

**REAL ESTATE MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT**

Mortgagors (last name first):

Bearden, John L.

Bearden, Cathy N.

3496 Bearden Lane

Mailing Address

Helena, AL 35080

City

State

Zip

Mortgagee:

SouthTrust Bank of Alabama, National Association

P.O. Box 2554

Mailing Address

Birmingham, AL 35290

City

State

Zip

This instrument was prepared by:

THE STATE OF ALABAMA

Andy Raine, Asst. Vice Pres

P.O. Box 2554

Birmingham, AL 35290

Shelby

County

KNOW ALL MEN BY THESE PRESENTS: That whereas

John L. Bearden, , Cathy N. Bearden

have become justly indebted to

SouthTrust Bank of Alabama, National Association

with offices in Birmingham

Alabama, (together with its successors and assigns,

hereinafter called "Mortgagee" in the sum of

SEVEN HUNDRED THOUSAND AND NO/100

Dollars (\$ 700,000.00 )

together with interest thereon, as evidenced by a promissory note or notes of even date herewith.

[Complete the following if term of note(s) is more than 20 years] The final scheduled maturity date of such note(s) is

NOW, THEREFORE, in consideration of the indebtedness described above and other valuable consideration to the undersigned, the receipt and sufficiency of which are hereby acknowledged, and in order to secure the payment and performance of the indebtedness described above, any extensions, renewals, modifications and increases thereof and substitutions therefor and all interest thereon, all sums advanced by Mortgagee pursuant to the terms of this mortgage, and all other indebtedness (including future loans and advances) now or hereafter owed to Mortgagee by any of the above-named or by any of the undersigned, whether such indebtedness is primary or secondary, direct or indirect, contingent or absolute, matured or unmatured, joint or several, and otherwise secured or not (all of the foregoing being sometimes referred to collectively in this mortgage as the "secured indebtedness"), and to secure compliance with all the covenants and stipulations hereinafter contained, the undersigned

John L. Bearden, , Cathy N. Bearden

(whether one or more, hereinafter called "Mortgagors") do hereby grant, bargain, sell, convey, assign, grant a security interest in, transfer and warrant unto

Mortgagee the following described real property situated in Shelby County, State of Alabama, viz:

Lot 17, 18, and 19, according to Survey of Owens Industrial Park, First Addition, as recorded in Map Book 11, Page 2 in the Probate Office of Shelby County, Alabama.

together with all present and future leases and subleases thereof and of any part thereof, all rents, profits, royalties, and other income and revenues thereof and all rights, privileges, easements, tenements, interests, improvements and appurtenances thereto belonging or in anywise appertaining thereto, including any after-acquired title and easements and all rights, title and interest now or hereafter owned by Mortgagors in and to all buildings and improvements, storm and screen windows and doors, gas, steam, electric, solar and other heating, lighting, ventilating, air-conditioning, refrigerating and cooking apparatus, elevators, plumbing, sprinklers, smoke, fire and intrusion detection devices, trees, shrubs and flowers, and other equipment and fixtures now or hereafter attached or appertaining to said premises, all of which shall be deemed to be real property and conveyed by this mortgage (all of the foregoing real property, equipment, and fixtures being sometimes hereinafter called the "mortgaged property");

And together with all building materials, household appliances, equipment, fixtures and fittings of every kind or character now owned or hereafter acquired by Mortgagors, or any of them, located, whether permanently or temporarily, on the mortgaged property or on any other real property, which are or shall be purchased by Mortgagors, or any of them, for the purpose, or with the intention, of making improvements on the mortgaged property or to the premises located on said property. The personal property herein transferred includes, without limitation, all lumber, bricks, building stones, building blocks, sand, cement, steel, roofing materials, paint, doors, windows, storm doors, storm windows, glass, nails, wires and wiring, hardware, plumbing and plumbing fixtures, heating, ventilating and air conditioning equipment and appliances, electrical and gas equipment and appliances, pipes and piping, ornamental and decorative fixtures, trees, shrubs and flowers, and in general all building materials, equipment, appliances and plants of every kind and character used or useful in connection with improvements to real property, provided, that to the extent the personal property described above consists of "household goods", as that term is defined in 12 C.F.R. Section 227.12 (d), Mortgagee's security interest in those household goods is limited to a purchase money security interest; and provided further, that if the mortgaged property includes the principal dwelling of any Mortgagor who is an individual, and if the securing by this mortgage of any particular other or future indebtedness would give rise to a right of rescission under 15 U.S.C. Section 1635 or the regulations promulgated thereunder, such other or future indebtedness will be secured by this mortgage only if all required notices of the right of rescission were timely and properly given.

he proceeds of this loan have been applied on the purchase price of this property conveyed to mortgagors simultaneously herewith.



UPON CONDITION, HOWEVER, that if Mortgagors shall well and truly pay and discharge all the secured indebtedness (including, without limitation, all extensions, renewals and increases of the original indebtedness and all future advances) as the same shall become due and payable and shall in all things do and perform all acts and covenants by them herein agreed to be done or performed in strict accordance with the tenor and effect thereof, and if there is no outstanding commitment or agreement by Mortgagee to make advances, incur obligations or otherwise give value under any agreement, including, without limitation, agreements providing for future advances, open-end, revolving or other lines of credit, or letters of credit, then and in that event only this conveyance and the security interest herein granted shall be and become null and void (except the agreements of indemnity made in paragraph 12, on Page 2, which shall survive termination of this mortgage); but should default be made in the payment when due (whether as originally scheduled or upon acceleration of maturity) of the secured indebtedness or any part thereof or any renewals, extensions or increases thereof or any interest thereon or should default be made in the repayment of any sum expended by Mortgagee under the authority of any provision of this mortgage, or should the interest of Mortgagee in the mortgaged property or any of the personal property described above become endangered by reason of the enforcement of any lien or encumbrance thereon, or should a petition to condemn all or any part of the mortgaged property be filed by any authority, person or entity having power of eminent domain, or should any law, either state or federal, be passed imposing or authorizing the imposition of a specific tax upon this mortgage or the secured indebtedness or permitting or authorizing the deduction of any such tax from the principal or interest secured by this mortgage or by virtue of which any tax or assessment upon the mortgaged property shall be charged against the owner of this mortgage, or should at any time any of the covenants contained in this mortgage or in any note or other evidence of secured indebtedness be declared invalid or unenforceable by any court of competent jurisdiction, or if any of the Mortgagors in a corporation and should any owner of the voting stock of such corporation sell or otherwise transfer 5% or more of the outstanding voting stock of such corporation to any other person or entity, or if any of the Mortgagors is a partnership (general or limited) and should the partnership dissolve or should any general partner of such partnership withdraw, be replaced by the limited partners, die or become incompetent, or should Mortgagors fail to do and perform any other act or thing herein required or agreed to be done, then in any of said events the whole of the secured indebtedness, or any portion or part thereof which may at said date not have been paid, with interest thereon, shall at once become due and payable and this mortgage subject to foreclosure at the option of Mortgagee, notice of the exercise of such option being hereby expressly waived by Mortgagors, and Mortgagee shall have the right to enter upon and take possession of the mortgaged property and after or without taking such possession to sell the same (or such part or parts thereof as Mortgagee may from time to time elect to sell) at the front or main door to the courthouse of the County (or the division thereof) where said property, or any substantial and material part of said property, is located, at public outcry for cash, after first giving notice of the description of the property to be sold and the time, place and terms of such sale by publication once a week for three consecutive weeks prior to said sale in some newspaper published in the county or counties in which the property to be sold is located (or if no newspaper is published in any such county, then in a newspaper published in an adjoining county); and upon the payment of the purchase price, Mortgagee or the auctioneer at said sale is authorized to execute to the purchaser for and in the name of Mortgagors a good and sufficient deed to the property sold. Mortgagee shall apply the proceeds of any sale or sales under this mortgage as follows: First, to the expenses of advertising, selling, preparing the property for sale, and conveying, including reasonable attorneys' fees (including attorneys' fees incurred by Mortgagee in connection with any proceeding seeking to enjoin the foreclosure of this mortgage or otherwise challenging the right of Mortgagee to foreclose this mortgage or sell any of the mortgaged property under this mortgage and attorneys' fees incurred in connection with any appeal); second, to the payment of any amounts that may have been expended or that may then be necessary to expend in paying insurance, taxes, assessments, and other liens and mortgages, and in making repairs, with interest thereon; third, to the payment of the secured indebtedness and interest thereon in such order as Mortgagee may elect, whether such debts shall or shall not have fully matured at the date of said sale; and fourth, the balance, if any, to be paid over to Mortgagors or to whomsoever then appears of record to be the owner of Mortgagors' interest in said property. Mortgagee may bid and become the purchaser of the mortgaged property at any sale hereunder. Mortgagors hereby waive any requirement that the mortgaged property be sold in separate tracts and agree that Mortgagee may, at its election, sell said property en masse regardless of the number of parcels hereby conveyed. The power of sale granted herein is a continuing power and shall not be fully exercised until all of the mortgaged property not previously sold shall have been sold or all of the indebtedness and other obligations secured hereby have been satisfied in full. And upon the occurrence of any such event described above, with respect to all of the mortgaged property which is personal property, Mortgagee shall have the rights and remedies of a secured party after default by its debtor under the Alabama Uniform Commercial Code, and shall have, without limitation, the right to take possession of any of the property herein transferred which is personal property and, with or without taking possession thereof, to sell the same at one or more public or private sales, or to proceed as to both the real property and personal property in accordance with Mortgagee's rights and remedies in respect of the real property, at the election of Mortgagee. At Mortgagee's request, Mortgagors agree to assemble such property and to make the same available to Mortgagee at such place as Mortgagee shall reasonably designate. Mortgagors hereby waive, to the extent permitted by law, any requirement of a judicial hearing and notice of the time and place of any public sale or of the time after which any private sale or other intended disposition of said property, or of any part thereof, will be held and agree that any required notice which cannot be waived shall be sufficient if delivered to Mortgagors or mailed to Mortgagors at the address set forth above, or such other address as Mortgagors shall have furnished to Mortgagee in writing for that purpose, not less than five days before the date of such sale or other intended disposition of said property.

☐ Construction mortgage. If this box is marked, this mortgage is a construction mortgage.

IN WITNESS WHEREOF, each of the undersigned has hereunto set his or her signature and seal or has caused this instrument to be executed (and its seal to be affixed hereto) by its officer(s) or partner(s) thereunto duly authorized, this 3RD day of MARCH, 1997.

John L. Bearden (L.S.)  
John L. Bearden  
Cathy N. Bearden (L.S.)  
Cathy N. Bearden  
\_\_\_\_\_  
(L.S.)  
\_\_\_\_\_  
(L.S.)

ATTEST \_\_\_\_\_  
\_\_\_\_\_  
Its \_\_\_\_\_  
(Corporate Seal)

By \_\_\_\_\_  
\_\_\_\_\_  
Its \_\_\_\_\_

(If recording privilege tax is not being paid at time of recording on the maximum sum which might be drawn under the secured indebtedness, complete the following pursuant to Ala. Code Section 40-22-2(2)(b).)

I certify the amount of indebtedness presently incurred is \$ 700,000.00.

Andy Raine A/R  
Authorized Agent for Mortgagee

THE STATE OF ALABAMA,

INDIVIDUAL ACKNOWLEDGMENT

Shelby COUNTY

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that \_\_\_\_\_ whose name

John L. Bearden

was 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 \_\_\_\_\_ executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 3 day of March, 1997.

(Notarial Seal)

2-13-98 Helen Martin

Notary Public

THE STATE OF ALABAMA,

INDIVIDUAL ACKNOWLEDGMENT

\_\_\_\_\_ COUNTY

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that \_\_\_\_\_ whose name

Cathy N. Bearden

was 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 \_\_\_\_\_ executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 3 day of March, 1997.

(Notarial Seal)

2-13-98 Helen Martin

Notary Public

THE STATE OF ALABAMA,

CORPORATE ACKNOWLEDGMENT

\_\_\_\_\_ COUNTY

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that \_\_\_\_\_ whose name as \_\_\_\_\_ President

of the \_\_\_\_\_, a 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 hand and official seal this Inst. # 1997-08111

(Notarial Seal)

Notary Public

THE STATE OF ALABAMA,

\_\_\_\_\_ COUNTY

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that \_\_\_\_\_ whose name as general partner of \_\_\_\_\_, a

(general) (limited) partnership, 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 general partner and with full authority, executed the same voluntarily for and as the act of said partnership.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_

(Notarial Seal)

Notary Public

AFTER RECORDING PLEASE RETURN TO

SouthTrust Bank of Alabama N.A.

P.O. Box 2554 Attn: Business Center

Birmingham, Al 35290

REAL ESTATE MORTGAGE,  
SECURITY AGREEMENT AND  
FINANCING STATEMENT

THE STATE OF ALABAMA

\_\_\_\_\_ COUNTY, Office of the Judge of Probate.

I hereby certify that the within mortgage was filed in this office for record on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and duly recorded in \_\_\_\_\_ Volume \_\_\_\_\_, at page \_\_\_\_\_, and examined.