

ASSIGNMENT OF RENTS AND LEASES

The following terms shall have the meanings set forth below, as used in this instrument:

Lender:	First Commercial Bank
Lender's Notice Address:	P.O. Box 11746 Birmingham, Alabama 35202-1746
Loan Amount:	\$245,000.00
Mortgage:	The Mortgage and Security Agreement executed by Owner in favor of Lender this date to further secure the Obligation (defined below).
Owner:	William Bew White, III (a/k/a Wm. Bew White, III)
Owner's Notice Address:	111 Hinds Street, Pelham, AL 35124

1. **BY THIS ASSIGNMENT**, the Owner, for value received, hereby assigns to the Lender all of Owner's right, title, privileges and interest which Owner has and may have in the leases, operating agreements, management agreements, concession agreements, licenses, and all similar agreements, now existing or hereafter made and affecting the real property and the improvements and equipment thereon described in Exhibit A attached hereto and incorporated herein by reference (collectively referred to as the "Property"), together with all extensions, renewals, modifications or replacements of said leases and agreements, and together with any and all guarantees of the obligations of the lessees and other obligors thereunder, whether now existing or hereafter executed, and all extensions and renewals of said guarantees. All said leases and all other said agreements described in this Paragraph 1, together with any and all guarantees, modifications, extensions and renewals thereof, are hereinafter collectively and severally referred to as the "Lease".

2. **OWNER'S PURPOSE** in making this assignment is to relinquish, convey, and assign to Lender its right to collect and enjoy the rents, royalties, issues, profits, income and other benefits at any time accruing by virtue of the Lease (hereinafter called "Rents and Profits") as additional security for the outstanding indebtedness to Lender as evidenced by the note in favor of Lender (herein called the "Obligation") dated this same date, in the aggregate original principal sum equal to the Loan Amount executed by Owner, and as additional security for the Owner's obligations under the Mortgage executed to better secure the Obligation; and to furnish security for the performance of Owner's obligations contained herein, and in the Obligation, and in the other Loan Documents. The Obligation, the Mortgage, and other said loan documents, and all other documents executed in

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connection with this loan are referred to as the "Loan Documents".

3. **THE PARTIES INTEND** that this Assignment shall be a present, absolute and unconditional assignment and shall, immediately upon execution, give Lender the right to collect the Rents and Profits and to apply them in payment of the principal and interest and all other sums payable on Owner's Obligation, as well as all other sums payable under the Loan Documents. However, Lender hereby grants to Owner a license to collect, subject to the provisions set forth below and in the Loan Documents, the Rents and Profits as they respectively become due and to enforce the Lease, so long as there is no default by Owner in performance of the terms, covenants or provisions of the Obligation, the Loan Documents or this Assignment. Nothing contained herein, nor any collection of Rents and Profits by Lender or by a receiver, shall be construed to make Lender a "mortgagee-in-possession" of the Property so long as Lender has not itself entered into actual possession of the Property.

4. **UPON THE OCCURRENCE OF ANY DEFAULT** under the terms and conditions of this Assignment or any of the Loan Documents, this Assignment shall constitute a direction to and full authority to any and all obligors under the Lease and any guarantor of the Lease to pay all Rents and Profits to Lender without proof of the default relied upon. Owner hereby irrevocably authorizes any and all obligors under the Lease and any guarantor to rely upon and comply with any notice or demand by Lender for the payment to Lender of any Rents and Profits due or to become due. Any and all obligors under the Lease and any guarantor shall have no right or duty to inquire whether a default has actually occurred and Owner shall have no claim against any obligor under the Lease or any guarantor for any Rents and Profits paid by such obligor Lessee or such guarantor to Lender pursuant to Lender's demand or notice.

5. **OWNER WARRANTS:**

- (a) that no default exists on the part of Owner under any Lease;
- (b) that no rent or other payment has been or will be collected under any Lease more than one month in advance;
- (c) that neither the Lease nor any interest therein has been previously or will be assigned or pledged by Owner;
- (d) that no concession has been or will be granted to any Lessee in the form of a waiver, release, reduction, discount or other alteration of rent or other payment due or to become due.

All of the foregoing warranties shall be deemed to be reaffirmed on and as of the time of each Lease executed by Owner on the Property.

6. Owner agrees that nothing herein shall be construed to impose any liability or obligation on Lender under or with respect to the Lease. Owner does not delegate or assign to Lender, and Lender does not accept or assume any of the duties, obligations, or liabilities of Borrower as provided in the Lease. Despite the present and absolute assignment by Owner to Lender of the

Lease, Lender will not be required to perform any of the agreements or conditions contained in the Lease and nothing in this Agreement will impose any obligation upon Lender (including any liability under any covenant of quiet enjoyment as provided in the Lease). Owner retains and will perform all duties, obligations, and liabilities of Owner as provided in the Lease, provided that Lender, in the sole and absolute option of Lender may cure any default as provided in the Lease on behalf of Owner, and Owner will reimburse Lender on demand for all amounts paid and expended by Lender to cure the defaults of Owner as provided in the Lease.

7. This Assignment is intended to be supplementary to and not in substitution for or in derogation of any assignment of rents contained in the Loan Documents. Failure of the Lender to avail itself of any terms, covenants or conditions of this Assignment for any period of time or for any reason shall not constitute a waiver thereof.

8. Notwithstanding any future modification of the terms of the Loan Documents, this Assignment and the rights and benefits hereby assigned and granted shall continue in favor of Lender in accordance with the terms of this Assignment.

9. This Assignment shall be binding upon and inure to the benefit of the respective heirs, legal representatives, successors and assigns of the parties hereto (including without limitation, in the case of Lender, any third parties now or hereafter acquiring any interest in the Obligation or any part thereof, whether by virtue of assignment, participation or otherwise). The words "Owner", "Lender", "obligor under the Lease", and "guarantor", wherever used herein, shall include the persons and entities named herein or in the Lease or any guaranty and designated as such and their respective heirs, legal representatives, successors, and assigns, provided that any action taken by the named Lender or any successor designated as such by an instrument recorded in the appropriate office of the County in which the Property is located referring to this Assignment shall be sufficient for all purposes notwithstanding that Lender may have theretofore assigned or participated any interest in the Obligation to a third party. All words and phrases shall be taken to include the singular or plural number, and the masculine, feminine, or neuter gender, as may fit the case.

10. Any change, amendment, modification, abridgement, cancellation, or discharge of this Assignment or any term or provision hereof shall be invalid without the written consent of Lender.

11. Upon payment to Lender of the full amount of all indebtedness and obligations secured hereby and by the Loan Documents, as evidenced by a recorded satisfaction or release of the Mortgage, Note, and guarantees, this Assignment shall be void and of no further effect.

12. All notices given hereunder shall be given in the manner set forth in the Mortgage.

13. If any provision hereof is determined to be illegal or unenforceable for any reason, the remaining provisions hereof shall not be affected thereby.

14. This Assignment shall be governed by and construed in accordance with the laws of the State of Alabama.

15. WAIVER OF JURY TRIAL. BORROWER HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SETOFF, DEMAND, ACTION OR CAUSE OF ACTION (A) ARISING OUT OF OR IN ANY WAY PERTAINING OR RELATING TO THIS ASSIGNMENT OR THE OTHER LOAN DOCUMENTS, OR (B) IN ANY WAY CONNECTED WITH OR PERTAINING OR RELATED TO OR INCIDENTAL TO ANY DEALINGS OF THE PARTIES HERETO WITH RESPECT TO THIS ASSIGNMENT OR THE OTHER LOAN DOCUMENTS, OR IN CONNECTION WITH THE TRANSACTIONS RELATED THERETO OR CONTEMPLATED THEREBY OR THE EXERCISE OF EITHER PARTY'S RIGHTS AND REMEDIES THEREUNDER, IN ALL OF THE FOREGOING CASES WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. BORROWER AGREES THAT LENDER MAY FILE A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED AGREEMENT OF BORROWER IRREVOCABLY TO WAIVE ITS RIGHT TO TRIAL BY JURY, AND THAT ANY DISPUTE OR CONTROVERSY WHATSOEVER BETWEEN BORROWER AND LENDER SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

IN WITNESS WHEREOF, this document has been executed by the undersigned under seal on this _____ day of December, 1997.

"OWNER"



William Bew White, III (a/k/a Wm. Bew White, III)

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that WILLIAM BEW WHITE, III (a/k/a Wm. Bew White, III) whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he executed the same voluntarily.

Given under my hand this 16th day of December, 1997.



Notary Public

My commission expires: October 17, 2001

NOTARIAL SEAL

PARCEL #I:

Description of the Northerly part of Lot 6-B, according to a resurvey of Ralph Tully Industrial Park, as recorded in Map Book 6, Page 89, in the Office of the Judge of Probate, Shelby County, Alabama, being more particularly described as follows: Begin at the most northerly corner of said Lot 6-B and run in an easterly direction along the Northerly line of Lot 6-B for a distance of 80 feet; thence turn an angle to the right of 54 degrees 26 minutes 50 seconds, and run in a southeasterly direction along the Northeasterly line of 6-B for a distance of 242.25 feet, thence turn an angle to the left of 1 degree, 52 minutes, 30 seconds and continue along the Northeasterly line of Lot 6-B in a Southeasterly direction for a distance of 50 feet; thence turn an angle to the right of 117 degrees, 21 minutes 07 seconds and run in a southwesterly direction for a distance of 69.85 feet; thence turn an angle to the right of 17 degrees, 35 minutes 53 seconds and run in a northwesterly direction along the common lot line between Lot 2-A and Lot 6-B of said survey for a distance of 154.85 feet; thence turn an angle to the right of 75 degrees 15 minutes 50 seconds and run in a northwesterly direction along the Westerly lot line of said Lot 6-B for a distance of 230.57 feet to the point of beginning.

PARCEL #II:

Lot 5-B, according to a resurvey of Ralph Tully Industrial Park, as recorded in Map Book 6, Page 89, in the Probate Office of Shelby County, Alabama, but not including the following portion of Lot 5-B: Commence at the Southeast corner of the Northeast One-Quarter of the Northeast One-Quarter of Section 23, Township 20 South, Range 3 West; run thence in a Westerly direction along the South line of said Quarter-Quarter Section for a distance of 812.44 feet; thence turn an angle to the right of 70 degrees, 22 minutes 42 seconds and run in a northwesterly direction along the Southwesterly right of way line of a public road for a distance of 462.84 feet; thence turn an angle to the left of 71 degrees, 57 minutes, 40 seconds, and run in a Westerly direction along the North line of Lot 5-B of a resurvey of Ralph Tully Industrial Park, as recorded in Map Book 6, page 89, in the Office of the Judge of Probate, Shelby County, Alabama, for a distance of 34.64 feet to the point of beginning. From the point of beginning thus obtained, thence continue along last described course for a distance of 167.31 feet; thence turn an angle to the left of 110 degrees, 17 minutes, 20 seconds and run in a southeasterly direction for a distance of 43.59 feet; thence turn an angle to the left of 84 degrees, 45 minutes and run in a northeasterly direction for a distance of 157.59 feet to the point of beginning.

PARCEL #III:

Commence at the Southeast corner of the Northeast One-Quarter of the Northeast One-Quarter of Section 23, Township 20 South, Range 3 West; run thence in a Westerly direction along the South line of said Quarter-Quarter Section for a distance of 812.44 feet; thence turn an angle to the right of 70 degrees, 22 minutes, 42 seconds and run in a Northwesterly direction along the Southwesterly right of way line of a public road for a distance of 462.84 feet to the Northeast corner of Lot 5-B of a resurvey of Ralph Tully Industrial Park, as recorded in Map Book 6, page 89, in the Office of the Judge of Probate, Shelby County, Alabama, said point being the point of beginning. From the point of beginning thus obtained, thence continue along last described course for a distance of 9.0 feet; thence turn an angle to the left of 87°00' and run in a southwesterly direction for a distance of 32.98 feet to a point on the North line of said Lot 5-B; thence turn an angle to the left of 164°57' 40" and run in an Easterly direction along the North line of said Lot 5-B for a distance of 34.64 feet to the point of beginning.

PARCEL IV:

Commence at the Southeast corner of the Northeast One-Quarter of the Northeast One-Quarter of Section 23, Township 20 South, Range 3 West; run thence in a westerly direction along the South line of said Quarter-Quarter Section for a distance of 812.44 feet; thence turn an angle to the right of 70°22'42" and run in a northwesterly direction along the Southwesterly right-of-way line of a public road for a distance of 462.84 feet; thence turn an angle to the left of 71°57'40" and run in a Westerly direction along the North line of Lot 5-B of a resurvey of Ralph Tully Industrial Park, as recorded in Map Book 6, Page 89, in the Office of the Judge of Probate, Shelby County, Alabama, for a distance of 201.95 feet to the point of beginning. From the point of beginning thus obtained; thence turn an angle to the right of 69°42'40" and run in a northwesterly direction for a distance of 55.85 feet to a point on the Southeasterly right-of-way line of the Helena Highway; thence turn an angle to the left of 96°06'28" and run in a southwesterly direction along the Southeasterly right-of-way line of the Helena Highway for a distance of 102.23 feet to the point of beginning of a curve to the right, said curve having a central angle of 1°24'40" and a radius of 649.66 feet; thence run along the arc of said curve to the right, continuing in a southwesterly direction along the Southeasterly right-of-way line of the Helena Highway for a distance of 16.0 feet to the Northwest corner of Lot 6-B of a resurvey of Ralph Tully Industrial Park, as recorded in Map Book 6, Page 89, in the Office of the Judge of Probate of Shelby County, Alabama; thence run in an easterly direction along the North line of Lot 6-B and Lot 5-B of said resurvey for a distance of 125.35 feet to the point of beginning.

PARCEL #V:

A part of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 23, Township 20 South, Range 3 West, more particularly described as follows: Begin at the intersection of the North line of Lot 6-B, according to Resurvey of Ralph Tully Industrial Park, as recorded in Map Book 6, Page 89, in the Probate Office of Shelby County, Alabama, with the South right of way line of Pelham-Helena Highway and run in an Easterly direction along the North line of Map of Resurvey of Ralph Tully Industrial Park and Extension thereof, to the center of Buck Creek; thence in a Northerly direction along the meanderings of the center of Buck Creek to the South right of way line of Pelham-Helena Highway; thence run in a Southwesterly direction along the South right of way line of said Highway to the Point of Beginning; EXCEPTING that portion of above described property sold to Sharer, Door & Window, Inc., as recorded in Deed Book 311, Page 935, in the Probate Office of Shelby County, Alabama.

ALSO: A part of Lot 5-B, according to a Resurvey of Ralph Tully Industrial Park, as recorded in Map Book 6, Page 89, in the Probate Office of Shelby County, Alabama, more particularly described as follows: Commence at the Southeast corner of the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 23, Township 20 South, Range 3 West, and run thence in a Westerly direction along the South line of said $\frac{1}{4}$ - $\frac{1}{4}$ section for a distance of 812.44 feet; thence turn an angle to the right of 70 deg. 22' 42" and run in a Northwesterly direction along the Southwesterly right of way line of a public road for a distance of 462.84 feet; thence turn an angle to the left of 71 deg. 57' 40" and run in a Westerly direction along the North line of said Lot 5-B of a Resurvey of Ralph Tully Industrial Park as recorded in Map Book 6, Page 89, in the Probate Office of Shelby County, Alabama, for a distance of 34.64 feet to the point of beginning; from the point of beginning continue along last described course for a distance of 167.31 feet; thence turn an angle to the left of 110 deg. 17' 20" and run in a Southeasterly direction for a distance of 43.59 feet, thence turn an angle to the left of 84 deg. 45' and run in a Northeasterly direction for a distance of 157.59 feet to the point of beginning.

Situated in Shelby County, Alabama.

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