

STATE OF ALABAMA)

SHELBY COUNTY)

752058

Inst # 1999-45252

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

THIS MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF RENTS AND LEASES (the "**Mortgage**") is made and entered into this 21st day of October, 1999, by and between **MICHAEL R. SUMMERS**, a married man who is one and the same person as Mike Summers and Mike R. Summers ("**Summers**"), whose address for notice purposes is 3336 Brook Highland Circle, Birmingham, Alabama 35242, and **GRADCO, INC.**, an Alabama corporation, whose address for notice purposes is 7341 Cahaba Valley Road, Birmingham, Alabama 35242 ("**Gradco**") (Summers and Gradco are sometimes hereinafter referred to, collectively as "**Mortgagor**"), and **FIRST COMMERCIAL BANK**, a banking corporation organized under the laws of the state of Alabama, whose address for notice purposes is 800 Shades Creek Parkway, Birmingham, Alabama 35209, Attention: A. Todd Beard ("**Lender**").

RECITALS

A. Mortgagor owns certain real property situated in Shelby County, Alabama, and more particularly described on Exhibit A attached hereto.

B. Summers is the sole shareholder of all stock issued and outstanding of Gradco, and is an officer and the sole director thereof.

C. Gradco is justly indebted to Lender (i) in the principal sum of \$2,175,993.01 (the "**Term Loan**"), as evidenced by a Promissory Note of even date herewith in the original principal amount of \$2,175,993.01, which note bears interest as provided therein and has a final maturity date of October 25, 2004 (the "**Term Note**"), and (ii) in the principal sum of \$200,000.00 (the "**Line of Credit Loan**"), or so much thereof as may be outstanding, as evidenced by a Line of Credit Note of even date herewith in the original principal amount of \$200,000.00, which note bears interest as provided therein and has a final maturity date of May 31, 2000 (the "**Line of Credit Note**") (the Term Loan and the Line of Credit Loan are hereinafter referred to, collectively, as the "**Loans**" and the Term Note and the Line of Credit Note are hereinafter referred to, collectively, as the "**Notes**").

D. Summers has agreed to execute and deliver to Lender a Guaranty Agreement (the "**Guaranty**") dated of even date herewith, guarantying the payment of the Loans to induce Lender to extend credit to Gradco on the strength of the assurances and security provided by such Guaranty.

11/02/1999-45252
03:48 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
030 MMS 3645.00

E. Mortgagor has agreed to execute and deliver this Mortgage to Lender as security for Summers' obligations under the Guaranty and in order to (i) secure the Notes and (ii) induce Lender to extend the Loans to Gradco on the strength of, among other things, the security provided by this Mortgage.

NOW, THEREFORE, in consideration of the premises, to induce Lender to make the Loans to Gradco, as evidenced by the Notes, and to secure the Obligations, as hereinafter defined, Mortgagor hereby agrees with Lender as follows:

1. Obligations Secured. This Mortgage is given to secure and shall secure the following (hereinafter referred to, collectively, as the "Obligations"):

A. The payment of all amounts now or hereafter becoming due and payable under the Term Note, the Line of Credit Note, the Guaranty or that certain Loan Agreement dated of even date herewith by and between Gradco and Lender (the "Loan Agreement"), including, but not limited to, all principal and interest thereon and all other fees, charges and costs (including, but not limited to, reasonable attorneys' fees) payable in connection therewith.

B. The payment of any and all other fees, charges and other sums now or hereafter becoming due and payable to Lender under the terms of this Mortgage (including, but not limited to, advances made by Lender to or for the benefit of Mortgagor or Gradco, as contemplated by any covenant or provision contained in this Mortgage), the Guaranty, the Loan Agreement, that certain Security Agreement dated of even date herewith executed by Gradco in favor of Lender (the "Security Agreement"), that certain Environmental Indemnity Agreement dated of even date herewith executed by Mortgagor and Gradco in favor of Lender (the "Environmental Indemnity Agreement"), that certain Assignment of Life Insurance dated of even date herewith executed by Mortgagor in favor of Lender (the "Assignment of Life Insurance"), and any other document or instrument now or hereafter evidencing or securing the Notes. The Loan Agreement, the Notes, this Mortgage, the Security Agreement, the Environmental Indemnity Agreement, the Guaranty, the Assignment of Life Insurance and any other document or instrument now or hereafter evidencing or securing the Notes, the Guaranty or any of the foregoing are hereinafter referred to, collectively, as the "Loan Documents".

C. The compliance with and the complete and full performance of all stipulations, covenants, duties, agreements, representations, warranties, obligations and conditions contained in the Loan Documents.

D. All indebtedness, obligations (including, but not limited to, obligations of performance), liabilities and amounts at any time payable by Gradco or Summers to Lender of every kind and description whatsoever, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter incurred, contracted or

arising, or acquired by Lender from any source, joint or several, liquidated or unliquidated, regardless of how they arise or by what agreement or instrument they may be evidenced or whether they are evidenced by any agreement or instrument, and whether incurred as maker, endorser, surety, guarantor or otherwise, including, but not limited to, the indebtedness, obligations, liabilities and amounts owed by Gradco to Lender under the Term Note, the Line of Credit Note and any other Loan Document.

E. Any and all renewals, extensions, modifications, refinancings and amendments of any or all of the obligations described in the foregoing clauses A through D, both inclusive, of this paragraph 1, whether or not any renewal, extension, modification or amendment agreement is executed in connection herewith.

2. Granting Clauses. As security for the Obligations, Mortgagor does hereby assign, grant, bargain, sell and convey unto Lender, its successors and assigns, the following described property and interests in property, and does grant to Lender a security interest in said property and interests in property:

A. The real estate located in Shelby County, Alabama, and more particularly described on Exhibit A attached hereto and hereby made a part hereof (the "Real Estate"), together with all improvements, structures, buildings and fixtures now or hereafter situated thereon or therein (the "Improvements").

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

C. (1) All leases, written or oral, and all agreements for use or occupancy of any portion of the Real Estate or the Improvements with respect to which Mortgagor is the lessor or lessee, including but not limited to any existing leases (the "Existing Leases"), any and all extensions, modifications, amendments and renewals of said leases and agreements and any and all further leases or agreements, now existing or hereafter made, including, but not limited to, subleases thereunder, upon or covering the use or occupancy of all or any part of the Real Estate or the Improvements (all such leases, subleases, agreements and tenancies heretofore mentioned, including, but not limited to, the Existing Leases being hereinafter referred to, collectively, as the "Leases");

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

(3) 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 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 of the Improvements, 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 the Improvements, together with any and all rights and claims of any kind that Mortgagor may have against any such lessee under the Leases or against any subtenants or occupants of the Real Estate or any of the Improvements, all such moneys, 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, Mortgagor shall have the right under a license granted hereby to collect, receive and retain the Rents (but not prior to accrual thereof); and

(4) any award, dividend or other payment made hereafter to Mortgagor in any court procedure involving any of the lessees under the Leases in any bankruptcy, insolvency or reorganization proceedings in any state or federal court and any and all payments made by lessees in lieu of rent. Mortgagor hereby appoints Lender as Mortgagor's irrevocable attorney in fact to appear in any action and/or to collect any such award, dividend or other payment.

D. All materials, equipment, fixtures, tools, apparatus and fittings of every kind or character now owned or hereafter acquired by Mortgagor for the purpose of, or used or useful in connection with, the Real Estate or the Improvements, wherever the same may be located, including, without limitation, all lumber and lumber products, bricks, stones, building blocks, sand, cement, roofing materials, paint, doors, windows, hardware, nails, wires, wiring, engines, boilers, furnaces, tanks, motors, generators, switchboards, elevators, escalators, plumbing, plumbing fixtures, air-conditioning and heating equipment and appliances, electrical and gas equipment and appliances, carpets, rugs, window treatments, lighting, fixtures, pipes, piping, decorative fixtures, and all other building materials, equipment and fixtures of every kind and character used or useful in connection with the Real Estate or the Improvements.

E. All proceeds (including, but not limited to, insurance proceeds) of any of the foregoing, or any part thereof.

F. 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 Lender, or in which Lender is granted a security interest, as and for additional security hereunder by Mortgagor, or by anyone on behalf of, or with the written consent of, Mortgagor.

All of the property and interests in property described in the foregoing granting clauses A through F, both inclusive, are herein sometimes collectively called the "Property." The personal property described in granting clause D and all other personal property covered by this Mortgage are herein sometimes collectively called the "Personal Property."

SUBJECT, HOWEVER, to the easements, rights-of-way and other exceptions described on Exhibit B attached hereto and hereby made a part hereof (the "Permitted Exceptions").

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

3. Warranties of Title. Mortgagor covenants with Lender that Mortgagor is lawfully seized in fee simple of the Real Estate and is the lawful owner of, and has good title to, the Personal Property, Improvements and other Property and has a good right to sell, mortgage, grant a security interest in, assign and convey the Property as aforesaid; that the Property is free of all mortgages, liens, security interests, assignments and encumbrances, unless otherwise provided hereinbefore; and that Mortgagor will warrant and forever defend the title to the Property unto Lender against the lawful claims of all persons.

4. Maintenance of Lien Priority. Mortgagor shall take all steps necessary to preserve and protect the validity and priority of the liens on, security interests in, and assignment of, the Property created hereby. Mortgagor shall execute, acknowledge and deliver such additional instruments as Lender 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 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 Mortgagor.

5. Representations and Warranties Related to Rents and Leases. Mortgagor represents and warrants that:

(a) Mortgagor has good title to the Rents and Leases hereby assigned and good right to assign the same, and no other person, corporation or entity has any right, title or interest therein.

(b) Mortgagor has duly and punctually performed all and singular the terms, covenants, conditions and warranties of the Existing Leases on Mortgagor's part to be kept, observed and performed.

(c) Mortgagor has not previously sold, assigned, transferred, mortgaged or pledged the Leases or the Rents, whether now due or hereafter to become due.

(d) No rents due for any period subsequent to the month next succeeding the date of this Mortgage have been collected, and no payment of any of the Rents has otherwise been anticipated, waived, released, discounted, set-off or otherwise discharged or compromised.

(e) Mortgagor has not received any funds or deposits from any lessee in excess of one month's rent for which credit has not already been made on account of accrued rents.

(f) To the best of Mortgagor's knowledge, the lessees under the Existing Leases are not in default under any of the terms thereof.

6. Covenants To Pay Liens and Maintain Insurance. For the purpose of further securing the payment of the Obligations, Mortgagor covenants and agrees to: (a) pay all taxes, assessments, and other liens taking priority over this Mortgage (hereinafter jointly called "Liens"), and if default is made in the payment of the Liens, or any part thereof, Lender, at its option, may pay the same; and (b) keep the Property continuously insured, in such manner and with such companies as may be satisfactory to Lender, against loss by flood (if the Property is located in a flood-prone area), fire, windstorm, vandalism and malicious mischief and other perils usually covered by a fire insurance policy with standard extended coverage endorsement, with loss, if any, payable (pursuant to loss payable clauses in form and content satisfactory to Lender) to Lender, as its interests may appear. Each such policy or policies shall provide that the insurance provided thereby, as to the interest of Lender, shall not be invalidated by any act or neglect of Mortgagor, nor by the commencement by or against Mortgagor of bankruptcy, insolvency, receivership or other proceedings for the relief of a debtor, nor by any foreclosure, repossession or other proceedings relating to the property insured, nor by any occupation of such property or the use of such property for purposes more hazardous than permitted in the policy. All such insurance shall be replacement cost coverage rather than actual cash value coverage and shall be in an amount at least equal to the full insurable value of the Personal Property and Improvements unless Lender agrees in writing that such insurance may be in a lesser amount. Mortgagor agrees that Mortgagor will not take any action or fail to take any action, which would result in the invalidation of any insurance policy required hereunder. Mortgagor shall give Lender immediate written notice of any loss or damage to the Property caused by any casualty. Mortgagor shall cause duplicate originals of any and all such insurance policies and all replacements therefor to be deposited with Lender. At least thirty (30) days prior to the date the premiums on each such policy or policies shall become due and payable, Mortgagor shall furnish to Lender evidence of the payment of such premiums. The original insurance policy and all replacements therefor must provide that they may not be canceled and shall not lapse without the insurer's giving at least thirty (30) days' prior written notice of such cancellation or lapse, in whole or in part, to Lender. If Mortgagor fails to keep the Property insured as above specified, Lender may at its option and sole discretion, insure the Property for its insurable value against loss by fire, wind and other hazards as specified above for the sole benefit of Lender and may procure such insurance at Mortgagor's expense.

7. Assignment of Insurance Policies, etc. Mortgagor hereby assigns and pledges to Lender, as further security for the payment of the Obligations, each and every policy of hazard insurance now or hereafter in effect which insures the Property, or any part thereof (including, without limitation, the Personal Property and Improvements, or any part thereof), together with all right, title and interest of Mortgagor in and to each and every such policy, including, but not limited to, all Mortgagor's right, title and interest in and to any premiums paid on each such policy, including, but not limited to, all rights to return premiums. If Mortgagor fails to keep the Property insured as specified above then, at the election of Lender and without notice to any person, Lender may, but shall not be obligated to, insure the Property for its full insurable value (or for such lesser amount as Lender may wish) against such risks of loss and for its own benefit. The proceeds from such insurance (less the costs of collecting the same), if collected, shall be credited against the Obligations, or, at the election of Lender, such proceeds may be used to purchase additional Personal Property to replace Personal Property which has been damaged or destroyed and to repair or reconstruct the Improvements.

All amounts spent by Lender for insurance or for the payment of Liens or for environmental testing or remediation shall become a debt due by Mortgagor to Lender and at once payable, without demand upon, or notice to, Mortgagor, and shall be secured by this Mortgage, and shall bear interest at the rate of interest set forth in the Term Note or such lesser rate of interest as shall then be the maximum amount permitted by law, from the date of payment by Lender until paid by Mortgagor. Lender is hereby authorized, but not required, on behalf of Mortgagor, to collect for, adjust or compromise any losses under any insurance policy or policies and to apply, at its option, the loss proceeds (less the costs of collecting the same) on the Obligations, in any order and amount, and whether or not due, or hold such proceeds as a cash collateral reserve against the Obligations or apply such proceeds to the restoration of the Property, or to release the same to Mortgagor, but no such application, holding in reserve or release shall cure or waive any default by Mortgagor. In case of a sale pursuant to the foreclosure provisions hereof, or any conveyance of all or any part of the Property in extinguishment of the Obligations, complete title to all insurance policies held by Lender and the unearned premiums with respect thereto shall pass to and vest in the purchaser or grantee of the Property. If the Property or any part thereof is located within an area that has been, or should such area at any time be, designated or identified as an area having special flood hazards by any governmental authority having jurisdiction, then Mortgagor shall obtain such insurance as is required by such governmental authority in amounts required by Lender.

8. Assignment of Condemnation Proceeds, etc. As further security for the Obligations and the full and complete performance of each and every obligation, covenant, agreement and duty of Mortgagor contained herein, and to the extent of the full amount of the Obligations secured hereby and of the costs and expenses (including, but not limited to, reasonable attorneys' fees) incurred by Lender in the collection of any award or payment, Mortgagor hereby assigns to Lender any and all awards or payments, including all interest thereon, together with the right to receive the same, that may be made to Mortgagor with respect to the 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 Property. All such damages, condemnation proceeds and consideration shall be paid directly to Lender, and after first applying said sums to the payment of all costs and expenses (including, but not limited to, reasonable attorneys' fees) incurred by Lender in obtaining such sums, Lender may, at its option, apply the balance on the Obligations in any order and amount and whether or not then due, or hold such balance as a cash collateral reserve against the Obligations, or apply such balance to the restoration of the Property, or release the balance to Mortgagor. No such application, holding in reserve or release shall cure or waive any default of Mortgagor.

9. Covenant Against Waste. Mortgagor agrees to take good care of the Real Estate and all Improvements and Personal Property and not to commit or permit any waste thereon or thereto, and at all times to maintain and preserve such Improvements and Personal Property in as good condition as they now are, reasonable wear and tear excepted. Mortgagor (a) shall not remove, demolish or alter the design or structural character of any buildings now or hereafter erected on the Real Estate without the express prior written consent of Lender, (b) shall comply with all laws and regulations of any governmental authority with reference to the Property and the manner and use of the same and (c) 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. Mortgagor agrees not to remove any of the fixtures or personal property included in the Property without the express prior written consent of Lender unless the same is immediately replaced with like property of at least equal value and utility.

Lender and other persons authorized by Lender shall have access to and the right, but not the obligation, to enter and inspect the Property at all reasonable times and upon reasonable notice to Mortgagor, including monthly inspections if deemed necessary by Lender. In the event Lender finds that Mortgagor is not maintaining the Property as required herein, Lender (a) may declare the Obligations to be at once due and payable under the terms of this Mortgage or (b) may, but shall not be obligated to, notify Mortgagor in writing of the needed repairs and Mortgagor shall have ten (10) business days to make satisfactory arrangements to bring the Property back to good condition. If Lender notifies Mortgagor in writing of such needed repairs and, after such time, satisfactory arrangements have not been made by Mortgagor to bring the Property back to good condition as determined in the sole discretion of Lender, Lender shall have the right, but not the obligation, (a) to make the repairs required at the expense of Mortgagor, or (b) to declare the Obligations to be at once due and payable under the terms of this Mortgage.

10. Hazardous Substances.

(a) No Hazardous Materials, as hereinafter defined, have been, are, or will be while any part of the indebtedness secured by this Mortgage remains unpaid, contained in, treated, stored, handled, located on, discharged from, or disposed of on, or constitute a part of, the Property except as required in the ordinary course of Mortgagor's business

(but then only if in compliance with the Environmental Laws, as hereinafter defined, and the Environmental Obligations, as hereinafter defined). As used herein, the term "Hazardous Materials" includes, without limitation, any asbestos, urea formaldehyde foam insulation, flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, pollutants or other contaminants, or related or unrelated substances or materials defined, regulated, controlled, limited or prohibited in the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601, et seq.) ("CERCLA"), the Hazardous Materials Transportation Act, as amended (49 U.S.C. § 1801, et seq.) ("HMTA"), the Resource Conservation and Recovery Act, as amended (42 U.S.C. § 6901 et seq.) ("RCRA"), the Clean Water Act, as amended (33 U.S.C. § 1251, et seq.) ("CWA"), the Clean Air Act, as amended (42 U.S.C. § 7401, et seq.) ("CAA"), the Toxic Substances Control Act, as amended (15 U.S.C. § 2601, et seq.) ("TSCA"), and in the rules and regulations adopted and publications promulgated pursuant thereto, and in the rules and regulations of the Occupational Safety and Health Administration ("OSHA") pertaining to occupational exposure to asbestos and any other toxic or hazardous materials, as amended, or in any other federal, state, or local environmental law, statute, ordinance, rule, or regulation now or hereafter in effect. The term "Environmental Laws" shall mean CERCLA, HMTA, RCRA, CWA, CAA, TSCA and all other federal, state and local laws, statutes, rules, ordinances and regulations relating to pollution or protection of human health or the environment. The term "Environmental Obligations" shall mean all applicable requirements of any existing federal, state or local statute, ordinance, rule or regulation, any judicial or administrative order (whether or not on consent), request or judgment, any common law doctrine or theory, and any provision or condition of any permit, license or other operating authorization (i) relating to protection of the environment, persons or the public welfare from actual or potential exposure (or the effects of exposure) to any actual or potential release, discharge or emission (whether past or present) of, or relating to, the possession, manufacture, processing, importation, use, treatment, storage or disposal of any chemical, raw material, pollutant, contaminant or Hazardous Material; or (ii) relating to occupational or public health or safety. Mortgagor shall comply in all respects with all existing and future Environmental Obligations and Environmental Laws, shall not use or store on, under or in the Property any Hazardous Materials in violation of any Environmental Obligation or Environmental Law and shall maintain in proper form all reports, certificates or other records required by any existing or future Environmental Law or Environmental Obligation.

(b) No underground storage tanks, whether in use or not in use, are located in, on or under any part of the Property.

(c) All of the Property complies and will comply in all respects with all applicable Environmental Laws and Environmental Obligations.

(d) There are no pending response actions, civil or criminal litigation, claims, or enforcement procedures, or threats of response actions, civil or criminal litigation, claims, or enforcement proceedings by private or governmental or administrative authorities relating to environmental impairment, conditions or regulatory requirements with respect to the Property;

(e) Mortgagor, at Mortgagor's expense, promptly upon the written request of Lender from time to time, shall provide Lender with an environmental audit report, or an update of such report, all in scope, form, and content satisfactory to Lender;

(f) In the event of any release, spill, or disposal of Hazardous Materials on the Property, whether or not the same originates or emanates from the Property or any contiguous real estate, and/or if Mortgagor shall fail to comply with any Environmental Law or Environmental Obligation, Lender may, at its election, but without the obligation so to do, give such notices as may be required by law and/or cause any remediation or response that may be necessary to be performed at the Property and/or take any and all other actions as Lender shall deem necessary or advisable in order to remedy said spill or disposal of Hazardous Materials and return the Property to a condition free of Hazardous Materials or cure said failure of compliance and any amounts paid as a result thereof, together with interest thereon at the default rate (as specified in the Term Note) from the date of payment by Lender, shall be immediately due and payable by Mortgagor to Lender and until paid shall be added to and become a part of the indebtedness secured hereby; and

(g) Mortgagor hereby agrees to indemnify and hold Lender harmless from all loss, costs, damages, claims, fines, penalties and expenses (including, but not limited to, reasonable attorneys' fees and costs of investigation and litigation) incurred by Lender on account of (i) the violation of any representation, warranty, agreement or covenant set forth in this paragraph, (ii) Mortgagor's failure to perform any obligations of this paragraph, (iii) Mortgagor's or the Property's failure to comply fully with all Environmental Laws and Environmental Obligations, and with all occupational health and safety laws, statutes, rules, and regulations, or (iv) any other matter related to environmental conditions on, under, or affecting the Property. This indemnification shall survive payment of the indebtedness secured by this Mortgage, the exercise of any right or remedy hereunder or under any other document securing or evidencing said indebtedness, any subsequent sale or transfer of the Property, and all similar or related events or occurrences. Mortgagor shall give immediate oral and written notice to Lender of its receipt of any notice of a violation of any law, ordinance, rule, or regulation covered by this paragraph or of any notice or other claim relating to the environmental condition of the Property, or of its discovery of any matter which would make the representations, warranties and/or covenants herein inaccurate or misleading in any respect.

11. Covenants Related to Rents and Leases. Mortgagor covenants and agrees that Mortgagor shall:

(a) observe, perform and discharge all obligations, covenants and warranties provided for under the terms of the Leases to be kept, observed and performed by Mortgagor, and shall give prompt notice to Lender in the event Mortgagor fails to observe, perform and discharge the same;

(b) enforce or secure in the name of Lender the performance of each and every obligation, term, covenant, condition and agreement to be performed by any lessee under the terms of the Leases;

(c) appear in and defend any action or proceeding arising under, occurring out of, or in any manner connected with the Leases or the obligations, duties or liabilities of Mortgagor and any lessee thereunder, and, upon request by Lender to do so in the name and on behalf of Lender but at the expense of Mortgagor, and to pay all costs and expenses of Lender, including, but not limited to, reasonable attorneys' fees, in any action or proceeding in which Lender may appear;

(d) not receive or collect any Rents from any present or future lessee of the Real Estate or any of the Improvements, or any part thereof, for a period of more than one month in advance, or pledge, transfer, mortgage or otherwise encumber or assign future payments of the Rents;

(e) not waive, excuse, condone, discount, set off, compromise, or in any manner release or discharge any lessee of the Real Estate or any of the Improvements of and from any obligations, covenants, conditions and agreements by said lessee to be kept, observed and performed, including the obligation to pay rent in the manner and at the place and time specified in any Lease;

(f) not cancel, terminate or consent to any surrender of any Lease, or modify or in any way alter the terms thereof without, in each such instance, the prior written consent of Lender;

(g) not renew or otherwise extend the term of the Existing Leases; provided, however, that nothing herein contained shall prevent Mortgagor, upon expiration of the now-current term (or other expiration or termination) of the Existing Leases, from leasing the property covered thereby to the lessee thereunder by a lease or leases expressly subject and fully subordinate to the lien, assignment and security interest of this Mortgage; and

(h) promptly upon the execution by Mortgagor of any Lease, (i) furnish Lender with the name and address of the lessee thereunder, the term of such Lease and a description of the premises covered thereby and, upon request of Lender, a copy of such Lease, and (ii) execute all such further assignments of such Lease and the Rents therefrom as Lender may require.

12. Covenant Against Sale, Lease or Transfer, etc. Notwithstanding any other provision of this Mortgage or the Notes, if the Real Estate or the Improvements, or any part thereof, or any interest therein, is sold, leased, conveyed or transferred, without Lender's prior written consent, or if the Real Estate or the Improvements, or any part thereof, or any interest therein, becomes subject to any additional lien, mortgage or other encumbrance, either voluntarily or involuntarily, without Lender's prior written consent, Lender may, at its sole option: (a) declare the Obligations immediately due and payable in full, or (b) require the payment, after the date of such sale, lease, conveyance or transfer, of a higher rate of interest on the unpaid principal portion of the Obligations as a condition to not exercising such option to accelerate the Obligations, whether such rights be exercised by Lender to obtain a higher rate of interest on the Obligations or to protect the security of this Mortgage.

13. Defeasance. This Mortgage is made upon the condition that if Mortgagor pays the Obligations, as defined in this Mortgage, and reimburses Lender for any amounts Lender has paid in respect of Liens, insurance premiums, Hazardous Substances, or otherwise under this Mortgage, and interest thereon, and fulfills all of its other obligations under this Mortgage, this conveyance shall be null and void.

14. Events of Default. Mortgagor shall be deemed in default hereunder upon the occurrence of any of the following events ("Events of Default"): (a) Gradco shall fail to pay to Lender when due the principal or interest on the Term Note, the Line of Credit Note or any other Obligation secured hereby; or (b) Mortgagor fails to comply with any provision of any Loan Document; or (c) any statement, representation or warranty contained in this Mortgage, any other Loan Document or any report, certificate or other instrument delivered to Lender shall be untrue or misleading in any material respect; or (d) Mortgagor sells, conveys, transfers, mortgages or further encumbers all or part of the Property; or (e) any lien, statement of lien or suit to enforce a lien is filed against any of the Property and Mortgagor fails to have such lien satisfied or suit dismissed or to secure the payment of the amount claimed by such lien, statement of lien or suit by a bond, letter of credit or other security satisfactory to Lender within thirty (30) days of the day such lien or statement of lien is filed in the office of the Judge of Probate of the County in which the Real Estate is located or such suit is filed in court; or (f) any other default or event of default occurs under any Loan Document; or (g) Mortgagor or any co-maker, endorser, surety, or guarantor of the Notes or any of the other Obligations (hereinafter collectively called the "Obligors" and singularly an "Obligor") fails to pay such Obligor's debts, including, but not limited to, (i) the debt secured by that certain Mortgage dated June 23, 1995, executed by Mortgagor in favor of Virginia Proctor Bigler, Hugh Patterson Bigler, Jr., and Virginia Kent Bigler Jones as trustees under the Last Will and Testament of Hugh P. Bigler, deceased, filed for record on August 11, 1995, and recorded as Instrument No. 1995-22017 in the Office of the Judge of Probate of Shelby County, Alabama, and (ii) the debt secured by certain mortgage filed for record May 8, 1990, executed by Mortgage in favor of the Small Business Administration, and recorded as Instrument No. 1992-31838, in the Probate Office of Shelby County, Alabama, generally as they become due, admits in writing any such Obligor's inability to pay such Obligor's debts as they become due, or if a receiver, trustee, liquidator or other custodian is appointed for

any Obligor or for any of the property of any Obligor, or if a petition in bankruptcy (whether for liquidation, reorganization, arrangement, wage-earner's plan or otherwise) is filed by or against any Obligor and such petition is not dismissed within 90 days of its filing, or if any Obligor applies for the benefits of, or takes advantage of, any law for the relief of debtors, or enters into an arrangement or composition with, or makes an assignment for the benefit of, creditors; or (h) Lender at any time in good faith deems itself insecure for any reason with respect to the Loans; or (i) Summers ceases to be employed by Gradco or a director, officer or the sole stockholder of Gradco; or (j) the interest of Lender in any of the Property becomes endangered by reason of the enforcement of any prior lien or encumbrance thereon; or (k) any law is passed imposing, or authorizing the imposition of, any specific tax upon this Mortgage or the Obligations or permitting or authorizing the deduction of any such tax from the principal of, or interest on, the Obligations, or by virtue of which any tax, lien or assessment upon the Property shall be chargeable against the owner of this Mortgage, and Mortgagor does not pay or is prohibited from paying such tax; or (l) any stipulation contained in this Mortgage is declared invalid or inoperative by any court of competent jurisdiction; or (m) a final judgment for the payment of money in excess of an aggregate of \$50,000 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 by appeal or otherwise; or (n) 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, lien or encumbrance on the Real Estate or any part thereof, shall occur and be continuing; or (o) Summers dies and Lender, in its sole and absolute discretion, deems such event to be an event of default; or (p) Gradco dissolves, merges, consolidates, is a party to a share exchange or sells all or substantially all of its assets.

15. Rights and Remedies of Lender Upon Default.

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

(b) Operation of Property by Lender. Upon the occurrence of an Event of Default or at any time thereafter, in addition to all other rights herein conferred on Lender, Lender (or any person, firm or corporation designated by Lender) may, but will not be obligated to, enter upon and take possession of any or all of the Property, exclude Mortgagor therefrom, and hold, use, administer, manage and operate the same to the

extent that Mortgagor could do so, without any liability to Mortgagor resulting therefrom; and Lender may collect, receive and retain all proceeds accruing from such operation and management, make repairs and purchase needed additional property, and exercise every power, right and privilege of Mortgagor with respect to the Property.

(c) Judicial Proceedings; Right to Receiver. Upon the occurrence of an Event of Default or at any time thereafter, Lender, in lieu of, or in addition to, exercising the power of sale hereinafter given, may proceed by suit to foreclose its lien on, security interest in, and assignment of, the Property, to sue 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. Lender 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 Mortgagor or any other party, of a receiver of the rents, issues and profits of the Property, with power to lease and control the 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, this Mortgage shall be subject to foreclosure and may be foreclosed as now provided by law in case of past due mortgages, and Lender shall be authorized, at its option, whether or not possession of the Property is taken, after giving notice by publication once a week for three (3) consecutive weeks of the time, place and terms of each such sale, together with a description of the property, in some newspaper published in the county where the Property is located (if the Property is located in more than one county, publication will be made in all counties where the Property is located), to sell the Property (or such part or parts thereof as Lender may from time to time elect to sell) in front of such county's courthouse door, at public outcry, to the highest bidder for cash. If no newspaper is published in the county where the Property is located, notice will be published in a newspaper of an adjoining county. Lender, its successors and assigns, may bid at any sale or sales had under the terms of this Mortgage and may purchase the 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 Property, real, personal or mixed, may be offered for sale in parcels or en masse for one total price, the proceeds of any such sale 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, Mortgagor hereby waiving the application of any doctrine of marshalling or like proceeding. In case Lender, in the exercise of the power of sale herein given, elects to sell the 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 Property not previously sold shall have been sold or all the Obligations secured hereby shall have been paid in full.

(e) Personal Property and Fixtures. Upon the occurrence of an Event of Default or at any time thereafter, Lender shall have and may exercise with respect to the Personal Property and fixtures included in the 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. Lender 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 Lender, at its option and its sole discretion, to repair, restore or otherwise prepare the Collateral for sale, lease or other use or disposition. At Lender's request, Mortgagor shall assemble the Collateral and make the Collateral available to Lender at any place designated by Lender. To the extent permitted by law, Mortgagor expressly waives any notice of sale or any other disposition of the Collateral and any rights or remedies of Lender with respect to, and the formalities prescribed by law relative to, the sale or disposition of the Collateral or to the exercise of any other right or remedy of Lender existing after default. To the extent that such notice is required and cannot be waived, Mortgagor agrees that if such notice is given to Mortgagor in accordance with the provisions of paragraph 31 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.

Mortgagor agrees that Lender may proceed to sell or dispose of both the real and personal property comprising the Property in accordance with the rights and remedies granted under this Mortgage with respect to the real property covered hereby. Mortgagor hereby grants Lender the right, at its option after the occurrence of an Event of 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 same and to hold the same as Collateral or to apply it on the Obligations in such order and amounts and manner as Lender may elect. Mortgagor covenants and agrees that all recitals in any instrument transferring, assigning, leasing 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 Lender and that all prerequisites of sale shall be presumed conclusively to have been performed or to have occurred.

(f) Rents and Leases. Upon the occurrence of an Event of Default or at any time thereafter:

(i) Lender, at its option, shall have the right, power and authority to exercise and enforce any or all of the following rights and remedies with respect to Rents and Leases:

(a) to terminate the license granted to Mortgagor in granting clause C(3) hereof to collect the Rents, and, without taking possession, in Lender's own name to demand, collect, receive, sue for, attach and levy the Rents, to give proper receipts, releases and acquittances therefor, and after deducting all necessary and reasonable costs and expenses of collection, including, but not limited to, reasonable attorneys' fees, to apply the net proceeds thereof to the Obligations in such order and amounts as Lender may choose (or hold the same in a reserve as security for the Obligations);

(b) without regard to the adequacy of the security, with or without any action or proceeding, through any person or by agent, or by a receiver to be appointed by court, to enter upon, take possession of, manage and operate the Property or any part thereof for the account of Mortgagor, make, modify, enforce, cancel or accept surrender of any Lease, remove and evict any lessee or sublessee, increase or reduce rents, decorate, clean and make repairs, and otherwise do any act or incur any cost or expenses Lender shall deem proper to protect the security hereof, as fully and to the same extent as Mortgagor could do if in possession, and in such event to apply any funds so collected to the operation and management of the Property (including, but not limited to, payment of reasonable management, brokerage and attorneys' fees) and payment of the Obligations in such order and amounts as Lender may choose (or hold the same in reserve as security for the Obligations);

(c) to take whatever legal proceedings may appear necessary or desirable to enforce any obligation or covenant or agreement of Mortgagor under this Mortgage.

(ii) The collection of the Rents and application thereof (or holding thereof in reserve) as aforesaid or the entry upon and taking possession of the Property or both shall not cure or waive any default or waive, modify or affect any notice of default under this Mortgage, or invalidate any act done pursuant to such notice, and the enforcement of such right or remedy by Lender, once exercised, shall continue for so long as Lender shall elect, notwithstanding that the collection and application aforesaid of the Rents may have cured the original default. If Lender shall thereafter elect to discontinue the exercise of any such right or remedy, the same or any other right or remedy hereunder may be reasserted at any time and from time to time following any subsequent default.

(g) Application of Proceeds. All payments received by Lender as proceeds of the Property, or any part thereof, as well as any and all amounts realized by Lender in connection with the enforcement of any right or remedy under or with respect to this Mortgage, shall be applied by Lender 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, but not limited to, reasonable attorneys' fees as provided herein, (ii) to the payment in full of any of the Obligations that are 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, (iii) to a cash collateral reserve fund to be held by Lender in an amount equal to, and as security for, any of the Obligations that are not then due and payable, and (iv) the remainder, if any, shall be paid to Mortgagor or such other person or persons as may be entitled thereto by law, after deducting therefrom the cost of ascertaining their identity.

(h) Multiple Sales. Upon the occurrence of any Event of Default or at any time thereafter, Lender shall have the option to proceed with foreclosure, either through the courts or by proceeding with foreclosure as provided for in this Mortgage, but without declaring the whole Obligations due. Any such sale may be made subject to the unmatured part of the Obligations secured by this Mortgage, and such sale, if so made, shall not in any manner affect the unmatured part of the Obligations secured by this Mortgage, but as to such unmatured part of the Obligations this Mortgage shall remain in full force and effect as though no sale had been made under the provisions of this paragraph. Several sales may be made under the provisions of this paragraph without exhausting the right of sale for any remaining part of the Obligations whether then matured or unmatured, the purpose hereof being to provide for a foreclosure and sale of the Property for any matured part of the Obligations without exhausting any power of foreclosure and the power to sell the Property for any other part of the Obligations, whether matured at the time or subsequently maturing.

(i) Waiver of Appraisement Laws. Mortgagor waives, to the fullest extent permitted by law, the benefit of all laws now existing or hereafter enacted providing for (i) any appraisement before sale of any portion of the Property (commonly known as appraisement laws), or (ii) any extension of time for the enforcement of the collection of the Obligations or any creation or extension of a period of redemption from any sale made in collecting the Obligations (commonly known as stay laws and redemption laws).

(j) Prerequisites of Sales. In case of any sale of the Property as authorized by this paragraph, all prerequisites to the sale shall be presumed to have been performed, and in any conveyance given hereunder all statements of facts, or other recitals therein made, as to the nonpayment of any of the Obligations or as to the advertisement of sale, or the time, place and manner of sale, or as to any other fact or thing, shall be taken in all courts of law or equity as prima facie evidence that the facts so stated or recited are true.

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

16. Set-Off. Upon the occurrence and during the continuance of any Event of Default, Lender is hereby authorized at any time and from time to time, without notice to Mortgagor (any such notice being expressly waived by Mortgagor), to set off and apply any and all deposits (general or special, checking, depository or otherwise, time or demand, provisional or final) at any time held and other indebtedness at any time owing by Lender to or for the credit or the account of Mortgagor against any and all of the Obligations, irrespective of whether or not Lender shall have made any demand therefor and although such Obligations may be unmatured. Lender agrees promptly to notify Mortgagor after any such set-off and application, provided that the failure to give such notice shall not affect the validity of such set-off and application. The rights of Lender under this paragraph are in addition to all other rights and remedies (including, without limitation, other rights of set-off or pursuant to any banker's lien) which Lender may have.

17. Collection Costs. Mortgagor agrees to pay all costs, including, but not limited to, reasonable attorneys' fees, incurred by Lender in collecting or securing, or attempting to collect or secure, the Obligations, or any part thereof, or in defending or attempting to defend the priority of this Mortgage against any Lien on the Property unless this Mortgage is herein expressly made subject to any such Lien; and/or all costs incurred in the foreclosure of this Mortgage, either under the power of sale contained herein, or by virtue of the decree of any court of competent jurisdiction. The full amount of such costs incurred by Lender shall be a part of the Obligations and shall be secured by this Mortgage.

18. Financial Statements, Etc.

(a) Summers hereby agrees to provide to Lender no later than one hundred twenty (120) days after the end of each of Mortgagor's fiscal years (being December 31 of each year) or upon Lender's request an annual financial statement of Mortgagor for the immediately preceding fiscal year prepared in accordance with the books and records of Mortgagor and as soon as practical, from time to time, such other information regarding the financial condition of Mortgagor as Lender may reasonably request; and

(b) Gradco shall deliver to Lender:

(i) within one hundred twenty (120) days after the end of Gradco's fiscal year (being December 31 of each year), the balance sheet of Gradco as of the end of such year and the related statements of profits and losses and changes in cash flow of Gradco for such fiscal year, together with supporting schedules, all on a comparative basis with the prior fiscal year, in reasonable detail (including, without limitation, all computations necessary to show Gradco's compliance with all financial

covenants contained in the Loan Documents), prepared in accordance with generally accepted accounting principles consistently applied throughout the periods involved, and received by independent certified public accountants of recognized standing showing the financial condition, assets, liabilities and stockholders' equity of Gradco at the close of such year and the results of the operations of Gradco during such year; and

(ii) within forty-five (45) days after the end of each calendar quarter, financial statements similar to those referred to in paragraph (b) of this section, certified by the President of Gradco, such balance sheet to be as of the end of each such quarter and such statements of profits and losses and changes in cash flow to be for the period from the beginning of the fiscal year to the end of such quarter; and

(iii) with the statements submitted under paragraphs (b)(i) and (b)(ii) of this Section, a certificate signed by the party certifying said statements to the effect that no Event of Default, nor any event which, upon notice or lapse of time or both, would constitute an Event of Default, has occurred or, if any such Event of Default or event has occurred, specifying the nature and extent thereof; and

(iv) promptly upon receipt thereof, copies of all other reports, management letters and other documents submitted to Gradco by independent accountants in connection with any annual or interim audit of the books of Gradco made by such accountants; and

(v) as soon as practical, from time to time, such other information regarding Gradco's operations, business affairs and financial condition as Lender may reasonably request.

(c) Mortgagor shall deliver to Lender within thirty (30) days after the end of Mortgagor's fiscal year (being December 31 of each year) a "rent roll" with respect to the Property which shall include (i) a list of all tenants occupying any part of the Property during such fiscal year, (ii) the amount of rent paid by each such tenant during such fiscal year, and (iii) the amount of rent that was due from each such tenant during such fiscal year.

19. No Obligations with Respect to Leases. Lender shall not by virtue of this Mortgage or otherwise assume any duties, responsibilities, liabilities or obligations with respect to Leases, the Improvements, the Personal Property, the Real Estate or any of the other Property (unless expressly assumed by Lender under a separate agreement in writing), and this Mortgage shall not be deemed to confer on Lender any duties or obligations that would make Lender directly or derivatively liable for any person's negligent, reckless or wilful conduct. Mortgagor agrees to defend, indemnify and save harmless Lender from and against any and all claims, causes of action and judgments relating to Mortgagor's performance of its duties, responsibilities and obligations

under any Leases and with respect to the Real Estate, the Improvements, the Personal Property, or any of the other Property.

20. Construction of Mortgage. This Mortgage is and may be construed as a mortgage, deed of trust, 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 hereof and the assignment and security interest created hereby and the purposes and agreements herein set forth.

21. Successors and Assigns. All covenants and agreements herein made by the undersigned shall bind the undersigned and the heirs, personal representatives, successors and assigns of the undersigned; and every option, right and privilege herein reserved or secured to Lender shall inure to the benefit of Lender's successors and assigns.

22. Waiver and Election. The exercise by Lender 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 Obligations or for the whole of the Obligations, 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 Lender 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 are cumulative and not exclusive of any remedies provided by law. No amendment, modification, termination or waiver of any provisions of this Mortgage, nor consent to any departure by Mortgagor therefrom, shall be effective unless the same shall be in writing and signed by an executive officer of Lender, and then such waiver or consent shall be effective only in this specific instance and for the specific purpose for which given. No notice to, or demand on, Mortgagor in any case shall entitle Mortgagor to any other or further notice or demand in similar or other circumstances.

23. 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 Lender to effectuate the provisions hereof.

24. Application of Payments. If the lien, assignment or security interest created by this Mortgage is invalid or unenforceable as to any part of the Obligations or is invalid or unenforceable as to any part of the Property, the unsecured or partially secured portion of the Obligations shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the Obligations, and all payments made on the Obligations, whether voluntary or under foreclosure or other enforcement action or procedures, shall be considered to have been

first paid on, and applied to, the full payment of that portion of the Obligations which is not secured or not fully secured by said lien, assignment or security interest created hereby.

25. Not Homestead. Mortgagor hereby certifies that the Property does not constitute a homestead (as defined by ALA. CODE § 6-10-2 (1993 Repl.)).

26. 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 "Lender" shall include their respective successors and assigns. Plural or singular words used herein to designate the undersigned shall be construed to refer to the maker or makers of this instrument, whether one or more natural persons, corporations, associations, partnerships, limited liability companies, or other entities.

27. Advances by Lender. If Mortgagor shall fail to comply with the provisions hereof with respect to the securing of insurance, the payment of Liens, the keeping of the Property in repair and free of Hazardous Substances, the performance of Mortgagor's obligations under any Lease, the payment of any prior mortgages, or the performance of any other term or covenant herein contained, Lender may (but shall not be required to) make advances to perform the same, and where necessary enter the Property for the purpose of performing any such term or covenant. 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 Term Note, or the highest rate permitted by law, whichever shall be less, and all sums so advanced with interest shall be a part of the Obligations and shall be secured hereby. The making of any such advances shall not be construed as a waiver by Lender of any Event of Default resulting from Mortgagor's failure to pay the amounts paid.

28. Release or Extension by Lender. Lender, without notice to Mortgagor and without in any way affecting the rights of Lender hereunder as to any part of the Property not expressly released, may release any part of the Property or any person liable for any of the Obligations and may agree with any party with an interest in the Property to extend the time for payment of all or any part of the Obligations or to waive the prompt and full performance of any term, condition or covenant of the Term Note, the Line of Credit Note, this Mortgage, any other Loan Document or any other document or instrument evidencing or securing the Obligations.

29. Partial Payments. Acceptance by Lender of any payment of less than the full amount due on the Obligations shall be deemed acceptance on account only, and the failure of 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 Obligations has been paid, Lender 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.

30. Addresses for Notices. All notices, requests, demands and other communications provided for hereunder shall be in writing or by telex, telegram or cable and mailed or sent or

delivered to the applicable party at its address indicated on the first page of this Mortgage or at such other address as shall be designated by such party in a written notice to the other parties hereto.

31. Other Mortgages Encumbering the Property. Mortgagor hereby authorizes the holder of any other mortgage encumbering the Real Estate or the Improvements to disclose to Lender from time to time and at any time the following information: (a) the amount of debt secured by such mortgage, (b) the amount of such debt that is unpaid, (c) whether such debt is or has been in arrears, (d) whether there is or has been any default with respect to such mortgage or the debt secured thereby, and (e) any other information regarding such mortgage or the debt secured thereby that Lender may request from time to time. Mortgagor expressly 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 or the Improvements, Lender may, but shall not be required to, pay all or any part of such amount in default, without notice to Mortgagor. Mortgagor agrees to repay any such sum advanced upon demand, with interest from the date such advance is made at the rate provided in the Term Note, and any sum so advanced, together with the interest thereon, shall be a part of the Obligations secured by this Mortgage.

32. 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.

33. Expenses. Mortgagor shall pay all costs and expenses incurred by Lender in connection with preparing and recording this Mortgage and enforcing Lender's rights hereunder, including, but not limited to, reasonable attorneys' fees.

34. Amendments. No amendment, modification or cancellation of this Mortgage shall be valid unless in writing and signed by the party against whom enforcement is sought.

35. Governing Law. This Mortgage shall be governed and construed under the laws of the state of Alabama.

[SIGNATURES INTENTIONALLY PLACED ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, Mortgagor has executed this Mortgage on the day and year first above written.

Robert B. Rubin
Witness

Michael R. Summers (L.S.)
Michael R. Summers

GRADCO INC., an Alabama corporation

Robert B. Rubin
Witness

By: Michael R. Summers
Michael R. Summers, President

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that **Michael R. Summers**, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said mortgage, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 29th day of October, 1999.

Harold H. [Signature]
Notary Public
My Commission Expires: 12/31/99

[SEAL]

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that **Michael R. Summers**, whose name as President of Gradco, Inc., an Alabama 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 as such officer 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 the 29th day of October, 1999.


NOTARY PUBLIC

My Commission Expires: 12/31/99

[SEAL]

This instrument prepared by:

Herbert Harold West, Jr.
CABANISS, JOHNSTON, GARDNER,
DUMAS & O'NEAL
2001 Park Place North, Suite 700
P. O. Box 830612
Birmingham, Alabama 35283-0612
(205) 716-5200

**EXHIBIT A
TO
MORTGAGE, SECURITY AGREEMENT AND
ASSIGNMENT OF RENTS AND LEASES**

[Property Description]

Exhibit A

PARCEL I:

Lot 3, according to Bigler's Resurvey, as recorded in Map Book 8, Page 106, in the Probate Office of Shelby County, Alabama, more particularly described as follows:

A Parcel of land situated in the SE 1/4 of Section 29, and in the SW 1/4 of Section 28, both sections being in Township 18 South, Range 1 West, Shelby County, Alabama, said parcel being more particularly described as follows:

Begin at the Northwest corner of the SW 1/4 of said SE 1/4 of Section 29, run in a Northerly direction along the Westerly line of said SE 1/4 for a distance of 132.09 feet; thence turning an angle to the right of 123 degrees, 00 minutes run in a Southeasterly direction for a distance of 581.68 feet; thence turning an angle to the left of 98 degrees, 31 minutes and run in a Northeasterly direction along the Southeasterly right of way line of Shelby County Highway #119 for a distance of 784.52 feet; thence turning an angle to the right of 90 degrees, 23 minutes, 57 seconds run in a Southeasterly direction for a distance of 116.54 feet; thence turning an angle to the left of 89 degrees, 35 minutes, 56 seconds run in a Northeasterly direction for a distance of 62 feet to the point of beginning of the land here described; thence turning an angle to the right of 95 degrees, 20 minutes, 08 seconds and run in a Southeasterly direction for a distance of 1959.03 feet; thence turning an angle of 78 degrees, 16 minutes to the left, run in a Northeasterly direction for a distance of 203.09 feet; thence turn an angle of 1 degree to the right continuing in a Northeasterly direction for a distance of 154.96 feet; thence turning an angle of 102 degrees, 44 minutes to the left run in a Northwesterly direction for a distance of 2168.35 feet to the Southeasterly right of way line of Shelby County Highway #119; thence turn an angle to the left of 92 degrees, 31 minutes, 10 seconds run in a Southwesterly direction along said Southeasterly right of way line for a distance of 72 feet to the point of curve of curve to the left, said curve being concave in a Southeasterly direction having a radius of 11,577.64 feet a central angle of 1 degree, 02 minutes, 26 seconds; thence along the arc of said curve to the left for a distance of 210.26 feet to the end of said curve; thence turning an angle to the left of 88 degrees, 44 minutes, 09 seconds from the chord of said curve, run in a Southeasterly direction for a distance of 112.79 feet; thence turning an angle to the right of 86 degrees, 20 minutes, 19 seconds run in a Southwesterly direction for a distance of 71.91 feet, more or less, to the point of beginning.

PARCEL II:

A Part of Lot 2, according to Bigler's Resurvey as recorded in Map Book 8, Page 106, in the Probate Office of Shelby County, Alabama, being more particularly described as follows:

Commence for the point of beginning at the Westernmost corner of Lot 2, of Bigler's Resurvey as recorded at the Shelby County Probate Records in Map Book 8, Page 106, (said point being the common corner of Lots 2 and 3 of Bigler's Resurvey); run thence in a Southeasterly direction along the South line of said Lot 2 for 2168.83 feet to an existing rebar found; thence turn an interior angle right of 102 degrees, 44 minutes, 38 seconds and run in a Northeasterly direction along the East line of said Lot 2 for 138.27 feet to a capped rebar set; thence turn an interior angle right of 77 degrees, 15 minutes, 22 seconds and run in a Northwesterly direction 2205.29 feet to the East right of way of Shelby County Highway #119 and a capped rebar set; thence turn an interior angle right of 87 degrees, 28 minutes, 11 seconds and run Southwesterly along said East right of way for 135.0 feet to an existing rebar found and the point of beginning, said land being the part of Lot 2, of Bigler's Resurvey, and being in Sections 28 and 29, Township 18 South, Range 1 West, Shelby County, Alabama.

PARCEL III:

A Parcel of land situated in the Southeast Quarter of Section 29, Township 18 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Southwest corner of said quarter section; thence run North along the West line of said quarter section for a distance of 1,460.00 feet to a point; thence turn an angle to the right of 123 degrees, 00 minutes, 00 seconds and run in a Southeasterly direction for a distance of 581.68 feet to a point on the Southeast line of an eighty foot wide right of way for Alabama county Highway #119; thence turn an angle to the left of 98 degrees, 31 minutes, 00 seconds and run in a Northeasterly direction along said Southeast right of way line for a distance of 23.23 feet to the intersection with the Southeast right of way line of Highway #119 and the Northeast of a 60 foot right of way line for a county road; thence continue along last stated course for a distance of 549.91 feet to an iron pin found at the point of beginning; thence continue along last stated course for a distance of 251.29 feet to an iron pin set at the Southwest corner of Harris Cemetery; thence turn an angle to the right of 90 degrees, 23 minutes, 57 seconds and run in a Southeasterly direction for a distance of 116.54 feet to an iron pin set at the Southeast corner of Harris

PARCEL III. Continued:

Cemetery; thence turn an angle to the left of 89 degrees, 35 minutes, 56 seconds and run in a Northeasterly direction for a distance of 62.00 feet to an iron pin set; thence turn an angle to the right of 95 degrees, 29 minutes, 26 seconds and run in a Southeasterly direction for a distance of 885.32 feet to an iron pin set; thence turn an angle to the right of 90 degrees, 00 minutes, 00 seconds and run in a Southwesterly direction for a distance of 100.00 feet to an iron pin set; thence turn an angle to the right of 90 degrees, 00 minutes, 00 seconds and run in a Northwesterly direction for a distance of 34.49 feet to an iron pin set; thence turn an angle to the left of 90 degrees, 00 minutes, 00 seconds and run in a Southwesterly direction for a distance of 183.69 feet to an iron pin found; thence turn an angle of right of 90 degrees, 00 minutes, 00 seconds and run in a Northwesterly direction for a distance of 937.67 feet to the point of beginning.

PARCEL IV:

A Part of Lot 2, Bigler's Resurvey, as recorded in Map Book 8, Page 106, in the Office of the Judge of Probate of Shelby County, Alabama, being more particularly described as follows:

Commence at the Westernmost corner of Lot 2 of Bigler's Resurvey as recorded in Map Book 8, Page 106, in the Office of the Judge of Probate of Shelby County, Alabama, said point being the intersection of the Southwesterly line of said Lot 2, and the Southeasterly right of way line of Shelby County Highway #119 and run in a Northeasterly direction along the Northwesterly line of said Lot 2, and the Southeasterly right of way line of Shelby County Highway #119 a distance of 135.11 feet to the Point of Beginning; thence continue in a Northeasterly direction along the Northwesterly line of said Lot 2, and the Southeasterly right of way line of said highway a distance of 60.06 feet to a point; thence 92 degrees, 32 minutes, 47 seconds to the right in a Southeasterly direction a distance of 2221.44 feet to a point on the Southeasterly line of said Lot 2; thence 102 degrees, 41 minutes, 43 seconds to the right in a Southwesterly direction along the Southeasterly line of said Lot 2 a distance of 61.50 feet to a point; thence 77 degrees, 18 minutes, 17 seconds to the right in a Northwesterly direction a distance of 2205.25 feet to the Point of Beginning.

EXHIBIT B
TO
MORTGAGE, SECURITY AGREEMENT AND
ASSIGNMENT OF RENTS AND LEASES

PARCELS I, II, III AND IV

1. Right of Way granted to Alabama Power Company by instrument(s) recorded in the Office of the Judge of Probate of Shelby County, Alabama in Volume 109, Page 502 and Volume 119, Page 251.
2. Right of Way granted to Shelby County as recorded in the Office of the Judge of Probate of Shelby County, Alabama in Volume 135, Page 126.
3. Title to all minerals within the underlying the premises, together with all mining rights and other rights, privileges and immunities relating thereto, together with any release of liability for injury or damage to persons or property as a result of the exercise of such rights as recorded in the Office of the Judge of Probate of Shelby County, Alabama in Volume 149, Page 1.

PARCEL I ONLY

1. Mortgage given by Mike Summers to Small Business Administration, filed on May 8, 1990, and recorded in the Office of the Judge of Probate of Shelby County, Alabama in Real Volume 290, Page 306, and Subordination Agreement filed therewith in the Office of the Judge of Probate of Shelby County, Alabama in Instrument # 1992-31838.

PARCEL II ONLY

1. Mortgage given by Michael R. Summers to Virginia Proctor Bigler, Hugh Patterson Bigler, Jr. and Virginia Kent Bigler Jones, as Trustees under the last will and testament of Hugh P. Bigler, deceased, filed on August 11, 1995, and recorded in the Office of the Judge of Probate of Shelby County, Alabama in Instrument # 1995-22017.

PARCEL IV ONLY

1. Restrictions appearing of record in Map Book 8, Page 106 recorded in the Office of the Judge of Probate of Shelby County, Alabama.
2. Release of damages as recorded in Instrument #1997-24571 in the Office of the Judge of Probate of Shelby County, Alabama.

3. The following restrictions which appear of record in Statutory Warranty Deed recorded in the Office of the Judge of Probate of Shelby County, Alabama as Instrument #1997-24571:

- (a) No building or other structure shall be placed, constructed or erected within thirty (30) feet of the northerly boundary of the Real Property; provided, however, this restriction shall not prohibit a roadway being constructed within this thirty (30) feet, provided that any curbing or pavement is not within fifteen (15) feet of the northerly boundary of the Real Property.
- (b) Any road or roadway constructed on the Real Property shall include curb and gutters and shall, in addition, be constructed in accordance with specifications which are required for said road or roadway to be dedicated to and accepted by Shelby County for maintenance.

Inst # 1999-45252

11/02/1999-45252
03:48 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
030 MMS 3645.00