

PRIOR LIENHOLDER'S AGREEMENT

This PRIOR LIENHOLDER'S AGREEMENT is by and between COLONIAL BANK (the "Prior Lienholder") and BIRMINGHAM CITY WIDE LOCAL DEVELOPMENT COMPANY (hereinafter along with its successors and assigns, the "CDC").

RECITALS

WHEREAS, KOPP ENTERPRISES, LLC (the "Borrower") is the owner of the real estate described on the attached Exhibit A (the "Real Estate"). Prior Lienholder has made a loan in the original principal amount of \$861,300.00 (the "Prior Loan"). The Prior Loan is secured by a first Mortgage recorded as Instrument No 1998-37790 in the Office of the Judge of Probate of Shelby County, Alabama (the "Prior Mortgage").

WHEREAS, CDC has agreed to make a loan in the amount of \$397,000.00 (the "504 Loan") to Borrower. The 504 Loan will be secured by a mortgage (the "504 Mortgage") to be recorded in the Office of the Judge of Probate of Shelby County, Alabama, contemporaneously with this agreement.

AGREEMENT

NOW, THEREFORE, for and in consideration of the foregoing recitals, the mutual agreements set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Balance of the Prior Loan. Following the funding of the 504 Loan, Prior Lienholder will receive \$383,000.00 from CDC in accordance with instruction given to CDC by Borrower. Such \$383,000.00 will reduce the note secured by the Prior Mortgage, and the principal balance of the Prior Loan will upon such reduction be no more than \$478,300.00, and will be the only obligation superior to Borrower's obligations to CDC which are secured by the Mortgage.
2. Subordination of Future Advances, Prepayment Fees, Late Fees, and Increased Post-Default Interest Fees. Except for liens arising from advances under the Prior Mortgage intended to preserve the Real Estate and made pursuant to the Prior Mortgage, any lien securing any sum advanced to Borrower by Prior Lienholder after the date of this Agreement, any prepayment fees, any late fees, and any increased post-default interest fees will be subordinate to the lien created by the 504 Mortgage.
3. Waiver of Enforcement of Covenant Not to Encumber the Real Estate. If the Prior Mortgage or any document evidencing the Prior Loan contains any provision prohibiting Borrower from further encumbering the Real Estate, Prior Lienholder waives its right to enforce any such provision as it might apply to the lien arising from the 504 Mortgage securing or any document evidencing the 504 Loan.

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4. Notice of Default Under the Prior Loan. If an event of default occurs under the Prior Mortgage or any document evidencing the Prior Loan, Prior Lienholder will give CDC and the U.S. Small Business Administration (the SBA) written notice of the event of default within thirty (30) days after the occurrence of the event of default. After an event of default, Prior Lienholder will not sell all or any portion of the Real Estate without giving CDC and the SBA at least sixty (60) days' prior written notice of its intent to sell the Real Estate or any portion thereof. Notice under this Section shall be deemed to have been given when sent by certified or registered mail, return receipt requested, addressed, as the case may be, to CDC, BIRMINGHAM CITY WIDE LOCAL DEVELOPMENT COMPANY at 110 North 12th Street, Birmingham, Alabama, 35203, and to the SBA at its Birmingham District Office, Suite 200, 2121 Eighth Avenue North, Birmingham, Alabama 35203-2398, Attention: District Counsel.

5. Successors and Assigns. This Agreement shall inure to the benefit of and bind the respective parties to this Agreement and their successors and assigns.

IN WITNESS WHEREOF, We have hereunto set our hands and seals this 17 day of June, 1999.

COLONIAL BANK

By

(Its

[Signature]
Asst. Vice President

ACKNOWLEDGED AND CONSENTED TO:

KOPP ENTERPRISES, LLC

By:

[Signature]
Frank M. Kopp (Manager)

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Marcus Poole, whose name as Asst. Vice Pres of COLONIAL BANK, a corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she, as such officer, and with full authority, executed the same voluntarily, as an act of said corporation, acting in his/her capacity as aforesaid.

Given under my hand and official seal, this the 17 day of June, 1999.

[Signature]
NOTARY PUBLIC

My Commission Expires: 6/7/03

THIS INSTRUMENT PREPARED BY:

William B. Hairston III

ENGEL HAIRSTON & JOHANSON, P.C.

4th Floor 109 North 20th Street

EXHIBIT "A"

TO

**MORTGAGE
AFFIDAVIT AND AGREEMENT
LESSOR'S AGREEMENT
ASSIGNMENT OF LEASE
FINANCING STATEMENT (UCC-1)
PRIOR LIENHOLDER'S AGREEMENT
ASSIGNMENT OF LEASES AND RENTS
ESTOPPEL CERTIFICATE AND ATTORNMENT AGREEMENT
HAZARDOUS SUBSTANCE INDEMNIFICATION AND WARRANTY AGREEMENT**

BORROWER: KOPP ENTERPRISES, LLC

**LENDER: BIRMINGHAM CITY WIDE LOCAL DEVELOPMENT
COMPANY**

Commence at the Northeast corner of Section 36, Township 19 South, Range 3 West, Shelby County, Alabama, and run Southerly along the East line of said Section 36 for 266.80 feet; thence turn 117 degrees, 40 minutes, 00 seconds right and run Northwesterly 165.21 feet to a point on the West right of way line of U.S. Highway #31; thence turn 110 degrees, 22 minutes, 46 seconds left to the tangent of a curve to the left at said point, said curve having a radius of 1752.68 feet and run Southerly along said curve and said right of way line 16.26 feet to a point; thence turn 38 degrees, 37 minutes, 06 seconds right from the tangent to said curve at said point and run Southwesterly 257.43 feet to the point of beginning of the tract herein described; thence turn 03 degrees, 15 minutes, 57 seconds left and run Southwesterly 186.72 feet; thence turn 16 degrees, 09 minutes, 56 seconds right and run Southwesterly 66.56 feet; thence turn 45 degrees, 00 minutes, 00 seconds left and run Southwesterly 42.43 feet; thence turn 45 degrees, 00 minutes, 00 seconds right and run Southwesterly 87.46 feet to the point of beginning of a curve to the left, said curve having a radius of 72.00 feet and run along the arc of said curve 18.96 feet to the point of tangent to said curve; thence run Southwesterly along the tangent to said curve 60.75 feet to a point on the Northeast right of way line of Shelby County Highway No. 275; thence turn 92 degrees, 26 minutes, 33 seconds left and run Southeasterly along said right of way line 159.18 feet; thence turn 67 degrees, 22 minutes, 28 seconds left and run Northeasterly 326.38 feet; thence turn 90 degrees, 00 minutes, 00 seconds left and run Northwesterly 177.28 feet; thence turn 21 degrees, 21 minutes, 15 seconds right and run Northeasterly 116.18 feet to the point of beginning.

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