that this instrument is executed, acknowledged and delivered by Mortgagor's duly authorized representatives. If Mortgagor is an individual, no power of attorney granted by Mortgagor herein shall terminate on Mortgagor's disability.

Section 6.21 Execution. This Mortgage has been executed in several counterparts, all of which are identical, and all of which counterparts together shall constitute one and the same instrument. The date or dates reflected in the acknowledgments hereto indicate the date or dates of actual execution of this Mortgage, but such execution is as of the date shown on the first page hereof, and for purposes of identification and reference the date of this Mortgage shall be deemed to be the date reflected on the first page hereof.

Section 6.22 Successors and Assigns. The terms, provisions, covenants and conditions hereof shall be binding upon Mortgagor, and the heirs, devisees, representatives, successors and assigns of Mortgagor, and shall inure to the benefit of Mortgagee and its successors, substitutes and assigns and shall constitute covenants running with the Land. All references in this Mortgage to Mortgagor or Mortgagee shall be deemed to include all such heirs, devisees, representatives, successors, substitutes and assigns.

Section 6.23 Modification or Termination. The Loan Papers may only be modified or terminated by a written instrument or instruments intended for that purpose and executed by the party against which enforcement of the modification or termination is asserted. Any alleged modification or termination which is not so documented shall not be effective as to any party.

Section 6.24 No Partnership, etc. The relationship between Mortgagee and Mortgagor is solely that of lender and borrower. Mortgagee has no fiduciary or other special relationship with Mortgagor. Nothing contained in the Loan Papers is intended to create any partnership, joint venture, association or special relationship between Mortgagor and Mortgagee or in any way make Mortgagee a co-principal with Mortgagor with reference to the Mortgaged Property. Any inferences to the contrary of any of the foregoing are hereby expressly negated.

Section 6.25 Future Advances. This Mortgage shall secure such future advances as may be made by Mortgagee, at its option and for any purpose, within twenty (20) years from the date of this Mortgage. All such future advances shall be included within the terms "secured indebtedness" and "indebtedness secured hereby", shall be secured to the same extent as if made on the date of the execution of this Mortgage, and shall take priority as to third persons without actual notice from the time this Mortgage is filed for record as provided by law. The total amount of indebtedness secured by this Mortgage may decrease or increase from time to time, but the total unpaid balance so secured at any one time shall not exceed the maximum principal amount of \$16,323.00, plus interest and any disbursements made for the payment of taxes, levies or insurance on the Mortgaged Property, with interest on those disbursements, plus any increase in the principal balance as the result of negative amortization or deferred interest. Without the prior written consent of Mortgagee, which Mortgagee may grant or withhold in its sole discretion, Mortgagor shall not file for record any notice limiting the maximum principal amount that may be secured by this Mortgage to a sum less than the maximum principal amount set forth in this paragraph.

Section 6.26 Time of Essence. Time shall be of the essence in this Mortgage with respect to all of Mortgagor's obligations hereunder.

Section 6.27 APPLICABLE LAW. THIS MORTGAGE, AND ITS VALIDITY, ENFORCEMENT AND INTERPRETATION, SHALL BE GOVERNED BY ALABAMA LAW (WITHOUT REGARD TO ANY CONFLICT OF LAWS PRINCIPLES) AND APPLICABLE UNITED STATES FEDERAL LAW.

Section 6.28 Entire Agreement. The Loan Papers constitute the entire understanding and agreement between Mortgagor and Mortgagee with respect to the transactions arising in connection with the indebtedness secured hereby and supersede all prior written or oral understandings and agreements between Mortgagor and Mortgagee with respect to the matters addressed in the Loan Papers. Mortgagor hereby acknowledges that, except as incorporated in writing in the Loan Papers, there are not, and were not, and no persons are or were authorized by Mortgagee to make, any representations, understandings, stipulations, agreements or promises, oral or written, with respect to the matters addressed in such Loan Papers.

THE WRITTEN LOAN PAPERS REPRESENT 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 instrument is executed by Mortgagor as of the date first written on page 1 hereof.

Signed, sealed and delivered in the presence of:

MORTGAGOR:

PINNACLE TOWERS INC.

By: Michael D. Craig
As its: Vice President

The address of Mortgagor is:

Pinnacle Towers Inc.
1546 Ringling Boulevard, 3rd Floor
Sarasota, Florida 34236
Attention: Michael D. Craig

The address of Mortgagee is:

NationsBank of Texas, N.A.
NationsBank Plaza - 64th Floor
901 Main Street
Dallas, Texas 75202
Attention: Real Estate Administration

STATE OF Florida)

COUNTY OF Sarasota)

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

Given under my head and official seal of office this 4th day of Dec., 1996.

Gloria Crombie

NOTARY PUBLIC

My Commission Expires: Jan. 23, 1999

This Instrument Prepared by:

Jeffery J. Hartley, Esquire
Adams and Reese
Post Office Box 1348
Mobile, Alabama 36633
Telephone: (334) 433-3234

GLORIA CROMBIE

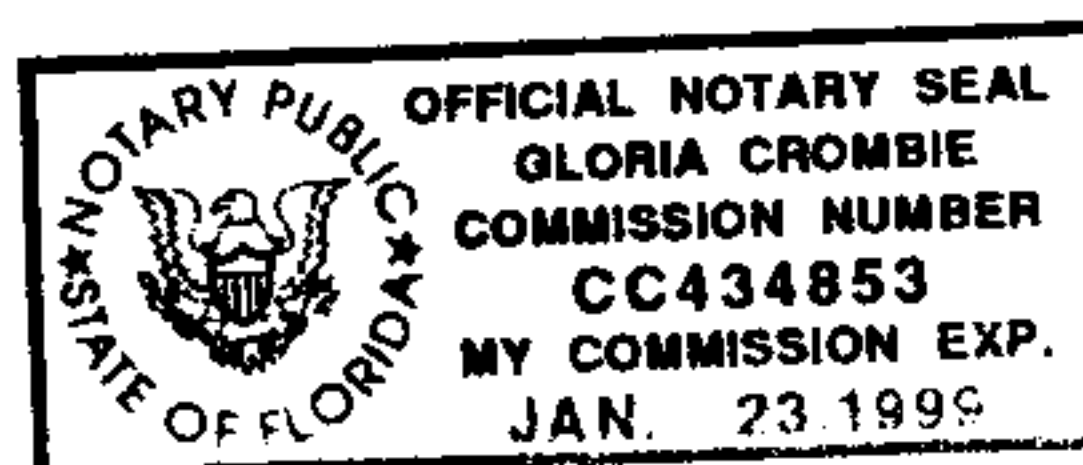


EXHIBIT A
TO
LEASEHOLD MORTGAGE, ASSIGNMENT, SECURITY AGREEMENT
AND FINANCING STATEMENT

Evidence of said Ground Lease is recorded in
Shelby County Probate Court (Dated 9/13/1996),
Real Inst # 1996-30237.

EXHIBIT B
TO
LEASEHOLD MORTGAGE, ASSIGNMENT, SECURITY AGREEMENT
AND FINANCING STATEMENT

LEGAL DESCRIPTION

A tract of land situated in the Northeast 1/4 of the Northwest 1/4 of Section 23, Township 17 South, Range 1 East, Shelby County, Alabama, being more particularly described as follows:

Begin at the Southeast corner of the Northeast 1/4 of the Northwest 1/4 of Section 23, Township 17 South, Range 1 East, Shelby County, Alabama, and run in a northerly direction along the East line of said 1/4-1/4 section a distance of 200.00 feet to a point; thence turn an interior angle of 88 degrees 53 minutes and run to the left in a westerly direction a distance of 200.00 feet to a point; thence turn an interior angle of 91 degrees 03 minutes and run to the left in a southerly direction a distance of 200.00 feet to a point on the south line of the Northeast 1/4 of the Northwest 1/4 of Section 23; thence turn an interior angle of 88 degrees 53 minutes and run to the left in an easterly direction along the south line of said 1/4-1/4 section a distance of 200 feet to the point of beginning.

Together with a non-exclusive right-of-way of ingress and egress as set out in that deed recorded in Instrument #1993-20132.

EXHIBIT C
TO
LEASEHOLD MORTGAGE, ASSIGNMENT, SECURITY AGREEMENT
AND FINANCING STATEMENT

Taxes due in the year 1996, a line, but not yet payable. Parcel #58-1-6-23-0-001-032-005.

Easements to Alabama Power Company recorded in Deed Book 52, page 285; Deed Book 206, page 175.

Transmission line permit to Alabama Power Company as recorded in Deed Book 188, page 302; Deed Book 136, page 538; Deed Book 241, page 345.

Easement over the East 10 feet of a portion of subject property as shown by survey of Armstrong Estates, First Sector, as recorded in Map Book 5, page 19.

Coal, oil, gas and mineral and mining rights and all rights incident thereto including release.

Agreement by and between Robert T. Ryan, III and Rhonda K. Ryan and W. G. Swindall as recorded in Misc. Book 44, page 296.

Inst # 1996-40246

12/06/1996-40246
01:38 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
022 MCD 86.60