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STATE OF ALABAMA)
COUNTY OF SHELBY)

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

This MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT (hereinafter called "Mortgage") made this 15th day of July, 1999, between the Mortgagor/Grantor, VINSON REALTY CO., INC. whose address is 6201 Fairview Road (Suite 200), Charlotte, NC, 28210 (herein "Borrower"), and the Mortgagee, LIBERTY LIFE INSURANCE COMPANY, a South Carolina corporation having its principal place of business at 2000 Wade Hampton Boulevard, Greenville, South Carolina 29615 (herein "Lender").

Whereas, Borrower is indebted to Lender in the principal sum of One Million Four Hundred Thousand (\$1,400,000.00) Dollars, which indebtedness is evidenced by Borrower's note dated July 15, 1999 (herein "Note"), providing for 233 monthly installments of principal and interest, with the balance of the indebtedness, if not sooner paid, due and payable on January 1, 2019;

To Secure to Lender (a) the repayment of the indebtedness evidenced by the Note, with interest thereon, and all renewals, extensions and modifications thereof; (b) the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage; and (c) the performance of the covenants and agreements of Borrower herein contained, Borrower does hereby mortgage, grant, convey, bargain, sell and assign to Lender and Lender's successors and assigns:

All of that tract of land described on the attached EXHIBIT A (which is incorporated herein by reference) together with all real estate improvements located thereon.

Together with all easements, rights-of-way, streets, ways, alleys, whether opened or proposed, appurtenances, tenements, and hereditaments belonging or in anywise appertaining

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thereto and any estate, right, interest, claim, demand, reversion, remainder, rents, issues, profits, privileges, or the like in the same and any part or parcel thereof;

Together with all machinery, apparatus, equipment, chattels, fittings, fixtures and articles of personal property of every kind and nature whatsoever, now or hereafter located in or upon the property or any part thereof and used or usable in connection with any present or future operation of the property, owned or hereafter acquired by Borrower, including but not limited to, all heating, lighting, laundry, cooling, electricity, gas, water, air, incinerating and power equipment, engines, pipes, pumps, tanks, motors, conduits, switchboards, plumbing, lifting, cleaning, fire-prevention, fire-extinguishing, refrigerating, ventilating, and communications apparatus, air-cooling and air-conditioning apparatus, elevators, escalators, shades, awnings, screens, blinds, curtains and curtain rods, carpeting, rugs, attached floor coverings, storm doors and windows, stoves, ranges, bath tubs, water heaters, water closets, sinks, refrigerators, dishwashers, disposals, washers, dryers, mirrors, cabinets, paneling, furniture, pictures, antennas, trees and plants; all of which, including replacements, proceeds from and additions thereto, shall be deemed to be and remain a part of the real property covered by this Mortgage;

Together with all judgments, awards of damages, settlements, interest thereon, and rights to receive same resulting from condemnation proceedings or exercise of the right of eminent domain, or for any damage (whether caused by such taking or otherwise) to the mortgaged premises or any rights or interests appurtenant thereto, or for the alteration of the grade of any street, road, alleyway or the like, or for any decrease in the value of the premises, all to the extent of all amounts that may be secured by this Mortgage at the date of receipt of any such award of payment together with all costs and reasonable attorney's fees incurred by the Lender in connection with the collection of the award or payment; Borrower agrees to execute and deliver to Lender from time to time such other and further instruments as Lender may request to confirm such grant of any such judgment, award, settlement, interest, costs and fees to Lender (hereinafter collectively referred to as "Judgments");

Together with all monies and proceeds (hereinafter referred to collectively as the "Proceeds") derived by Borrower from the real property, machinery, apparatus, equipment,

chattels, fittings, fixtures, buildings, structures, improvements, leases, tenant contracts, rental agreements, contracts, licenses, permits, rents, issues or profits described in this Mortgage, including but not limited to all rents, refunds, rebates, tenant reimbursements, condemnation awards and proceeds of the sale of, insurance on, or other borrowings secured in whole or in part by, any of said real property, apparatus, equipment, chattels, fixtures, buildings, structures, improvements, leases, tenant contracts, rental agreements, contracts, licenses, permits, rents, issues and profits; reserving only the right to Borrower to collect the same so long as there is no Event of Default, as hereinafter defined, which shall have occurred and be continuing;

Together with Borrower's interest in any and all leases, tenant contracts and rental agreements and other contracts, licenses and permits (all of which are sometimes hereinafter referred to as the "Contracts") now or hereafter affecting or in any manner relating to the Property, or any part thereof, together with Borrower's right and power to cancel, accept any surrender of or modify any of the terms thereof without Lender's prior written consent. Borrower agrees to execute and deliver such other instruments as Lender may require evidencing the assignment of the Contracts.

Together with all of the rents, issues, and profits which shall hereafter become due or be paid for the use of the Property or any part thereof, and all rents, issues, and profits arising under the Contracts or any part thereof (all of which are sometimes hereinafter referred to as the "Rents"), reserving to Borrower a revocable license to collect the Rents only so long as there is no Event of Default, as hereinafter defined, which shall have occurred and be continuing. Borrower agrees to execute and deliver such other instruments as Lender may require evidencing the assignment of the Rents.

Provided, however, that if Borrower shall promptly pay or cause to be paid to Lender the principal and interest payable under the Note at the times and in the manner stipulated therein, herein, and in all other instruments securing the Note, all without any deduction or credit for taxes, insurance or similar charges paid by Borrower, and shall keep, perform and observe all the covenants and promises to be kept, performed and observed by the Borrower in the Note, Mortgage, any other security or loan documents securing the Note and any renewal,

extension, or modification of the same, then this Mortgage, and all the properties, interest and rights hereby granted, conveyed, mortgaged and assigned shall cease and be void, but shall otherwise remain in full force and effect.

Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right and power to mortgage, grant, convey and assign the Property, that the Property is unencumbered, and that Borrower will warrant and defend generally the title to the Property against all claims and demands of all persons whomsoever.

This Mortgage constitutes a security agreement as more particularly set forth in paragraph 13 hereof with respect to, *inter alia*, the Contracts and Rents and any part thereof and creates a security interest in Lender in said Contracts and Rents.

TO HAVE AND TO HOLD the above-described and conveyed land, easements, improvements, interests, appurtenances, personal property, fixtures, Contracts, Rents, Judgments, Proceeds and all other matters, materials and interests more fully described hereinabove, all hereinafter collectively referred to as the "Property," unto the Lender and its successors and assigns forever.

Borrower further covenants and agrees with Lender as follows:

1. Payment and Performance. Borrower shall perform, observe and comply with all provisions hereof, of the Note and of every instrument securing the Note, and shall promptly pay to Lender the principal with interest thereon and all other sums required to be paid by Borrower under the Note and pursuant to the terms of this Mortgage and of any other instrument securing the same when due, all without deduction, setoff, or other credit for taxes or other charges paid by Borrower.
2. Zoning. Borrower covenants and warrants that the use and occupancy of the premises shall at all times comply with all applicable zoning laws, ordinances and regulations.
3. Escrows for Taxes and Insurance. At Lender's option exercisable upon written notice to Borrower at any time Borrower is in default of Borrower's obligations, Borrower shall pay an escrow deposit to Lender on the 1st day of each month until the Note is fully paid, in an amount equal to 1/12th of the yearly taxes, assessments, insurance premiums and the like

with respect to the Property or any part thereof, as estimated by Lender to be sufficient to enable Lender to pay such at least thirty (30) days before they become due. Said payments shall be in addition to payments to Lender for principal and interest. Upon demand by Lender, Borrower shall pay to Lender such additional monies as are required to make up any deficiencies in the amounts necessary to enable Lender to pay such taxes, assessments, insurance premiums and the like.

Lender may use said sums to pay such premiums, taxes, assessments and charges although such use may benefit subsequent owners of the Property.

Such escrow deposits shall not be, nor be deemed to be, trust funds, but may be commingled with the general funds of Lender, and no interest, earnings or profits shall be payable with respect thereto. Such escrow deposits are, and shall be deemed to be, funds pledged as additional security for the sums secured by the within Mortgage. In the event of a default by Borrower under the terms of the Note, Mortgage, or any instrument securing payment of the Note, Lender may, in its sole discretion, apply to the reduction of the sums secured by the within Mortgage, in such manner as Lender shall determine, any amount under this paragraph remaining to Borrower's credit.

4. Taxes, Assessments and Liens. Except to the extent that Borrower has paid sufficient funds into escrow pursuant to Paragraph 3 above, Borrower shall pay all taxes, assessments, insurance premiums, water, sewer and other rents, charges, excises, levies, license fees, permit fees, other charges, and the like with respect to the Property or any part thereof promptly when due and, if Borrower fails to make any such payment, Lender may, at its sole option, in addition to any other remedies available to it, and without notice or demand to the Borrower, pay the same or any part thereof. Any amounts paid by the Lender in discharge of any taxes, assessments, insurance premiums and other such matters and charges with respect to the Property or any part thereof shall be a lien on the Property, secured by this Mortgage and payable on demand with interest at the rate applicable under the Note from the time of payment of the same by Lender.

Upon request of the Lender, Borrower shall promptly send to Lender notices for and receipts evidencing payment of all taxes, assessments, insurance premiums and other such

matters and charges with respect to the Property or any part thereof.

Borrower shall not permit or suffer any mechanic's, laborer's, materialmen's, statutory or other lien to be created or to remain a lien upon the Property or any part thereof. If Borrower fails to discharge any such lien, Lender may at its sole option, and in addition to any other remedies, discharge the same or any part thereof. Any amounts paid by the Lender in discharge of any such liens or any part thereof shall be a lien on the Property payable by Borrower on demand with interest at the rate applicable under the Note from the time of payment of the same by Lender.

Borrower shall not claim, demand or be entitled to receive any credit or credits on the principal or interest payable under the terms of the Note or on any other sums secured hereby for taxes, assessments, insurance premiums or other charges assessed against the Property or any part thereof as are applicable to the indebtedness secured hereby or to Lender's interest in the Property. No deduction shall be claimed from the taxable value of the Property or any part thereof by reason of the Note, this Mortgage or any other instrument securing the Note.

5. Insurance: Extended Coverage, Loss of Rents, Liability. Borrower shall, at its sole expense, or cause its tenant(s) to keep the Property insured for the benefit of the Lender against loss or damage by fire, lightning, windstorm, hail, explosion, riot, attending a strike, civil commotion, aircraft, vehicles, smoke, flood (and when and to the extent insurance against war risks is obtainable from the United States of America or an agency thereof) war risks, hazards included within the term "extended coverage," loss of rents or business interruption in the amount of \$170,000.00 per year and public liability as to Borrower (and if required by Lender, naming Lender as an additional insured), and when and to the extent required by the Lender, against any other risk insured against by persons operating like properties in the locality of the Property, in amounts approved by Lender and, with respect to such coverage as may be applicable, not exceeding 100% of the full replacement cost or of the then outstanding loan balance, whichever is greater. All insurance provided for hereunder shall be in a form and with such companies as approved by Lender. Regardless of the amounts or types of insurance required and approved by the Lender, the Borrower will assign and deliver to the Lender all policies and proceeds of insurance required hereunder as collateral and further

security for payment of the indebtedness secured under this Mortgage, with losses payable to the Lender pursuant to the New York standard or other mortgagee clause, without contribution, satisfactory to the Lender. Such policies will provide for written notice to be given to Lender not less than thirty (30) days prior to any cancellation, expiration or material change of coverage of or under such policies. If Borrower defaults in so insuring the Property (and Borrower as to public liability) or in assigning and delivering the policies, the Lender may, at its option and in addition to any other remedies available to it, obtain such insurance and pay the premiums therefor. Any amounts paid by the Lender for such insurance shall be reimbursed by Borrower on demand with interest at the rate applicable under the Note from the time of payment of same by Lender and shall be secured by this Mortgage.

Borrower shall promptly notify Lender and the appropriate insurance companies of any loss, damage, or claim. Lender is hereby authorized and empowered at its sole option, to adjust or compromise any loss under any insurance policies and to collect and receive the proceeds from any such policy. Each insurance company is hereby authorized and directed to make payment for all such losses directly to Lender alone and not to Borrower and Lender jointly. After deducting from such insurance proceeds any expenses incurred by Lender in the collection or handling of such funds, Lender shall apply the net proceeds toward repairing or restoring the Property (in the event of loss or damage to the Property) to the extent required of Borrower under its lease of the Property and the balance, if any, at Lender's option as a credit on any portion of the indebtedness and other sums secured hereby, or to fulfill any of Borrower's covenants and agreements contained herein as Lender may determine, or for any other purpose or object satisfactory to Lender, or for any two or more of such purposes, without affecting the lien of this Mortgage. Lender shall not be responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure.

If the insurance proceeds are held by Lender to reimburse Borrower for the cost of restoration and repair of the Property, the Property shall be restored to the equivalent of its original condition or such other condition as Lender may approve in writing. Lender may, at Lender's option, condition disbursement of said proceeds on Lender's approval of such plans

and specifications of an architect satisfactory to Lender, contractor's cost estimates, architect's certificates, waivers of liens, sworn statements of mechanics and materialmen and such other evidence of costs, percentage of completion of construction, application of payments, and satisfactions of liens as Lender may reasonably require. If the insurance proceeds are applied to the payment of the sums secured by this Mortgage, any such application of proceeds to principal shall not extend or postpone the due dates of the installments required by the Note and this Mortgage, or change the amounts of such installments. If the Property is sold pursuant to paragraph 26 hereof, or if Lender acquires title to the Property, Lender shall have all of the right, title and interest of Borrower in and to any insurance policies and unearned premiums thereon and in and to the proceeds resulting from any damage to the Property prior to such sale or acquisition. Lender is hereby irrevocably appointed by Borrower as attorney in fact of Borrower to assign any policy without accounting for any unearned premium thereon in the event of the foreclosure of this Mortgage or a conveyance by Borrower in lieu of any such foreclosure. In the event that any of the Leases permits the tenant(s) to self-insure, Borrower shall cause such tenant(s) to strictly comply with the self-insurance requirements of such Leases.

6. Condemnation; Eminent Domain. No taking by eminent domain, alteration of the grade of any street or other injury to or decrease in value of the Property by any public or quasi-public authority or corporation shall affect Borrower's obligations to pay or perform under the terms and conditions of the Note, this Mortgage or any other instrument securing the Note: Borrower shall promptly notify Lender of any action or proceedings relating to any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, and Borrower shall appear in and prosecute any such action or proceeding unless otherwise directed by Lender in writing. Borrower authorizes Lender, at Lender's option, as attorney-in-fact for Borrower, to commence, appear in and prosecute, in Lender's or Borrower's name, any action or proceeding relating to any condemnation or other taking of the Property, whether direct or indirect, and to settle or compromise any claim in connection with such condemnation or other taking. The proceeds of any award, payment or claim for damages, direct or consequential, in connection with any condemnation or other taking, whether direct or indirect,

of the Property, or part thereof, or for conveyances in lieu of condemnation, are hereby assigned to and shall be paid to Lender. In the event all or a substantial portion of the Property shall be damaged or taken through condemnation or other taking, the entire indebtedness and any other sums secured hereby shall, at the sole option of Lender, become immediately due and payable.

Borrower authorizes Lender to apply such awards, payments, proceeds or damages, after the deduction of Lender's expenses incurred in the collection of such amounts to restoration or repair of the Property to the extent required of Borrower under Borrower's lease of the Property and the balance, at Lender's option, to payment of the sums secured by this Mortgage, whether or not then due, or to fulfill any of Borrower's covenants and agreements contained herein as Lender may determine, or for any two or more such purposes, with the balance, if any, to Borrower. Unless Borrower and Lender otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the installments required by the Note or this Mortgage or change the amount of such installments. Borrower agrees to execute such further evidence of assignment of any awards, proceeds, damages or claims arising in connection with such condemnation or taking as Lender may require.

7. Preservation and Maintenance of Property. Borrower (a) shall preserve and maintain the Property in good condition and repair; (b) shall not commit or permit waste, impairment, or deterioration of the Property or any part thereof; (c) shall not abandon the Property; (d) shall not commit or permit any action that will increase the risk of fire or other hazard to the Property or any part thereof; (e) shall give Lender prompt notice of any loss, damage, or destruction to the Property or any part thereof; (f) shall restore, repair, or replace promptly and in a good and workmanlike manner all or any part of the Property to the equivalent of its original condition, or such other condition as Lender may approve in writing, in the event of any damage, injury, or loss thereto, whether or not insurance proceeds are available to cover in whole or in part the costs of such restoration, repair, or replacement; (g) shall promptly comply with all present and future laws, ordinances, regulations and requirements of any governmental body applicable to the Property or any part thereof; (h)

shall, if the Property is to be used for purposes normally requiring professional management, provide or employ such management; (i) shall not remove, replace, demolish, or materially alter or enlarge any building, fixture, personal property or other part of the Property without the prior written consent of the Lender; and (j) shall not institute, participate in, or consent to any change in any restrictive covenant, zoning ordinance, or other public or private restriction limiting the uses that may be made of the Property or any part thereof.

Borrower may, however, without such prior consent of Lender remove and dispose of, free from the lien of this Mortgage, such equipment as from time to time may become worn out or obsolete, provided that either (a) simultaneously with or prior to such removal any such equipment shall be replaced with other equipment of a value at least equal to that of the replaced equipment and free from any security interest, reservation of title, or other encumbrance, and by such removal and replacement Borrower shall be deemed to have subjected such equipment to the lien of this Mortgage and any appropriate Uniform Commercial Code filings, or (b) any net cash proceeds received from such disposition shall be paid over promptly to the Lender to be applied to any outstanding interest, charges and principal due under the Note, this Mortgage and any other instruments securing the Note. With respect to any such equipment, Borrower agrees to give Lender prompt notice of removal and replacement or receipt of proceeds and to execute and file such other and further Uniform Commercial Code documents and filings as Lender may direct or to pay over the proceeds.

Subject to the provisions of this section, in any instance where Lender in its sound discretion determines that any item subject to a security interest under this Mortgage has become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary for the operation of the Property, Lender may, at its expense, remove and dispose of it and substitute and install other items not necessarily having the same function, provided, that such removal and substitution shall not impair the operating utility and unity of the Property. All substituted items shall become a part of the Property and subject to the lien of the Mortgage. Any amounts received or allowed Lender upon the sale or other disposition of the removed items of property shall be applied first against the cost of acquisition and installation of the substituted items. Nothing herein contained shall be construed to prevent any tenant or subtenant from

removing from the Property trade fixtures, furniture and equipment installed by it and removable by such tenant under its terms of the lease, on the condition, however, that the tenant or subtenant shall at its own cost and expense, repair any and all damages to the Property resulting from or caused by the removal thereof.

8. Hazardous Materials, Toxic Substances and Related Matters.

A. Borrower shall not suffer or permit any violation of, and shall comply with, all Hazardous Materials Legal Requirements with respect to the Property or any other property of Borrower. The term "Hazardous Materials Legal Requirements" shall mean all applicable past, present and future federal, state, county and local laws, bylaws, rules, regulations, codes or ordinances, and any judicial or administrative interpretation thereof, including, without limitation, all orders, decrees, judgment and rulings imposed through any public or private enforcement proceedings, relating to protection of the environment, a lien, Hazardous Materials, or the existence, use, discharge, release, disposal, remediation, removal, emission, manufacture, generation, processing, treatment, storage, incineration, transportation, management, or any other handling of such Hazardous Materials. The term "Hazardous Materials" shall mean and include any material, substance or waste: (i) the presence of which (a) requires, or may require, notification to any person or entity (including, without limitation, any federal, state or other governmental authority), investigation, remediation or removal, (b) causes or threatens to cause a nuisance, (c) poses or threatens to pose a hazard to public health or safety or to the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata, wetlands, wildlife aquatic species, vegetation, and natural resources), (d) constitutes or may constitute a violation or alleged violation of, or noncompliance or alleged noncompliance with, any Hazardous Materials Legal Requirements, or (e) may give rise to the imposition of liability or a claim or demand, under any Hazardous Materials Legal Requirements, including, without limitation, any asbestos, flammable material, explosive, polychlorinated biphenyl, radioactive substance, other carcinogen, oil, petroleum product, pollutant, or contaminant that could be a detriment to the environment, and any other hazardous or toxic material, substance or waste which is defined, determined or identified as such in any present or future federal, state, county or local laws, bylaws, rules, regulations,

codes or ordinances, or any judicial or administrative interpretation thereof.

B. Borrower shall not use, or permit the use of, all or any portion of the Property for the storage, treatment, use or disposal of any Hazardous Materials or any substance for which a license or permit is required under any Hazardous Materials Legal Requirements except in full compliance with such Hazardous Materials Legal Requirements in the case of such Hazardous Materials or substance typically found in first-call properties of a nature similar to the Property.

C. Without limitation express or implied upon any other requirements of the Mortgage, Borrower shall pay all such sums and take all such actions as may be required to avoid or discharge the imposition of any lien on the Property under any Hazardous Materials Legal Requirements.

D. Borrower shall, at all times, maintain and use the Property in compliance with all applicable Legal Requirements, including, without limitation, those imposed by the federal Resource Conservation and Recovery Act, the federal Water Pollution Control Act, the federal Clean Air Act, and applicable Alabama law, governing connections to and use of sewer systems, each as the same may be amended from time to time and shall require each tenant or occupant of the Property to so comply.

E. Borrower shall, at all times, both before and after the repayment of the Loan, at its sole cost and expense, indemnify, exonerate and save harmless Lender against and from all damages, losses, liabilities, obligations, penalties, claims, litigations, demands, defenses, judgments, suits, proceedings, costs, disbursements or expenses of any kind whatsoever, including, without limitation, attorneys' fees and disbursements and experts' fees and disbursements which may, at any time, be imposed upon, incurred by or asserted or awarded against Lender and arising from or out of:

(i) any Hazardous Materials on, in, under, from or affecting the Property prior to the discharge of record of this Mortgage, or prior to the sale thereof at foreclosure by Lender or the acceptance of a deed in lieu of foreclosure by Lender, all as more particularly provided for in the separate Hazardous Materials Indemnification Agreement dated as of even date given by Borrower to Lender; and

(ii) any liability for damage to any person or property arising out of any act,

omission, negligence or conduct at the Property, or arising or claimed to have arisen out of any act, omission, negligence or conduct of Borrower or any contractor, sub-contractor, tenant, occupant or invitee thereof which is in any way related to the Property.

9. Inspection; Professional Management. The Lender and anyone authorized by the Lender shall have the right to enter and inspect the Property at all reasonable times. If at any time an Event of Default, as defined in paragraph 26, occurs and continues for a period of forty-five (45) days, Lender shall have the option to require the Borrower to employ such professional management for the Property as Lender may designate or approve, or to install such professional management at Borrower's expense. Lender shall have the right to review and approve any future management contracts affecting the Property.

10. Books and Records. Borrower shall keep and maintain at all times at Borrower's address stated below, or such other place as Lender may approve in writing, complete and accurate books of accounts and records adequate to reflect correctly the results of the operation of the Property and copies of all written contracts, leases and other instruments which affect the Property. Such books, records, contracts, leases and other instruments shall be subject to examination and inspection at any reasonable time by Lender. Borrower shall furnish to Lender, within ninety (90) days after the end of each fiscal year of Borrower, financial statements, a balance sheet, a statement of income and expenses of the Property and a statement of changes in financial position, each in reasonable detail and certified by Borrower and, if Lender shall require, by an independent certified public accountant. Borrower shall furnish, together with the foregoing financial statements and at any other time upon Lender's request, a rent schedule for the Property, certified by Borrower, showing the name of each tenant, and for each tenant, the space occupied, the lease expiration date, square footage leased, guaranteed annual rentals, gross sales of tenants on percentage leases, any percentage rents or bonus rents paid Borrower from said leases, common area maintenance and contribution, and the status of rent payments.

Borrower shall provide irrevocable instructions to Borrower's outside auditors, in the form of EXHIBIT B hereto, that said auditors are to send to Lender copies of all financial

statements (whether preliminary or final), reports and other communications which are prepared in connection with any audit or other review of the operations, finances or internal controls of Borrower, specifically including any reports dealing with improper accounting practices, defalcations, financial reporting errors or misstatements or fraud.

11. Non-Release of Borrower and Lien; /Non-Waiver; Subrogation. From time to time, Lender may, at Lender's sole option, without giving notice to or obtaining the consent of Borrower, or Borrower's heirs, successors or assigns or of any junior lienholder, endorsee, surety, or guarantor, without liability on Lender's part and notwithstanding Borrower's breach of any covenant or agreement of Borrower in the Note or this Mortgage, extend the time for payment of said indebtedness or any part thereof, reduce the payments thereon, release anyone liable on any of said indebtedness, accept a renewal note or notes therefor, extend the time for payment of the outstanding indebtedness or any part thereof, reduce the payments thereon, release from the lien of the Mortgage any part of the Property, take or release other or additional security, recover any part of the Property, consent to any map or plan of the Property, consent to the granting of any easement, or join in any extension or subordination agreement. With Borrower's consent, Lender may, at Lender's sole option, agree in writing with Borrower to increase the rate of interest or period of amortization of the Note or increase the amount of the installments payable thereunder. Any actions taken by Lender pursuant to the terms of this paragraph shall not affect the obligation of Borrower or Borrower's heirs, successors, or assigns to pay the sums secured by this Mortgage and to observe the covenants of Borrower contained herein, shall not affect the guaranty or endorsement of any person, corporation, partnership or other entity for payment of the indebtedness secured hereby, and shall not affect the lien or priority of lien hereof on the Property. Borrower shall pay Lender a reasonable service charge and reimburse Lender's associated expenses, together with such title insurance premiums and attorney's fees as may be incurred, at Lender's option, for any such actions.

Any failure by the Lender to insist upon the strict performance by the Borrower of any terms and provisions hereof shall not be deemed a waiver of any of the terms and provisions hereof. Lender, notwithstanding any such failure, shall have the right thereafter to insist upon

Borrower's strict performance of the terms and provisions of this Mortgage. Neither Borrower nor any other person or entity now or hereafter obligated for the payment of the whole or any part of the amounts secured by this Mortgage shall be relieved of such obligation by reason of the failure of Lender to comply with any request of Borrower or any other person or entity so obligated, to take action to foreclose this Mortgage, or otherwise to enforce any of this Mortgage or of any obligations secured by this Mortgage. Lender may, at its sole option, resort for payment of the indebtedness secured hereby to any other security therefor pursuant to this or any other instrument, including but not limited to any guarantees, in such order and manner as Lender may elect.

Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by Lender of payment of a lesser amount due or of any sum after the due date for such payment shall not be a waiver of Lender's right to either require prompt payment when due of all other sums so secured or to consider such failure an Event of Default, as defined below.

Lender shall be subrogated to any encumbrance, lien, claim or demand (including all the rights therein and security for the payment thereof) paid or discharged with the proceeds of the indebtedness secured hereby, or by Lender under the provisions hereof.

12. Estoppel Certificates. Borrower shall, within ten (10) days after written request from Lender, furnish a written statement, duly acknowledged, setting forth the unpaid principal of and interest on, the Note, and any other sums secured hereunder, and whether any right of set off, counterclaim or other defense exists against such principal and interest or other sums.

13. Uniform Commercial Code Security Agreement. This Mortgage is intended to be a security agreement pursuant to the Alabama Uniform Commercial Code for any of the items specified above as part of the Property which, under applicable law, may be subject to a security interest pursuant to said Uniform Commercial Code. In consideration of the loan from Lender and to further secure repayment of the same, Borrower hereby grants Lender a security interest in the said items and their products, proceeds, substitutions and additions.

Borrower agrees Lender may file this instrument, or a copy hereof, as a financing statement for any of the items specified as part of the Property. In addition, Borrower agrees to execute and deliver to Lender, upon Lender's request, any financing statements, as well as extensions, renewals and amendments thereof, other security instruments, and reproductions of this Mortgage in such form as Lender may require to perfect a security interest with respect to said items. Borrower shall pay all costs, taxes, expenses and reasonable attorney's fees for filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements Lender may reasonably require. Without the prior written consent of Lender, Borrower shall not create or suffer to be created any other security interest in said items, including replacements and additions thereto. Upon Borrower's breach of any covenant or agreement of Borrower contained in this Mortgage, including the covenants to pay when due all sums secured by this Mortgage, Lender shall have the remedies of a secured party under the said Uniform Commercial Code and, at Lender's option, may also invoke the remedies provided in paragraph 26 of this Mortgage as to such items. In exercising any of said remedies, Lender may proceed against the items of real property and any items of personal property or Contracts specified above as part of the Property separately or together and in any order whatsoever, without in any way affecting the availability of Lender's remedies under the said Commercial Code or of the remedies provided in this Mortgage. Compliance with Uniform Commercial Code requirements relating to personal property shall not be construed as altering in any way the rights of Lender as determined by this instrument under any other statutes or laws of the applicable state, but is declared to be solely for the protection of Lender in the event that such compliance is at any time held to be necessary to preserve the priority of Lender's security interests in any items of personalty, the Contracts, or in the Rents against any other claim. Borrower will on demand deliver all financing statements that may from time to time be required by Lender to establish and perfect the priority of Borrower's security interest in the Property and shall pay all expenses incurred by Lender in connection with the renewal or extensions of any financing statements executed in connection with the property. Borrower shall give advance written notice of any proposed change in Borrower's name, identity or

structure and will execute and deliver to Lender prior to or concurrently with such change all additional financing statements that Lender may require to establish and perfect the priority of Lender's security interest.

14. Leases and Conditional Assignment Thereof. If the Property is leased or rented by Borrower to a tenant or tenants, Borrower shall fully comply with and observe Borrower's obligations under any such leases or rental agreements affecting the Property. Borrower, at Lender's request, shall furnish Lender with executed copies of all leases and rental agreements now existing or hereafter made of all or any part of the Property. All leases and rental agreements now or hereafter entered into will be in form and substance subject to the approval of Lender. At Lender's sole option, any or all leases of the Property shall specifically provide that such leases are subordinate to this Mortgage; that the tenant attorns to Lender; that such attornment shall be effective upon Lender's acquisition of title to the Property; that the tenant agrees to execute such further evidences of attornment as Lender may from time to time request; that the attornment of any tenant shall not be terminated by foreclosure; and that Lender may, at Lender's sole option, accept or reject such attornments. If Borrower becomes aware that any tenant proposes to do, or is doing, any act or thing which may give rise to any right of set-off against rent, Borrower shall (i) take such steps as shall be reasonably calculated to prevent the accrual of any right to a set-off against rent, (ii) notify Lender thereof and of the amount of said set-offs, and (iii) within ten (10) days after such accrual, reimburse the tenant who shall have acquired such right to set-off or take such steps as shall effectively discharge such set-off and as shall assure that rents thereafter due shall continue to be payable without set-off deduction.

Borrower hereby agrees that Borrower will not do, without the prior written consent of Lender, any of the following:

- (a) Cancel any such lease or rental agreement or accept a surrender thereof unless Borrower and the tenant shall execute a new lease or rental agreement which shall go into effect prior to or simultaneously with said cancellation and surrender; said new lease or rental agreement to provide for a rental not less than the rent payable under the cancelled lease or rental agreement which shall not diminish the tenant's obligation to pay taxes and insurance to the extent that such obligations may exist under the cancelled lease or rental agreement, and which new lease or rental agreement shall run to a date

which shall not be prior to the expiration of the said cancelled lease or rental agreement. Borrower covenants and agrees to assign said new lease or rental agreement to Lender in the same form and manner as Borrower assigned the said cancelled lease or rental agreement;

(b) Modify any such lease or rental agreement, either orally or in writing, so as to decrease the term of the lease or rental agreement, reduce the rent or diminish the obligation of the tenant with regard to the payment of taxes and insurance or maintenance of the Property or any part thereof;

(c) Consent to an assignment of the tenant's interest in said lease or rental agreement which will relieve the tenant of liability for the payment of rent and the performance of the terms and conditions of the lease or rental agreement;

(d) Permit the payment of rent in any medium other than lawful money of the United States; permit the payment of any rent more than thirty (30) days in advance of the due date thereof or anticipate, discount, compromise, forgive, encumber or assign the rents or any part thereof, or any lease, rental agreement, or any interest therein;

(e) Accept a surrender or abandonment or vacation of the Property or any part thereof prior to the end of the term of the lease or rental agreement.

Any of the above acts, if done without the written consent of Lender, shall be null and void.

Lender covenants and agrees with Borrower, that, until an Event of Default shall occur, Borrower may receive and collect all the said rents, issues and profits. If an Event of Default shall occur, Borrower hereby authorizes Lender at its option to enter upon the Property by its officers, agents, or employees for the collection of the rents and for the operation and maintenance of the Property, Borrower hereby authorizing Lender in general to perform all acts necessary for the operation and maintenance of the Property or any part thereof in the same manner and to the same extent that Borrower might reasonably so act. Lender shall, after payment of all proper charges and expenses, credit the net amount of income which it may receive by virtue of the assignment and from the Property, to any amounts due Lender from Borrower under the terms and provisions of the Note and Mortgage. The manner of the application of such net income and the item which shall be credited shall be within the sole discretion of Lender.

Borrower hereby covenants and warrants to Lender that Borrower has not executed any prior assignment of any such lease, rental agreement, or rentals, nor has Borrower performed any acts or executed any other instrument which might prevent Lender from operating under any of the terms and conditions of this assignment, or which would limit Lender in such operation; and Borrower further covenants and warrants to Lender that Borrower has not executed or granted any modification whatever of any such lease or rental agreement, either orally or in writing, and that each such lease or rental agreement is in full force and effect according to its original terms, and that there are no defaults now existing under each such lease or rental agreement.

Borrower consents that any tenant under any lease or rental agreement, upon demand and notice from Lender of an Event of Default as defined below, shall pay any rents, issues and profits under such lease or rental agreement to Lender without liability to the tenant for the determination of the actual occurrence of an Event of Default, as defined below, claimed by Lender.

Lender shall have the right to assign Borrower's right, title and interest in any such lease or rental agreement to any subsequent holder of this Mortgage and to assign the same to any person acquiring title to the Property through foreclosure or otherwise. After Borrower shall have been barred and foreclosed of all right, title, interest and equity of redemption in the Property, no assignee of the Borrower's interest in any such lease or rental agreement shall be liable to account to Borrower for the rents, income and profits thereafter accruing.

Borrower agrees to indemnify and hold Lender harmless of and from any and all liability, loss or damage which Lender may incur under any such lease or rental agreement or by reason of this paragraph, and of and from any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligation or undertaking to be performed or discharged by Lender under any such lease, rental agreement, or this paragraph. Nothing herein contained shall be construed to bind Lender to the performance of any of the terms and provisions contained in any such lease or rental agreement, or otherwise to impose any obligation on Lender. Prior to actual entry and taking possession of the Property by Lender, this assignment shall not operate to place responsibility for control, care, management,

or repair of the Property upon Lender, nor for the carrying out of any of the terms and provisions of any such lease or rental agreement. Exercise of Lender's rights reserved under paragraph 9 hereof shall not be deemed to be taking possession of the Property by Lender hereunder. Should Lender incur any liability mentioned in this paragraph, or loss or damage under any such lease or rental agreement, or in the defense of any such claims or demands, Borrower shall immediately upon demand reimburse Lender for the amount thereof, including costs and expenses and reasonable attorney's fees, and Lender may retain possession and collect the rents, income and profits and, from time to time, apply them in or toward satisfaction of or reimbursement for said loss or damage.

15. Remedies Cumulative; Marshaling. Each of the rights of Lender under this Mortgage or the Note and each and every other document or instrument now or hereafter evidencing or securing the indebtedness hereby secured, is separate and distinct from and cumulative to all other rights herein and therein granted, and all other rights which Lender may have in law or equity, and no such right shall be exclusive of any other. Notwithstanding the existence of any other security interests in the Property held by Lender or by any other party, Lender shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided herein. Lender shall have the right to determine the order in which any or all portions of the indebtedness secured hereby are satisfied from the proceeds realized upon the exercise of the remedies provided herein. Borrower, any party who consents to this Mortgage, and any party who now or hereafter acquires a security interest in the Property and who has actual or constructive notice hereof hereby waives any and all right to require the marshaling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

16. Performance by Lender. Lender shall have the right, but not the obligation, at its sole option, upon the occurrence of an Event of Default, as defined below, to perform any of Borrower's covenants, agreements and obligations hereunder and all costs and expenses incurred by Lender in connection therewith, and reasonable attorneys' fees, with interest thereon at the rate set forth in the Note or at any rate selected by the Lender not to exceed 12.50% per annum, shall be immediately due from the Borrower and become indebtedness of

the Borrower secured by this Mortgage. Lender shall be the sole judge of the necessity for any actions so taken by it and the amount necessary to be paid or incurred by Lender to remedy any Event of Default. Lender hereby has the right, but not the obligation, to enter upon and to authorize others to enter upon the Property or any part thereof for the purpose of curing, in whole or in part, any Event of Default, as defined in paragraph 26, without thereby becoming liable to Borrower or any person in possession holding under Borrower.

17. Statute of Limitations; Homestead; Appraisal. Borrower hereby waives any right to assert any statute of limitations as a bar to the enforcement of the lien of this Mortgage or to any action brought to enforce the Note or any other obligation secured by this Mortgage or any provision hereof. Borrower further waives any and all rights of homestead exemption in the Property and any rights of appraisal of the Property. In the event of foreclosure pursuant to the terms of this Mortgage, Lender may, at Lender's sole option, obtain an appraisal of the Property and any funds expended by Lender for such purpose shall become indebtedness of the Borrower secured by this Mortgage.

18. Further Assurances. Upon Lender's request, from time to time, Borrower shall, at Borrower's expense, execute, deliver and when and where appropriate, record, file, rerecord or refile all such further mortgages, instruments of further assurance, certificates and other documents as Lender may consider necessary or desirable in order to effectuate, complete, perfect, continue and preserve the obligations of Borrower under the Note, Mortgage and any other instrument securing the Note and the lien of this Mortgage as a first and prior lien upon all of the Property, whether now owned or hereafter acquired by Borrower. Upon any failure by Borrower to do so, Lender may, at Borrower's expense, make, execute, record, file, rerecord or refile any and all such mortgages, instruments, certificates and documents for and in the name of Borrower, and Borrower hereby irrevocably appoints Lender the agent and attorney-in-fact of Borrower to do so.

19. Appointment of Receiver; Taking Possession. Upon the occurrence of any Event of Default which is not cured by Borrower within 30 days after written notice thereof, Lender may at its sole option apply for the appointment of a receiver of the rents and profits of the Property without further notice and shall be entitled to the appointment of a receiver as a

matter of right without regard to the value of the Property as security for the amounts due Lender or the solvency of any person or entity liable for the payment of such amounts.

Upon the occurrence of an Event of Default, Lender may enter upon and take possession of the Property without the appointment of a receiver, or an application therefor, and collect and receive the rents, incomes, issues and profits of and from the Property, and Lender is hereby constituted and appointed as the attorney in fact of Borrower to manage and operate the property and to collect such sums. After deducting from the sums so collected all expenses of taking, holding, managing and operating the Property (including compensation for the services of all persons employed for any of such purposes), the net amount so collected shall be applied toward the amount secured hereby; provided that nothing herein contained shall be construed to obligate Lender to discharge or perform the duties of a landlord to any tenant or to impose any liability upon Lender as the result of any exercise by Lender of its rights under this Mortgage, and Lender shall be liable to account only for the rents, income and profits actually received by Lender, Borrower hereby agreeing to indemnify Lender and to hold Lender harmless from and against any and all liability, loss, damage, cost and expenses, including but not limited to attorney's fees and costs of court, arising out of Lender's exercise of its rights under this Mortgage, other than for accounting for such rents, income and profits actually received.

20. Sale in Whole or Part. In the event of any sale under this Mortgage by judicial proceeding or otherwise, the Property may be sold together as one unit or in such parts or parcels, manner or order as to real, personal, or mixed property comprising the Property as Lender in its sole discretion may elect.

21. Tax on Liens. In the event of the passage after the date of this Mortgage of any law of the State of Alabama, deducting from the value of real property for the purposes of taxation any lien thereon or changing in any way the laws for the taxation of mortgages or debts secured by mortgage for the State or local purposes or the manner of the collection of any such taxes, and imposing a tax, either directly or indirectly, on this Mortgage, the Note, or the interest thereon, the Lender shall have the right to declare the principal sum and interest due on a date to be specified by not less than 60 days' written notice to the Borrower by the

Lender; provided, however, that such election shall be ineffective if the Borrower is permitted by law, without any penalty or other disadvantage thereby accruing to Lender, to pay the whole of such tax in addition to all other payments required hereunder and if the Borrower, prior to such specified date, does pay such tax and agrees to pay any such tax when thereafter levied or assessed against the Property, and such agreement shall constitute a modification of this Mortgage.

22. Costs of Enforcement. If Lender incurs or expends any amounts, including reasonable attorney's fees, whether in connection with any action or proceeding or not, to sustain the lien of this Mortgage or its priority, or to protect or enforce any of its rights hereunder, or to recover any indebtedness hereby secured, or for any title examination or title insurance policy relating to the title to the Property, or as a party plaintiff or defendant in any action or proceeding affecting or relating to the Property, the Note, the Mortgage or any amount secured thereby, all such sums shall on notice and demand be paid by Borrower, together with interest thereon at the rate set forth in the Note and shall be a lien on the Property prior to any right or title to, interest in, or claim upon, the Property subordinate to the lien of this Mortgage, and payment of the same shall be secured by this Mortgage. In any action or proceeding to foreclose this Mortgage, or to recover or collect the debt secured hereby, the provisions of law concerning the recovery of costs, disbursements and allowances shall prevail unaffected by this paragraph.

23. Payment By One Obligor Deemed Payment By All. Any payment made in accordance with this Mortgage by any person or entity or by any stockholder, officer or director of a corporation that is at any time liable for the payment of the whole or any part of the amounts now or hereafter secured by this Mortgage, or by any other person whose interest in the Property might be prejudiced by a failure to make such payment, shall be deemed, as between Lender and all persons or entities that may at any time be liable as aforesaid or may own the Property, to have been made on behalf of all such persons and entities.

24. Documentary Stamps and Tax. Borrower hereby agrees to pay for any documentary stamps or other tax now or hereafter required by any state, local or federal law or regulation to be paid in connection with the Note, Mortgage, or any instrument securing

payment of the Note together with any interest or penalties imposed in connection therewith.

25. Event of Default; Acceleration. Upon Borrower's default in payment or Borrower's failure, in whole or in part, to perform any of the terms and conditions of the Note, this Mortgage or any instrument securing the Note including, but not limited to, payment of taxes and maintenance of insurance, all of which shall be deemed to be material and Events of Default hereunder, and if any monetary default is not cured within ten (10) days after written notice thereof or if any non-monetary default is not cured within thirty (30) days after written notice thereof Lender may, at its sole option, and without further notice to Borrower, declare the whole of the principal and interest immediately due and payable. In addition thereto, if Borrower shall voluntarily file a petition under the Federal Bankruptcy Act, as such Act may from time to time be amended, or under any similar or successor federal statute relating to bankruptcy, insolvency, arrangements or reorganizations, or under any state bankruptcy or insolvency act, or file an answer in an involuntary proceeding admitting insolvency or inability to pay debts, or if Borrower shall fail to obtain a vacation or stay of involuntary proceedings brought for the reorganization, dissolution or liquidation of Borrower, or if Borrower shall be adjudged a bankrupt, or if a trustee or receiver shall be appointed for Borrower or Borrower's property, or if the Property shall become subject to the jurisdiction of a Federal bankruptcy court or similar state court, or if Borrower shall make an assignment for the benefit of Borrower's creditors, or if there is an attachment, execution or other judicial seizure of any portion of Borrower's assets and such seizure is not discharged within ten days, then Lender may, at Lender's option, declare all of the sums secured by this Mortgage to be immediately due and payable without prior notice to Borrower, and Lender may foreclose this Mortgage or invoke any other remedies permitted under this Mortgage or by applicable law. The events, actions and omissions specified above based upon which Lender may take any action hereunder are sometimes in this Mortgage collectively referred to as Events of Default and severally as an Event of Default.

Any attorney's fees and other expenses incurred by Lender in connection with any of the foregoing shall be additional indebtedness of Borrower secured by the within Mortgage.

If an Event of Default shall have occurred Lender may sell the Property at public

outcry to the highest bidder for cash in front of the Courthouse door in the county where the Property is located, either in person or by auctioneer after having first given at least twenty-one (21) days notice of the time, place and terms of sale together with a description of the property to be sold by publication once a week for three (3) successive weeks prior to said sale in a newspaper of general circulation published in said county and upon payment of the purchase money in addition to the costs, charges and expense allowed under the Statutory Power of Sale or under this Mortgage. In case redemption is had by Borrower after foreclosure proceedings have been begun, Lender shall be entitled to collect all costs, charges and expenses, including without limitation reasonable attorneys' fees, incurred upon the time of redemption plus a fee of one (1%) percent of the loan secured hereby. Lender or any person conducting the sale for Lender is authorized to execute to the purchaser at said sale a deed to the property so purchased. Lender may bid at said sale and purchase the Property, or any part thereof, if the highest bidder therefor. At the foreclosure sale the Property may be offered for sale and sold as a whole without first offering it in any other manner or may be offered for sale and sold in any other manner as Lender may elect.

26. Additional Remedies. Lender shall have the right to enforce any legal or equitable remedy against the Borrower and to sue for any sums, whether interest, damages for failure to pay principal or any installment thereof, taxes, escrows, insurance, installments of principal, or any other sums required to be paid under the terms of this Mortgage, as the same become due, without regard to whether or not the principal sum secured or any other sums secured by this Mortgage shall be due and without prejudice to the right of the Lender, thereafter to enforce any appropriate remedy against Borrower including but not limited to an action of foreclosure, or any other action, for an Event of Default existing at the time such earlier action was commenced. Lender shall have the right to apply all or any part of any funds held by Lender pursuant to paragraph 3 hereof to the payment of the debt secured hereby and to any other amounts payable under the Note, this Mortgage, or any other instrument now or hereafter evidencing or securing said debt, or any one or more thereof in whole or in part, in such manner as Lender may elect.

27. Transfers of Property. Borrower shall not, without the prior written approval of

Lender and compliance with all conditions stated herein, permit any sale, conveyance, transfer, lease, or further encumbrance of all or any part of or interest in the Property. Borrower shall not acquire any part of the Property subject to any security interest, conditional sale contract, title retention arrangement or other charge or lien taking precedence over the security title and interest hereby conveyed or created.

In no event, however, unless Lender agrees in writing, shall any sale, assignment, or transfer or assumption by a transferee relieve Borrower of any obligations, covenants, or agreements under the terms of the Note, the within Mortgage, or any instrument securing the Note.

If all or any part of the Premises or any interest therein is sold or transferred by the Borrower without the Lender's prior written consent, Lender may, at Lender's sole option, declare all the sums secured by this Mortgage to be immediately due and payable. The Lender shall have waived, however, such option to accelerate if, prior to the sale or transfer, the Lender and the person to whom the premises is to be sold or transferred reach agreement in writing that the credit of such person is satisfactory to the Lender and that the interest rate payable on the sums secured by this Mortgage shall be at such rate as the Lender shall request. If the Lender has waived the option to accelerate provided in this paragraph and if the Borrower's successor in interest has executed a written assumption agreement accepted in writing by the Lender, the Lender shall release the Borrower from all obligations under this Mortgage and under the Note. Lender may charge at its option, a transfer fee equal to a maximum of one percent (1.00%) of the outstanding principal balance at the time of the request. Any such transfer fee is in addition to any other services fees Lender may elect to charge with respect to other servicing request.

28. Notice. Except as otherwise provided by law, any notice required to be given shall be in writing sent by prepaid mail, registered or certified, return receipt requested, to the address of the party to be notified as stated above, or to such other address as the respective parties may designate by notice to the other as provided herein. Any such notice shall be effective as of the date of mailing in conformance with the terms of this provision. If Borrower consists of more than one person or entity, notice to one at the address stated above

shall be notice to all such persons or entities. In the event that Lender is required or permitted to give any notice to Borrower under the appropriate state Uniform Commercial Code, five (5) days' notice hereunder shall be deemed to be sufficient. Nothing contained in this paragraph shall be construed to require any notice from Lender to Borrower not otherwise specifically provided for in this Mortgage.

Borrower agrees to give Lender written notice of any action or inaction by Lender, or any agent or attorney of Lender, in connection with this Mortgage or the Loan that may be actionable against Lender or any agent or attorney of Lender or a defense to payment of the Note for any reason, including, but not limited to, commission of a tort or violation of any contractual duty or duty implied by law. Borrower agrees that unless such notice is duly given as promptly as possible (and in any event within 10 days after Borrower has knowledge, or with the exercise of reasonable diligence should have had knowledge, of any such action or inaction) Borrower shall not assert, and Borrower shall be deemed to have waived, any claim or defense arising therefrom.

29. Binding Effect; Joint and Several Liability; Definitions; Captions. The within Mortgage shall be binding upon and inure to the benefit of the Lender and Borrower and their respective heirs, successors and assigns, subject to paragraph 29 hereof, and the terms Borrower and Lender shall include such heirs, successors and assigns.

• If Borrower consists of more than one person or entity, all such persons or entities shall be jointly and severally liable under the terms and conditions of this Mortgage.

• Whenever used herein and appropriate, the singular shall include the plural, the plural shall include the singular, and any gender shall include the others. The term "Borrower" shall mean the Borrower and any subsequent owner or owners of the Property. If Borrower is a partnership, whether general or limited, each reference to any interest of Borrower in any real or personal property, Rents, Proceeds, contracts or other matter shall also be deemed to refer to the interest, if any, of each and every partner of Borrower therein. The term "Mortgage" shall include the terms and provisions of this instrument, including but not limited to the provisions for assignment of leases and Uniform Commercial Code security agreement.

The captions in this Mortgage are for convenience only and shall not be deemed to be

part of this Mortgage or construed as in any manner limiting the terms and provisions of this Mortgage to which they relate.

30. Amendments. Except as otherwise provided, this Mortgage shall not be amended, modified, or changed except in writing with the same formalities as this Mortgage, signed by the party against whom enforcement of the amendment, modification or change is sought.

31. Governing Law; Severability. This Mortgage shall be governed by the law of the state in which the Property is located. If any term or provision of this Mortgage, the Note, or any instrument securing the Note or the application thereof to any person, entity, or circumstance shall, to any extent be invalid or unenforceable, the remaining terms and provisions of this Mortgage, the Note, or any instrument securing the Note and the application thereof, shall not be affected and shall remain in full force and effect and to such extent shall be severable.

In the event that any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower is interpreted so that any charge provided for in this Mortgage, in the Note or in any instrument securing the Note, whether considered separately or together with other charges levied in connection with this Mortgage, the Note and any instrument securing the Note, violates such law, and Borrower is entitled to the benefit of such law, such charge is hereby reduced to the extent necessary to eliminate such violation. The amounts, if any, previously paid to Lender in excess of the amounts payable to Lender pursuant to such charges as reduced shall be applied by Lender to reduce the principal of the indebtedness evidenced by the Note. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower has been violated, all indebtedness which is secured by this Mortgage or evidenced by the Note and which constitutes interest, as well as all other charges levied in connection with such indebtedness which constitute interest, shall be deemed to be allocated and spread over the stated term of the Note. Unless otherwise required by applicable law, such allocation and spreading shall be effected in such a manner that the rate of interest computed thereby is uniform throughout the stated term of the Note.

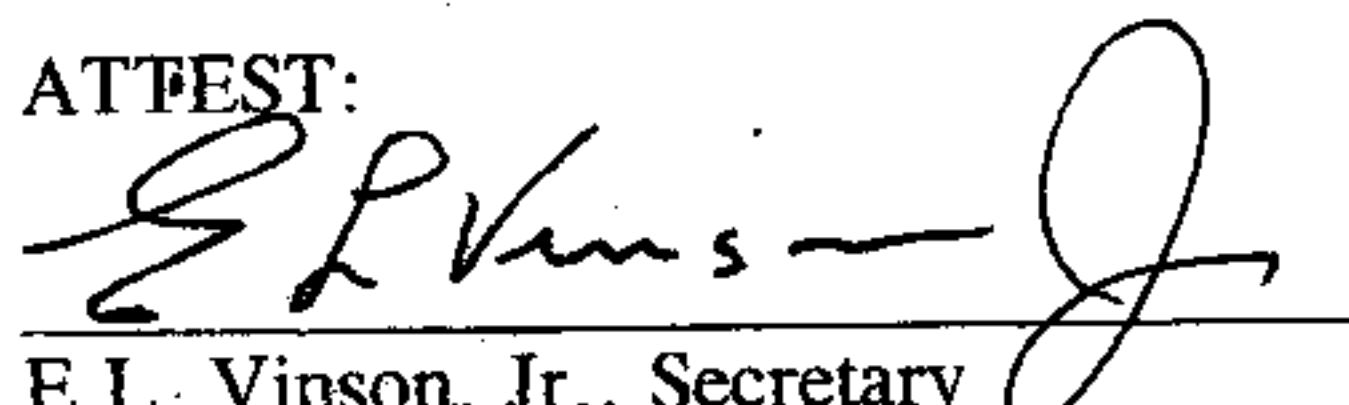
32. Release. Upon payment of all sums secured by this Mortgage and any other instrument securing same and upon performance by Borrower in accordance with the terms of the within Mortgage, the Note and any instrument securing payment of the Note, this Mortgage shall become null and void, and Lender shall release this Mortgage in the manner provided by law. Borrower shall pay Lender's reasonable costs incurred in releasing this Mortgage.

33. Non-Recourse. Notwithstanding anything to the contrary in the Note or in any other instrument evidencing or securing the indebtedness evidenced hereby, or in any action or proceeding brought to enforce the obligation of Borrower to pay any indebtedness evidenced by the Note, to enforce the obligation of Borrower to pay any indebtedness or obligation created or secured by this Mortgage, or to exercise any right of foreclosure or power of sale contained in this Mortgage, the judgment or decree shall be enforceable against Borrower only to the extent of the interest of Borrower in the property described in this Mortgage, and any such judgment shall not be subject to the execution on, nor a lien on, any assets of Borrower other than its interest in said property; provided, however, that nothing herein contained shall be deemed to be a release or impairment of said indebtedness or the security therefore intended by this Mortgage, or any other security agreement, or be deemed to preclude the Lender from foreclosing this Mortgage, or from enforcing any of the Lender's rights or remedies thereunder or under any security agreement, or naming Borrower as party defendants for the purpose of protecting, defending or perfecting Lender's interest in the property secured by this Mortgage. It being specifically understood and agreed that Borrower shall have no personal liability for the payment of the Note and that Lender shall look only to the property described in the Mortgage for the payment of the indebtedness evidenced hereby. However, notwithstanding the above, Borrower shall be fully obligated to Lender for waste, fraud, failure to pay taxes or insurance premiums, misapplication of rents, security deposits, insurance claim payments, condemnation awards or other such sums arising with respect to the property secured by this Mortgage and collected by Borrowers, as well as criminal misconduct. The foregoing shall not limit the liability of Borrower to pay all attorney's fees and expenses and all costs and expenses incurred by Lender as a result of (i) any termination, cancellation or material modification of

any lease without Lender's prior written consent; (ii) any failure to pay and discharge in accordance with this Mortgage all statutory liens for labor, materials, or services performed for the benefit of the Property; (iii) other payments, directly or indirectly paid to or received by Borrower's general partners, limited partners, shareholders, other equity interest holders, or other direct or indirect affiliates or any managers of the Property in violation of any provision of this Mortgage or other loan documents; (iv) any foreclosure or other proceeding to enforce any lien or security interest of Lender against any property securing the indebtedness; (v) any bankruptcy case filed by Borrower; and (vi) enforcement of Lender's rights under this paragraph, it being intended that Borrower shall be personally liable and obligated hereunder for, and to the full extent of, any and all such amounts and that Lender shall not be limited or restricted in any way in enforcing such personal liabilities and obligations of Borrower. Nothing herein shall be deemed or construed to limit or affect in any manner whatsoever any rights of Lender to enforce and collect against the Borrower the obligations and undertakings contained in any guaranty, environmental indemnity or any other indemnity in which personal liability is intended to exist. This nonrecourse provision shall be applicable to all successors and assigns.

IN WITNESS WHEREOF, Borrower has executed this Mortgage or has caused the same to be executed by its representatives thereunto duly authorized the day and year first above written.

ATTEST:


E.L. Vinson, Jr., Secretary
(CORPORATE SEAL)

VINSON REALTY CO., INC.

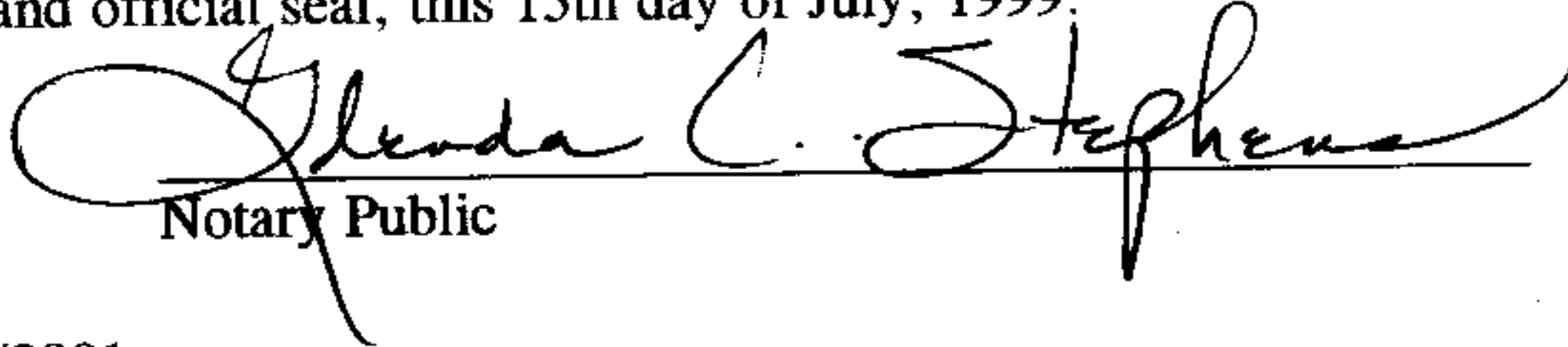
By:


Albert C. Kirby, President

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, the undersigned a Notary Public in and for said County and State, hereby certify that Albert C. Kirby and E.L. Vinson, Jr. whose names as President and Secretary, respectively, of Vinson Realty Co., Inc. (a North Carolina corporation duly qualified to do business in Alabama) 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 foregoing instrument, they - as such officers and with full authority - executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and official seal, this 15th day of July, 1999.


Notary Public

My Commission Expires: 9/7/2001

(STAMP/SEAL)

Exhibit A - Property Description

Being all of that property located in the City of Pelham, County of Shelby, State of Alabama, as shown on survey thereof by Frank B. Garrett, Jr., Land Surveyor, dated June 1, 1999, entitled "Property to be acquired by Vinson Realty Co., Inc., As-Built Survey," more particularly described as follows:

Commence at the NW corner of the SW 1/4 of the NE 1/4 of Section 12, Township 20 South, Range 3 West, Shelby County, Alabama; thence along North line of the SW 1/4 of the NE 1/4 of Section 12, Township 20 South, Range 3 West, Shelby County, Alabama South 88 deg. 33 min. 49 sec. East a distance of 485.52 feet to a steel pin, also being the point of beginning; thence continue along said 1/4 line South 88 deg. 33 min. 49 sec. East a distance of 397.04 feet to a steel pin on the West right of way of U.S. Highway 31 South; thence along said West right of way South 27 deg. 19 min. 11 sec. West a distance of 222.30 feet to a steel pin on the North right of way of Cross Creek Trail; thence along said North right of way, North 88 deg. 33 min. 50 sec. West a distance of 300.00 feet to a steel pin; thence leaving said right of way North 01 deg. 26 min. 11 sec. East a distance of 200.00 feet to the point of beginning. All lying and being situated in the SW 1/4 of the NE 1/4 of Section 12, Township 20 South, Range 3 West, Shelby County, Alabama.

Being all of that property conveyed to BHM ES TU MALADE?#2, L.L.C. by Statutory Warranty Deed recorded in the Office of the Judge of Probate in Shelby County, Alabama, as Instrument No. 1998-23288, and being all of that property conveyed to Vinson Realty Co., Inc. by Warranty Deed dated the 14th day of July, 1999, filed for record in said Office as Instrument No. 1999-29714

Exhibit B

[Letterhead of Borrower]

[Name and address of Borrower's outside auditors]

Gentlemen:

This letter instructs you to send to _____ (the "Lender") all financial statements (whether preliminary or final) and all reports which are prepared in connection with any audit or other review of our operations, finances or internal controls, specifically including any reports dealing with improper accounting practices, defalcations, financial reporting errors or misstatements or fraud perpetrated on us or by any of our employees or agents.

All of the foregoing must be sent to the Lender prior to or contemporaneously with said reports being sent to us.

These instructions may only be revoked by a writing signed by an officer of Lender.

Inst # 1999-29716

07/15/1999-29716
02:46 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
033 MWS 2190.50