

STATE OF ALABAMA |
COUNTY OF DALLAS |

Inst # 1998-23024

**MORTGAGE, SECURITY AGREEMENT
AND ASSIGNMENT OF RENTS AND LEASES**

THIS INSTRUMENT (hereinafter with all amendments thereto, being referred to as the "Mortgage"), made and entered into on this 12th day of JUNE, 1998, between **SHELMONT, INC., d/b/a LUCKY'S FOODLAND**, an Alabama corporation (the "Mortgagor"), whose address is 4000 Hwy 25, Montevallo, Alabama, 35115, and **THE PEOPLES BANK AND TRUST COMPANY**, an Alabama banking corporation (the "Mortgagee"), whose address is 310 Broad Street, Selma, Alabama, 36701.

W I T N E S S E T H:

WHEREAS, the Mortgagor is or hereafter shall be justly indebted to the Mortgagee in the sum of **ONE MILLION FOUR HUNDRED SIXTY-TWO THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$1,462,500.00)**, as evidenced by a promissory note or notes (the "Notes") of even date herewith, payable to the order of the Mortgagee according to the terms of said Notes; and,

WHEREAS, the Mortgagor, in order to secure the Notes, and in order to induce the Mortgagee to extend credit to Mortgagor on the strength of the security provided by this Mortgage, has agreed to execute and deliver this Mortgage and convey the property described herein to the Mortgagee as hereinafter set forth;

NOW, THEREFORE, in consideration of the premises and in order to induce the Mortgagee to extend credit to the Mortgagor, and in order to secure the prompt payment of the following (hereinafter sometimes referred to collectively as the "Indebtedness"):

(1) Any and all sums of principal, interest, or agreed charges, becoming due and payable by the Mortgagor under or with respect to the Notes; and

(2) Any and all sums now or hereafter becoming due and payable by the Mortgagor to the Mortgagee, including, but not limited to, all obligations of Mortgagor to the Mortgagee pursuant to a Loan and Security Agreement, dated the date hereof, by and between the Mortgagor and the Mortgagee (the "Loan Agreement") and any advancements made by the Mortgagee pursuant to the terms and conditions of this Mortgage (it being understood that this mortgage does not secure the Equipment Term Loan as described in the Agreement); and

(3) All renewals and extensions of any or all of the obligations of the Mortgagor described in (1) or (2) above, whether or not any renewal or extension agreement is executed in connection therewith;

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and also to secure the full and complete performance of each and every obligation, covenant, duty and agreement of the Mortgagor contained in this Mortgage:

I. GRANTING CLAUSES

The Mortgagor has bargained and sold and does hereby grant, bargain, sell, assign and convey to the Mortgagee, its successors and assigns, the property and interests in property described in the following Granting Clauses A through E, both inclusive, and has granted and does hereby grant to the Mortgagee, its successors and assigns, a security interest in said property and interests in property:

A. The real estate and premises described on Exhibit A attached hereto (the "Real Estate"), together with all improvements, buildings, structures and fixtures now or hereafter located thereon or therein.

B. All permits, easements, licenses, rights-of-way, contracts, privileges, immunities, tenements and hereditaments now or hereafter pertaining to or affecting the Real Estate.

C. (i) All leases and subleases, written or oral, and all agreements for use or occupancy of any portion of the Real Estate with respect to which the Mortgagor is the lessor or sublessor, whether now existing or hereafter made (the "Leases");

(ii) Any and all guaranties of the lessee's and any sublessee's performance under any of the Leases; and

(iii) The immediate and continuing right to collect and receive all of the rents, income, receipts, revenues, issues and profits now due or which may become due or to which the Mortgagor may now or shall hereafter (including during the period of redemption, if any) become entitled or may demand or claim, arising or issuing from or out of the Leases or from or out of the Real Estate, or any part thereof, including, but not limited to, minimum rents, additional rents, percentage rents, common area maintenance charges, parking charges, tax and insurance premium contributions, and liquidated damages following default, the premium payable by any lessee upon the exercise of any cancellation privilege provided for in any of the Leases, and all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by destruction or damage to the Real Estate or any improvements thereon, together with any and all rights and claims of any kind that the Mortgagor may have against any such lessee under the Leases or against any subtenants or occupants of the Real Estate, all such monies, rights and claims in this paragraph described being hereinafter referred to as the "Rents"; provided, however, so long as no Event of Default has occurred under this Mortgage, the Mortgagor shall have the right under a license granted hereby to collect, receive and retain the Rents, but no Rents shall be collected more than one (1) month in advance of the due date thereof.

D. All fixtures and articles of personal property and all appurtenances and additions thereto and substitutions or replacements therefor, owned by the Mortgagor and now or hereafter attached to, contained in, or used in connection with the Real Estate or placed on any part thereof, though not attached thereto, and all proceeds thereof, including, but not limited to, all screens, awnings, shades, blinds, curtains, draperies, carpets, rugs, furniture and furnishings, heating, lighting, plumbing, ventilating, air conditioning, refrigerating, incinerating and elevator equipment, switchboards, stoves, ranges, vacuum cleaning systems, garbage disposers, refrigerators, dishwashers, hot water heaters, trash compactors, other appliances, paging systems, alarm systems, generators, sprinkler systems and other fire prevention and extinguishing apparatus and all other goods, materials, motors, machinery, pipes, equipment, inventory, fittings and fixtures now or hereafter affixed to or located on the Real Estate, and the trade name or names, goodwill and books and records relating to the business or businesses operated on the Real Estate.

E. Any and all other real or personal property of every kind and nature from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned or transferred to the Mortgagee as and for additional security hereunder by the Mortgagor, or by anyone on behalf of, or with the written consent of, the Mortgagor.

SUBJECT, HOWEVER, to the liens, easements, rights-of-way and other encumbrances described on Exhibit B hereto (Permitted Encumbrances").

All of the property described in the foregoing Granting Clauses A through E, both inclusive, is herein sometimes collectively referred to as the "Mortgaged Property".

TO HAVE AND TO HOLD the Mortgaged Property, together with all the rights, privileges and appurtenances thereunto belonging, unto the Mortgagee, its successors and assigns, forever.

II. ASSIGNMENT OF CONDEMNATION AWARDS

As further security for the Indebtedness and the full and complete performance of each and every obligation, covenant, agreement and duty of the Mortgagor contained herein, and to the extent of the full amount of the Indebtedness secured hereby and of the costs and expenses (including reasonable attorneys' fees) incurred by the Mortgagee in the collection of any award or payment, the Mortgagor hereby assigns to the Mortgagee any and all awards or payments, including all interest thereon, together with the right to receive the same, that may be made to the Mortgagor with respect to the Mortgaged Property as a result of (A) the exercise of the right of eminent domain, (B) the alteration of the grade or of any street or (C) any other injury to or decrease in value of the Mortgaged Property. All such damages, condemnation proceeds and consideration shall be paid directly to the Mortgagee, and after first applying said sums to the payment of all costs and expenses (including reasonable attorneys' fees) incurred by the Mortgagee in obtaining such sums, the Mortgagee may, at its option, apply the balance on the Indebtedness in any

order and amount and whether or not then due, or hold such balance as a cash collateral reserve against the Indebtedness, or apply such balance to the restoration of the Mortgaged Property, or release the balance to the Mortgagor. No such application, holding in reserve or release shall cure or waive any default of the Mortgagor.

III. MORTGAGOR'S REPRESENTATIONS AND WARRANTIES

To induce the Mortgagee to extend credit to the Mortgagor, the Mortgagor represents and warrants that:

A. Valid Title. The Mortgagor is lawfully seized of an indefeasible estate in fee simple in and to property described in Granting Clauses A and B above; it has a good right to sell and mortgage, grant a security interest in, and assign, the Mortgaged Property; the Mortgaged Property is subject to no mortgages, liens, encumbrances, assignments, or security interests other than Permitted Encumbrances; and the Mortgagor will forever warrant and defend the title to the Mortgaged Property unto the Mortgagee against the claims of all persons whomsoever, except those claiming under Permitted Encumbrances.

B. Maintenance of Lien Priority. The Mortgagor shall take all steps necessary to preserve and protect the validity and priority of the liens on, security interests in, and assignments of, the Mortgaged Property created hereby. The Mortgagor shall execute, acknowledge and deliver such additional instruments as the Mortgagee may deem necessary in order to preserve, protect, continue, extend or maintain the liens, security interests and assignments created hereby as first liens on, security interests in, and assignments of, the Mortgaged Property, except as otherwise permitted under the terms of this Mortgage. All costs and expenses incurred in connection with the protection, preservation, continuation, extension or maintaining of the liens, security interests and assignments hereby created shall be paid by the Mortgagor.

IV. ADDITIONAL COVENANTS OF MORTGAGOR

The Mortgagor covenants and agrees that, until the Indebtedness is paid in full and this Mortgage is satisfied in writing by the Mortgagee:

A. Payment of Taxes and Other Assessments. The Mortgagor will pay or cause to be paid all taxes, assessments and other governmental, municipal or other public dues, charges, fines or impositions imposed or levied upon the Mortgaged Property or on the interests created by this Mortgage or with respect to the filing of this Mortgage, and any tax or excise on rents or other tax, however described, assessed or levied by any state, federal or local taxing authority as a substitute, in whole or in part, for taxes assessed or imposed on the Mortgaged Property or on the lien and other interests created by this Mortgage.

B. Insurance. The Mortgagor shall keep or cause to be kept the Mortgaged Property insured against loss or damage by fire, windstorm, extended coverage, perils,

vandalism, malicious mischief and such other hazards, casualties or other contingencies as from time to time may be required by the Mortgagee in such manner and in such companies and amounts as the Mortgagee may approve. Mortgagor shall also maintain such additional insurance policies as may be required by the Loan Agreement. All such policies shall name the Mortgagee as a named insured and provide that any losses payable thereunder shall (pursuant to loss payable clauses, in form and content accept to the Mortgagee, to be attached to each policy) be payable to the Mortgagee. The Mortgagor agrees that the Mortgagor will not take any action or fail to take any action, which action or inaction would result in the invalidation of any insurance policy required hereunder.

With respect to such insurance policies, the Mortgagee is hereby authorized, but not required, on behalf of the Mortgagor, to collect for, adjust or compromise any losses under any such insurance policies and to apply, at its option, the loss proceeds (less expenses of collection) on the Indebtedness, in any order and amount, and whether or not due, or hold such proceeds as a cash collateral reserve against the Indebtedness or apply such proceeds to the restoration of the Mortgaged Property, or to release the same to the Mortgagor, but no such application, holding in reserve or release shall cure or waive any default by the Mortgagor. In case of a sale pursuant to the foreclosure provisions hereof, or any conveyance of all or any part of the Mortgaged Property in extinguishment of the Indebtedness, complete title to all insurance policies held by the Mortgagee and the unearned premiums with respect thereto shall pass to and vest in the purchaser or grantee of the Mortgaged Property.

C. Waste, Demolition, Alteration or Replacement. The Mortgagor shall cause the Mortgaged Property and every part thereof to be maintained, preserved and kept in safe and good repair, working order and condition, shall not commit or permit waste thereon, shall not remove, demolish or alter the design or structural character of any building now or hereafter erected on the Real Estate without the express prior written consent of the Mortgagee, shall comply with all laws and regulations of any governmental authority with reference to the Mortgaged Property and the manner and use of the same, and shall from time to time make all necessary and proper repairs, renewals, additions and restorations thereto so that the value and efficient use thereof shall be fully preserved and maintained. The Mortgagor agrees not to remove any of the fixtures or personal property included in the Mortgaged Property without the express prior written consent of the Mortgagee and unless the same is immediately replaced with like property of at least equal value and utility.

D. Environmental Matters. The Mortgaged Property will not be used to generate, manufacture, refine, transport, treat, store, handle, discharge or dispose of any hazardous or toxic substance (hereinafter referred to as "Hazardous Substances") as defined under any applicable local, state or federal law, ordinance, rule or regulation, including, without limitation, the definition of "Hazardous Substances", as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601, et seq). There shall be no Hazardous Substances or

underground storage tanks (whether in use or not) stored or located on the Mortgaged Property and no part of the Mortgaged Property will be contaminated by any Hazardous Substances. Mortgagor will not use or suffer the use of the Mortgaged Property in any manner other than in full compliance with all applicable federal, state or local environmental laws and regulations regulating the discharge and/or storage of solid, liquid or gaseous waste, or other Hazardous Substances into the environment. The Mortgagor shall promptly notify Mortgagee, orally and in writing, as soon as it knows of or suspects that any Hazardous Substances have been released or that there is any threatened release on the Mortgaged Property or if Mortgagor receives notice of a violation of any law or regulation pertained to Hazardous Substances. Mortgagor hereby agrees to indemnify Mortgagee from and against all loss, damage, liability and expense, including, without limitation, fines, impositions of any kind, assessments, attorneys' fees which Mortgagee may sustain as a result of the incorrectness of the foregoing representations and warranties and/or the present or future existence of Hazardous Substances or any release thereof in or on the Mortgage Property, regardless of the source thereof, which obligation shall survive the Indebtedness and satisfaction of the Mortgage of record.

V. DEFEASANCE

If the Mortgagor shall: (A) pay in full (i) all of the Indebtedness (as defined herein), including, but not limited to, all sums (principal, interest and charges) payable under the Notes and any and all extensions and renewals of the same and all future sums becoming due and payable from Mortgagee to Mortgagor; and (ii) all sums becoming due and payable by the Mortgagor under the terms of this Mortgage, including, but not limited to, all obligations of the Mortgagor under the Loan Agreement, and all advancements made by the Mortgagee pursuant to the terms and conditions of this Mortgage; and (B) have kept and performed each and every obligation, covenant, duty, condition and agreement herein imposed on or agreed to by the Mortgagor, including, without limitation, those set forth in the Loan Agreement, and no Event of Default has occurred; then this conveyance and the grants and conveyances contained herein shall become null and void, and the Mortgaged Property shall revert to the Mortgagor, and the entire estate, right, title and interest of the Mortgagee will thereupon cease; and the Mortgagee in such case shall, upon the request of the Mortgagor and at the Mortgagor's cost and expense, deliver to the Mortgagor proper instruments acknowledging satisfaction of this instrument; otherwise, this Mortgage shall remain in full force and effect.

VI. EVENTS OF DEFAULT

The happening of any of the following events or conditions, or the happening of any other event of default as defined elsewhere in this Mortgage (hereinafter collectively referred to as "Events of Default") shall constitute a default under this Mortgage:

- (a) any representation or warranty made herein or in the Loan Agreement or in any other document or instrument evidencing or securing any of the Indebtedness (any such loan agreement and any such other document or

instrument evidencing or securing any of the Indebtedness being hereinafter collectively referred to as the "Loan Documents") shall prove to be false or misleading in any material respect; or

(b) any report, certificate, financial statement or other instrument furnished in connection with any of the Indebtedness or any Loan Document shall prove to be false or misleading in any material respect; or

(c) default shall be made in the prompt payment of the principal of and interest payable on the Notes or any of the other Indebtedness, as and when due and payable; or

(d) default shall be made in the due observance or performance of any other covenant, condition or agreement on the part of the Mortgagor to be observed or performed pursuant to the terms of this Mortgage or any other Loan Document or any other event of default shall occur under this Mortgage or any other Loan Document; or

(e) the Mortgagor or any maker, endorser, surety or guarantor of the Notes (the Mortgagor and any such maker, endorser, surety or guarantor being hereinafter individually called an "Obligor") shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator or custodian of any such Obligor or of any of such Obligor's properties or assets, (ii) admit in writing any such Obligor's inability to pay such Obligor's debts as they mature, (iii) make a general assignment for the benefit of creditors, (iv) have an order for relief entered against such Obligor in any proceeding under the Federal Bankruptcy Code, or (v) file a voluntary petition in bankruptcy, or a petition or an answer seeking reorganization or an arrangement with creditors, or to take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or file an answer admitting the material allegations of a petition filed against such Obligor in any proceeding under any such law or statute, or if corporate, partnership or other action shall be taken by any Obligor for the purpose of effecting any of the foregoing; or

(f) a petition shall be filed, without the application, approval or consent of any Obligor in any court of competent jurisdiction, seeking reorganization, rearrangement, dissolution or liquidation of such Obligor or of all or a substantial part of the properties or assets of such Obligor, or seeking any other relief under any law or statute of the type referred to in clause (v) of paragraph (e) above against such Obligor, or the appointment of a receiver, trustee or liquidator or custodian of such Obligor, or of all or a substantial part of such Obligor's properties or assets, and such petition shall not be dismissed within thirty (30) days after the filing thereof; or

(g) final judgment for the payment of money in excess of an aggregate of \$5,000 shall be rendered against any Obligor, and the same shall remain

undischarged for a period of thirty (30) days during which execution shall not be effectively stayed; or

(h) a default or event of default, or an event which upon notice or lapse of time or both would constitute an event of default under any prior mortgage on the Real Estate, or part thereof, shall occur and be continuing; or

(i) the interest of the Mortgagee in the Mortgaged Property shall become endangered by reason of the enforcement of any prior lien or encumbrance thereon; or

(j) any of the stipulations contained in this Mortgage is declared invalid or inoperative by any court of competent jurisdiction.

VII. TRANSFER OF THE PREMISES; SECONDARY FINANCING

(a) The identity and expertise of Mortgagor were and continue to be material circumstances upon which Mortgagee has relied in connection with, and which constitute valuable consideration to Mortgagee for, the extending to Mortgagor of the Loan evidenced by the Notes, and any change in such identity or expertise could materially impair or jeopardize the security for the payment of the Indebtedness. Mortgagor covenants and agrees with Mortgagee, as part of the consideration for extending to Mortgagor of the Loan evidenced by the Notes, that, without Mortgagee's prior written consent, Mortgagor shall not, voluntarily or by operation of law: (i) sell, transfer, convey, pledge, encumber, assign, grant a security interest in, or otherwise hypothecate or dispose of, all or any part of the Mortgaged Property or any interest therein, whether or not as collateral security for any other obligation of Mortgagor; (ii) if Mortgagor is a corporation, partnership, limited liability company, trust, or other entity, sell, transfer, convey, pledge, encumber, assign, hypothecate or dispose of any legal or beneficial interest in nor change any of its general partners, members or managers; nor (iii) except as may be provided in the Loan Agreement, cause or permit any junior encumbrance or lien to be placed on the Mortgaged Property or other security for the Indebtedness. Such consent may be given or withheld by Mortgagee in its sole discretion and may be continued upon payment to Mortgagee of a fee for processing the request for consent and other administrative costs incurred by connection therewith, and/or an increase in the rate of interest on the unpaid balance of the Indebtedness to a then current market rate, and/or a change in the term of the Notes, all of which Mortgagor hereby agrees are reasonable conditions.

(b) The consent by Mortgagee to any sale, transfer, conveyance, pledge, encumbrance, assignment, creation of a security interest in or other hypothecation or disposition of the Mortgage Property or the beneficial

interests of Mortgagor shall not be deemed to constitute a novation of the Indebtedness or a consent to any further sale, transfer, pledge, encumbrance, creation of a security interest or other hypothecation or disposition, or to waive Mortgagee's right, at its option, to exercise its remedies for default, without notice or to demand upon Mortgagor or to any other person or entity, upon such sale, transfer, pledge, encumbrance, creation or a security interest in or other hypothecation, or disposition to which Mortgagee shall not have consented.

(c) Any breach by Mortgagor of this Section shall constitute an Event of Default.

VIII. RIGHTS OF MORTGAGEE UPON DEFAULT

A. Acceleration of Indebtedness. Upon occurrence of an Event of Default or at any time thereafter, Mortgagee may at its option and without demand or notice to the Mortgagor, declare all or any part of the Indebtedness immediately due and payable, whereupon all such Indebtedness shall forthwith become due and payable, without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by the Mortgagor, and the Mortgagee may immediately enforce payment of all such amounts and may exercise any or all of its rights and remedies under this Mortgage, the Notes, any of the Loan Documents and applicable law. The Mortgagor also waives any and all judicial authority prior to the exercise by the Mortgagee of any of its rights under this Mortgage, the Notes, any of the other Loan Documents and applicable law.

B. Operation of Property by Mortgagee. Upon the occurrence of an Event of Default, or at any time thereafter, in addition to all other rights herein conferred on the Mortgagee (or any person, firm or corporation designated by the Mortgagee) the Mortgagee may, but shall not be obligated to, enter upon and take possession of any or all of the Mortgaged Property, exclude the Mortgagor therefrom, and hold, use, administer, manage and operate the same to the extent that the Mortgagor could do so, without any liability to the Mortgagor resulting therefrom; and the Mortgagee may collect, receive and receipt for all proceeds accruing from such operation and management, make repairs and purchase needed additional property, and exercise every power, right and privilege of the Mortgagor with respect to the Mortgaged Property. Without limitation of the foregoing, the Mortgagee may, but shall not be obligated to, cure any default in the Ground Lease.

C. Judicial Proceedings; Right to Receiver. Upon the occurrence of an Event of Default, the Mortgagee, in lieu of or in addition to exercising the power of sale hereinafter given, may proceed by suit to foreclose the Mortgagee's lien on, security interest in, and assignment of, the Mortgaged Property, to sue the Mortgagor for damages on account of or arising out of said default or breach, or for specific performance of any provision contained herein, or to enforce any other appropriate legal or equitable right or remedy. The Mortgagee shall be entitled, as a matter of right, upon bill filed or other

proper legal proceedings being commenced for the foreclosure of this Mortgage, to the appointment by any competent court or tribunal, without notice to the Mortgagor or any other party, of a receiver of the rents, issues and profits of the Mortgaged Property, with power to lease and control the Mortgaged Property and with such other powers as may be deemed necessary.

D. Foreclosure Sale. Upon the occurrence of any Event of Default, or at any time thereafter, the Mortgage shall be subject to foreclosure and may be foreclosed as now provided by law in case of past-due mortgages, and the Mortgagee shall be authorized, at its option, whether or not possession of the Mortgaged Property is taken, to sell the Mortgaged Property (or such part or parts thereof as the Mortgagee may from time to time elect to sell) at public outcry, to the highest bidder for cash, at the front or main door of the courthouse in the county where the Mortgaged Property is located, after first giving notice once a week for three consecutive weeks of the time, place and terms of each such sale by publication in a newspaper published in the county wherein the Mortgaged Property is located. The Mortgagee, its successors and assigns, may bid at any sale or sales had under the terms of the Mortgage and may purchase the Mortgaged Property, or any part thereof, if the highest bidder therefor. The purchaser at any such sale or sales shall be under no obligation to see to the proper application of the purchase money. At any foreclosure sale, any part or all of the Mortgaged Property, real, personal or mixed, may be offered for sale in parcels or en masse to be accounted for in one account without distinction between the items included therein or without assigning to them any proportion of such proceeds, the Mortgagor hereby waiving the application of any doctrine of marshaling or like proceeding. In case the Mortgagee, in the exercise of the power of sale herein given, elects to sell the Mortgaged Property in parts or parcels, sales thereof may be held from time to time, and the power of sale granted herein shall not be fully exercised until all of the Mortgaged Property not previously sold shall have been sold or all the Indebtedness secured hereby shall have been paid in full.

E. Personal Property and Fixtures. On the happening of any Event of Default or at any time thereafter, the Mortgagee shall have and may exercise with respect to the personal property and fixtures included in the Mortgaged Property (the "Collateral") all rights, remedies and powers of a secured party under the Alabama Uniform Commercial Code with reference to the Collateral or any other items in which a security interest has been granted herein, including, without limitation, the right and power to sell at public or private sale or sales or otherwise dispose of, lease or utilize the Collateral and any part or parts thereof in any manner to the fullest extent authorized or permitted under the Alabama Uniform Commercial Code after default hereunder, without regard to preservation of the Collateral or its value and without the necessity of a court order. The Mortgagee shall have, among other rights, the right to take possession of the Collateral and to enter upon any premises where the same may be situated for the purpose of repossessing the same without being guilty of trespass and without liability for damages occasioned thereby and to take any action deemed appropriate or desirable by the Mortgagee, at its option and its sole discretion, to repair, restore or otherwise prepare the Collateral for sale, lease or other use or disposition. At the Mortgagee's request, the Mortgagor shall assemble the

Collateral and make the Collateral available to the Mortgagee at any place designated by the Mortgagee. To the extent permitted by law, the Mortgagor expressly waives any notice of sale or any other disposition of the Collateral and any rights or remedies of the Mortgagee with respect to, and the formalities prescribed by law relative to, the sale or disposition of the Collateral and any right or remedy of the Mortgagee existing after default. To the extent that such notice is required and cannot be waived, the Mortgagor agrees that if such notice is given to the Mortgagor in accordance with the provisions of Article VIII below, at least five (5) days before the time of the sale or other disposition, such notice shall be deemed reasonable and shall fully satisfy any requirement for giving said notice.

The Mortgagor agrees that the Mortgagee may proceed to sell or dispose of both the real and personal property comprising the Mortgaged Property in accordance with the rights and remedies granted under this Mortgage with respect to the real property covered hereby. The Mortgagor hereby grants the Mortgagee the right, at its option after default hereunder, to transfer at any time to itself or its nominee the Collateral or any part thereof and to receive the monies, income, proceeds and benefits attributable to the sale and to hold the same as Collateral or to apply it on the Indebtedness in such order and amounts and manner as the Mortgagee may elect. The Mortgagor covenants and agrees that all recitals in any instrument transferring, assigning, elapsing or making other disposition of the Collateral or any part thereof shall be full proof of the matters stated therein and no other proof shall be required to establish the legal propriety of the sale or other action taken by the Mortgagee and that all prerequisites of sale shall be presumed conclusively to have been performed or to have occurred.

F. Foreclosure Deeds. The Mortgagor hereby authorizes and empowers the Mortgagee or the auctioneer at any foreclosure sale had hereunder, for and in the name for the Mortgagor, to execute and deliver to the purchaser or purchasers of any of the Mortgaged Property sold at foreclosure good and sufficient deeds of conveyance or bills of sale thereto.

G. Application of Proceeds. All payments received by the Mortgagee as proceeds of the Mortgaged Property, or any part thereof, as well as any and all amounts realized by the Mortgagee in connection with the enforcement of any right or remedy under or with respect to this Mortgage, shall be applied by the Mortgagee as follows: (i) to the payment of all necessary expenses incident to the execution of any foreclosure sale or sales or other remedies under this Mortgage, including reasonable attorneys' fees as provided herein, (ii) to the payment in full of any of the Indebtedness that is then due and payable (including, without limitation, principal, accrued interest and all other sums secured hereby) and to the payment of attorneys' fees as provided herein and in the Notes, and (iii) the remainder, if any, shall be paid to the Mortgagor or such other person or persons as may be entitled thereto by law, after deducting therefrom the cost of ascertaining their identity and entitlement.

IX. MISCELLANEOUS PROVISIONS

A. Waiver and Election. The exercise by the Mortgagee of any option given under the terms of this Mortgage shall not be considered as a waiver of the right to exercise any other option given herein, and the filing of a suit to foreclose the lien, security interest and assignment granted by this Mortgage, either on any matured portion of the Indebtedness or for the whole of the Indebtedness, shall not be considered an election so as to preclude foreclosure under power of sale after a dismissal of the suit; nor shall the publication of notices for foreclosure preclude the prosecution of a later suit thereon. No failure or delay on the part of the Mortgagee in exercising any right, power or remedy under this Mortgage shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy hereunder or thereunder. The remedies provided in this Mortgage and in the other Loan Documents are cumulative and not exclusive of any remedies provided by law. No amendment, modification, termination or waiver of any provisions of this Mortgage or any of the Loan Documents, nor consent to any departure by the Mortgagor therefrom, shall be effective unless the same shall be in writing and signed by an officer of the Mortgagee, and then such waiver or consent shall be effective only in this specific instance and of the specific purpose for which given. No notice to or demand on the Mortgagor in any case shall entitle the Mortgagor to any other or further notice or demand in similar or other circumstances.

B. Governing Law. THIS MORTGAGE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ALABAMA.

C. Enforceability. If any provision of this Mortgage is now, or at any time hereafter becomes, invalid or unenforceable, the other provisions hereof shall remain in full force and effect, and the remaining provisions hereof shall be construed in favor of the Mortgagee to effectuate the provisions hereof.

D. Other Mortgages Encumbering the Real Estate. The Mortgagor agrees that if default should be made in the payment of principal, interest or any other sum secured by any other mortgage encumbering the Real Estate, the Mortgagee may (but shall not be required to) pay all or any part of such amount in default, without notice to the Mortgagor. The Mortgagor agrees to repay any such sum advanced upon demand, with interest from the date such advance is made at the rate provided for in the Notes, or the highest rate permitted by law, whichever shall be less, and any sum so advanced with interest shall be a part of the Indebtedness secured by this Mortgage. The authority of the Mortgagor to further encumber the Real Estate is limited by the Loan Documents, and this provision is not intended to waive any such limitations.

E. Meaning of Particular Terms. Whenever used, the singular number shall include the plural and the plural the singular, and pronouns of one gender shall include all genders; and the words "Mortgagor" and "Mortgagee" shall include their respective successors and assigns. The term "Mortgagor" as used in this Mortgage refers to each of

the undersigned, jointly and severally, whether one or more natural persons, partnerships, corporations, associations, trusts or other entities or organizations.

F. Advances by Mortgagee. If the Mortgagor shall fail to comply with the provisions hereof with respect to the securing of insurance, the payment of taxes, assessment and other charges, the keeping of the Mortgaged Property in repair, or the performance of any other term or covenant herein contained, the Mortgagee may (but shall not be required to) make advances to perform the same, and where necessary enter the Mortgaged Property for the purpose of performing any such term or covenant. The Mortgagor agrees to repay all such sums advanced upon demand, with interest from the date such advances are made, at the rate provided for in the Notes, or the highest rate permitted by law, whichever shall be less, and all sums so advanced with interest shall be a part of the Indebtedness and shall be secured hereby.

G. Release or Extension by Mortgagee. The Mortgagee, without notice to the Mortgagor and without in any way affecting the rights of the Mortgagee hereunder as to any part of the Mortgaged Property not expressly released, may release any part of the Mortgaged Property or any person liable for any of the Indebtedness and may agree with any party with an interest in the Mortgaged Property to extend the time for payment of all or any part of the Indebtedness or to waive the prompt and full performance of any terms, condition or covenant of the Notes, any of the Loan Documents, this Mortgage or any other instrument evidencing or securing any of the Indebtedness.

H. Partial Payments. Acceptance by the Mortgagee of any payment of less than the full amount due on the Indebtedness shall be deemed acceptance on account only, and the failure of the Mortgagor to pay the entire amount then due shall be and continue to constitute an Event of Default, and at any time thereafter and until the entire amount due on the Indebtedness has been paid, the Mortgagee shall be entitled to exercise all rights conferred on it by the terms of this Mortgage in case of the occurrence of an Event of Default.

I. Addresses for Notices. Any notice or communication herein required or permitted to be given shall be in writing and may be hand delivered, sent by telex, telegraph, or telefax, or if mailed, shall be deemed given when mailed by United States Registered or Certified Mail, postage prepaid, addressed as follows:

MORTGAGOR:

Shelmont, Inc.

Montevallo, Alabama 35115

MORTGAGEE:

The Peoples Bank and Trust Company
310 Broad Street

Selma, Alabama 36701

Each party shall have the right to specify as its proper address any other address in the United States of America by giving to the other party at least fifteen (15) days written notice thereof.

J. **Expenses.** The Mortgagor shall pay all costs and expenses incurred by the Mortgagee in connection with preparing and recording this Mortgage and enforcing the Mortgagee's rights hereunder, including reasonable attorneys' fees.

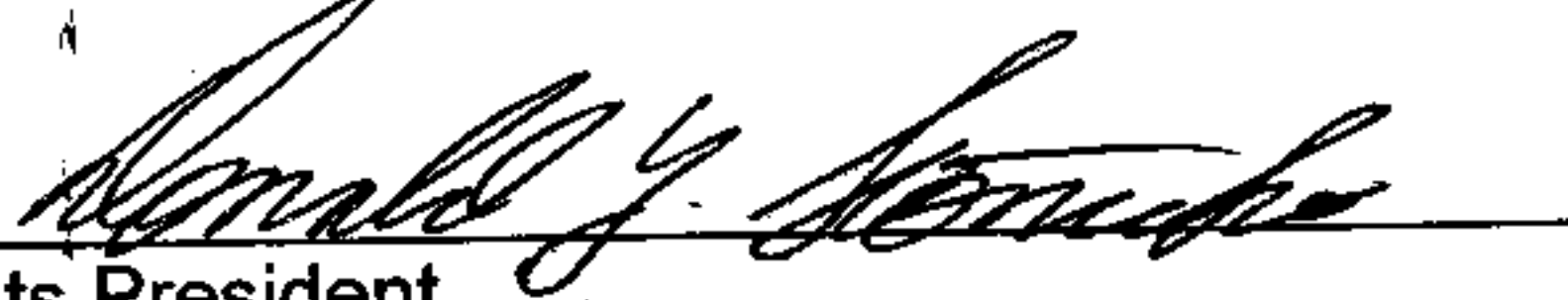
K. **Titles.** All section, paragraph, subparagraph or other titles contained in this Mortgage are for reference purposes only, and this Mortgage shall be construed without reference to said titles.

L. **Construction of Mortgage.** This Mortgage may be construed as a mortgage, chattel mortgage, conveyance, assignment, security agreement, pledge, financing statement, hypothecation, or contract, or any one or more of them, in order fully to effectuate the lien, security interest and assignment created hereby and the purposes and agreements herein set forth.

IN WITNESS WHEREOF, the Mortgagor and Mortgagee have caused this Mortgage to be signed and sealed as of the day and year first above written.

"MORTGAGOR"

SHELMONT, INC.,
d/b/a LUCKY'S FOODLAND

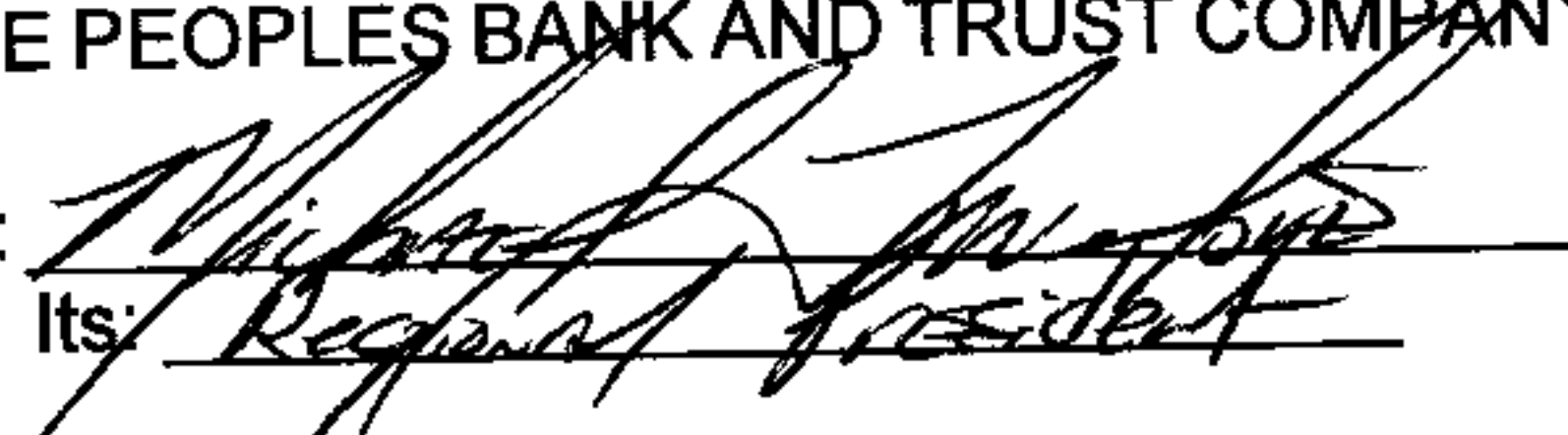
By: 
Its President

ATTEST:

By: 
Its Vice President
Jean Stonicher

"MORTGAGEE"

THE PEOPLES BANK AND TRUST COMPANY

By: 
Its Regional President

STATE OF ALABAMA

COUNTY OF SHELBY

I, the undersigned authority, a Notary Public in and for said State and County, do hereby certify that Donald Y. Stonicher, whose name as President of **SHELMONT, INC.**, a corporation, is signed to the foregoing instrument, and Jean Stonicher, whose name as Vice President of **SHELMONT, INC.** is attested thereto, and who are known to me, acknowledged before me on this day, that being informed of the contents of said instrument, they as such officers and with full authority, executed the same voluntarily for and as the act of said corporation.

GIVEN UNDER MY HAND AND SEAL this the 12th of June, 1998.

(SEAL)

M A D
NOTARY PUBLIC
My Commission Expires: 9/13/2001

STATE OF ALABAMA

COUNTY OF SHELBY

I, the undersigned authority, a Notary Public in and for said State and County, do hereby certify that Michael Truelove, whose name as President of **THE PEOPLES BANK AND TRUST COMPANY**, an Alabama banking corporation, is signed the foregoing instrument, and who is known to me, acknowledged before me on this day, that being informed of the contents of said instrument, he as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand seal this the 12th day of June, 1998.

(SEAL)

M A D
NOTARY PUBLIC
My Commission Expires: 9/13/2001

EXHIBIT "A"

Commence at the southwest corner of Section 3, Township 24 North, Range 12 East, Shelby County Alabama and run thence easterly along the south line of said Section 3 a distance of 552.46 feet to a point; thence turn a deflection angle of 46 degrees 20 minutes 42 seconds to the left and run northeasterly 832.81 feet to a point; thence turn 91 degrees 26 minutes 10 seconds left and run northwesterly 477.57 feet to a point; thence turn 91 degrees 29 minutes 28 seconds right and run northeasterly 417.63 feet to a point; thence turn 91 degrees 32 minutes 12 seconds left and run northwesterly 351.94 feet to a point; thence turn 34 degrees 43 minutes 43 seconds right and run northwesterly 613.10 feet to a point; thence turn 155 degrees 53 minutes 11 seconds left and run southerly a distance of 151.09 feet to a steel pin corner and the POINT OF BEGINNING of the property being described; thence turn 29 degrees 26 minutes 04 seconds right and run southwesterly along an old existing fence line 673.81 feet to a steel pin corner; thence turn 73 degrees 26 minutes 09 seconds right and run west-northwesterly along an old fence line 737.87 feet to a steel pin corner at a fence corner; thence turn 83 degrees 24 minutes 31 seconds right and run northerly along old fence line 482.21 feet to a steel pin corner on the southerly margin of Alabama Highway No. 25; thence turn 45 degrees 37 minutes 21 seconds right to chord and run northeasterly along said south margin of said Highway No. 25 a distance of 144.47 feet to a concrete right of way monument; thence turn 02 degrees 48 minutes 41 seconds right to chord and continue along said south margin of said Highway No. 25 a distance of 68.40 feet to a concrete right of way monument; thence turn 10 degrees 59 minutes 49 seconds right and continue along said margin of said Highway a distance of 57.22 feet to a concrete right of way monument; thence turn 09 degrees 49 minutes 46 seconds left and continue along said margin of said highway a distance of 49.63 feet to a steel pin corner; thence turn 113 degrees 41 minutes 39 seconds right and run southerly a distance of 167.80 feet to a steel pin corner; thence turn 90 degrees 00 minutes 00 seconds left and run easterly 100.00 feet to a steel pin corner; thence turn 56 degrees 29 minutes 53 seconds right and run southerly 70.51 feet to a steel pin corner; thence turn 80 degrees 17 minutes 15 seconds left, and run easterly 30.34 feet to a steel pin corner; thence turn 85 degrees 16 minutes 10 seconds right and run southerly along an existing fence line 129.85 feet to a steel pin corner; thence turn 83 degrees 03 minutes 19 seconds left and run easterly along an existing fence line 525.20 feet to the point of beginning.

According to the survey of Joseph E. Conn, Jr., Alabama Registered PLS #9049, dated September 11, 1997.

Dated: June 12, 1998


DONALD Y. STONICHER


JEAN STONICHER

EXHIBIT "B"

PERMITTED ENCUMBRANCES

Permits to Alabama Power Company recorded in Deed Book 179, Page 86 and Deed Book 232, Page 370 in Probate Office of Shelby County, Alabama.

Inst # 1998-23024

06/22/1998-23024
10:33 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
017 MEL 2242.25