

Mortgage (Construction Loans)

**THIS IS A FUTURE
ADVANCE MORTGAGE**

15th June 2000

the end between

Mean Builders, Inc.

1024 Commerce Blvd Pelham, AL 35124

1900 5th Ave North, AST 10th Floor, Birmingham, AL 35203

Two Hundred Eighty Thousand Dollars

5 100/100.

280,000.00

entry on the summary note the "date" of main data receipt, which date bears interest as provided herein and is payable as set forth herein. (x4)

WHEREAS, the FUTURE ADVANCE MORTGAGE and the Note evidences its construction loan (the "loan"), the proceeds of which are to be advanced by the Mortgagee to the Mortgagor for the construction loan agreement of even date herewith (the "Construction Loan Agreement"); and, in addition to the indebtedness evidenced by the Note, the Mortgagee has advanced to the Mortgagor, whether now existing or hereafter arising, and

WARRANTS, the Mortgagee, in order to secure the Note, and in order to induce the Mortgagee to extend credit to the Mortgagee under the Loan, to pay to the Mortgagee the amount described herein to the Mortgagee as hereinafter set forth, has agreed to make and deliver to the Mortgagee

NOTE: In consideration of the interests, the Montgomery level is given with the Montgomes as follows:

LIBERTY AND GRANTING CLAUSES

CTION 1.81. Date. This Mortgage is given to secure and shall secure the payment of the following hereinafter collectively referred to as the "Debt"

(b) The term of the certificate shall extend to the Note and interest thereon and any and every extension, renewal and maturity thereon.

(b) all other indebtedness, obligations and liabilities of the Mortgagor to the Mortgagee of every kind and description whatsoever arising directly between the Mortgagor and the Mortgagee or acquired either, as a participation or as collateral security from another by the Mortgagee, direct or indirect, absolute or contingent, due or to become due, now existing, hereinafter incurred, contracted or arising, 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 agreement or instrument, and whether incurred as maker, endorser, surety, guarantor, member of a partnership, syndicate, joint venture, association or other group, or otherwise, and any and all interest thereon.

(c) the compliance with all the obligations, covenants, covenants, representations, warranties and conditions contained in this mortgage

CMOR 1.02. Granting Clauses. As security for the payment of the Debt the Mortgagor does hereby grant, bargain, sell and convey unto the Mortgagee, his successors and assigns, the property and assets, wherever situated, described in the following Granting Clauses (i) through (ii), both inclusive, and does grant to the Mortgagee a security interest in said property and assets, to-wit:

(c) The real estate described below, the "Real Estate" and all improvements, structures, buildings and fixtures now or hereafter situated thereon, the "Improvements"

Lot 3807, according to the Survey of Birkshire, 38th Addition to Riverchase, as recorded in Map Book 22 page 140 in the Probate Office of Shelby County, Alabama; being situated in Shelby Alabama. Mineral and mining rights excepted.

10:59 AM CERTIFIED

SWANSEA COUNTY JUDGE OF PROBATE

004 211 430.50

18 All permits, agreements, licenses, rights-of-way, contracts, privileges, easements, tenements and hereditaments now or hereafter pertaining to or affecting the land (state or the improvements thereon)

(c) All leases, written or oral, and all agreements for use or occupancy of any portion of the Real Estate, the improvements or any of the Personal Property described below with respect to the Real Estate, including any and all extensions and renewals of said leases and agreements and any and all further leases or agreements, now existing or hereafter made, including substitutes therefor, upon or covering the use or occupancy of all or any part of the Real Estate or the improvements, all such leases, substitutes, agreements and renewals, and limitations mentioned herein, hereinafter collectively referred to as the "Leases".

(b) any and all operations of the company and any subsidiary's performance under any of the terms

(ii) 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 in respect of the Mortgaged Premises 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 premises, or from or out of the land, fixtures or any of the improvements, or any part thereof, together with any and all rights and claims of any kind that the Mortgagee may have against any such issues under the lease or leases or subleases or accounts of the said estate or any of the improvements, all such monies, rights and claims in this paragraph described being hereinafter referred to as the "Mortgagee's Interest";

(n) any award, dividend or other payment made hereafter to the Mortgagee 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. The Mortgagee hereby appoints the mortgagee as the Mortgagee's representative to receive and to collect any such award, dividend or other payment.

(d) All building materials, equipment, fixtures, tools, apparatus and fittings of every kind or character now owned or hereafter acquired by the mortgagor for the purpose of or used or intended in connection with the improvements, wherever the same may be located, including, without limitation, all lumber and lumber products, bricks, stones, building blocks, sand, cement, building materials, glass, doors, windows, hardware, nails, wire, wiring, engines, boilers, furnaces, tanks, motors, generators, switchboards, elevators, escalators, plumbing, plumbing fixtures, air conditioning and heat equipment and appliances, electrical and gas equipment and appliances, stoves, refrigerators, dishwashers, hot water heaters, garbage disposers, trash compactors, other appliances, carpets, rug window treatments, lighting fixtures, tables, piping, decorative fixtures, and all other building materials, equipment and fixtures of every kind and character used or intended in connection with the improvements.

(c) 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 in any manner in which the Mortgagee is entitled to a security interest, as and for additional security hereunder by the Mortgagor, or by anyone on behalf of, or with the written consent of, the Mortgagee.

1 of the property and interests in property described in the foregoing Granting Clauses (a) through (e), both inclusive, of this Section 1.02 are hereby sometimes collectively referred to as the "Property." The parties

To have and to hold the Premises unto the Mortgagees, in witness and security hereof

2. REPRESENTATIONS AND WARRANTIES

The Ministerial represents and accounts to the Ministers that

SECTION 2.01. Warranties of Title. (a) The Mortgagor is lawfully seized in fee simple of the Real Estate and is the lawful owner of said land has good title to the Real Estate; (b) the Property is free of all taxes, assessments, liens, charges, security interests, assignments and encumbrances (other than those permitted encumbrances); and (c) the Mortgagor will warrant and forever defend the title to the Property unto the Mortgagee against the lawful claim of all persons.

CTION 1.02. Rents and Leases. (a) The Mortgagor has good title to the Rents and Leases hereby assigned and good right to assign the same, and no other person is entitled to receive any of or interfere therewith. (b) The Leases are not in default (on the part of the Mortgagor or the lessee). (c) The Mortgagor has not previously sold, assigned, transferred, or encumbered the Rents or Leases. (d) No Rents or deposits have been collected in advance or earned, released, set off, dishonored or compromised, and (e) no Lease is in existence on the date of this mortgage except as hereinbefore closed in writing by the Mortgagor.

12. COVENANTS AND AGREEMENTS OF MORTGAGOR

The Mortenson coversheet and agrees with the Mortenson as follows:

CTION 3.01. Maintenance of Lien Priority. The Mortgagee shall take all steps necessary to preserve and protect the validity and priority of the lien on security interests in and assignments of the property specified hereby. The Mortgagee shall exercise its knowledge and deliver such additional instruments as the mortgagee may deem necessary in order to preserve, protect, enforce, extend or renew the lien, security interests and assignments created hereby as first lien on, security interests in, and assignments of, the Property, except as otherwise permitted under the terms of the mortgage. All expenses incurred in connection with the protection, preservation, continuation, extension or maintaining of the lien, security interests and assignments hereby created shall be paid by the Mortgagor.

SECTION 3.02. Lapse and Insurance. For the purpose of further securing the payment of the Debt, the Mortgagee agrees to (a) pay all taxes, assessments, and other liens lawfully imposed upon the Property and if default is made in the payment of the Lapse, or any part thereof, the Mortgagee, at its option, may pay the same, (b) keep the Property continuously insured against fire, theft, and other perils, and with such measures as may be necessary to the Mortgagee, against loss by flood (if the Property is located in flood-prone area), fire, windstorm, vandalism and malicious mischief, and other perils, with a minimum insurance policy with standard extended coverage endorsement, with loss, if any, payable pursuant to loss payable clause in favor and contingent beneficiary to the Mortgagee, as to the first may apply, subject to the rights of the holder of any prior mortgage. Such insurance shall be in an amount of least equal to the full insurable value of the Personal Property and Improvements on the Property. The Mortgagee agrees in entering that such insurance may be in a lesser amount. The original insurance policy and all replacements therefore, shall be delivered by and held by the Mortgagee until the debt is paid in full. The original insurance policy and all replacements therefore must provide that they may not be canceled without the insurer giving at least fifteen days prior written notice to the Mortgagee.

SECTION 101 Assignment of Insurance Policy. The Mortgagee hereby assigns and pledges to the Mortgagee, as further security for the payment of the Debt, each and every policy of insurance insuring the Property or any part thereof (including without limitation the Personal Property and Improvements, or any part thereof, together with all title and interest in the Property) against fire and every such policy, including, but not limited to, all the Mortgagee's right, title and interest in and to any premiums paid on each such policy, including all rights to return amounts if the Mortgagee fails to keep the Property insured as specified above, then, at the election of the Mortgagee and without notice to any person, the Mortgagee may, and shall be obligated to, use the Property for all insurable value for the such lesser amount as the Mortgagee may wish against such risks of loss and for its own benefit. The proceeds from such policies shall be used for the following purposes: (a) to pay the amount of any loss, or, at the election of the Mortgagee, such proceeds may be used to purchase additional Personal Property to replace a Personal Property which has been damaged or destroyed and to repair or reconstruct the Improvements. All proceeds spent by the Mortgagee for insurance for the payment of the Debt shall be paid by the Mortgagee to the Mortgagee and not be payable without demand upon or notice to the Mortgagee, and shall be secured by this mortgage, and shall bear interest at the rate of interest then in effect on the mortgage as provided by law from the date of payment by the Mortgagee and paid by the Mortgagee.

11.11.11. Assignments of Condominium Proceeds, etc. As further security for the Debt and the full and complete performance of each and every obligation, covenants, agreement and duty of the Mortgagee hereunder, and to the extent of the full amount of the Debt secured hereby and of the costs and expenses (including reasonable attorney's fees incurred by the Mortgagee in the enforcement of payment) the Mortgagee hereby assigns to the Mortgagee any and all moneys or payments, including all interest thereon, together with the right to receive the same, that may be made to the Property or to the Property as a result of (a) the exercise of the right of eminent domain; (b) the alteration of the grade of or of any street or (c) any other injury to or encumbrance upon the Property, the right of the Mortgagor to foreclose mortgages, all such damages, condemnation proceeds and consideration shall be paid directly to the Mortgagee, and, in the first place, to pay the costs and expenses (including reasonable attorney's fees) incurred by the Mortgagee in obtaining such sums, the Mortgagee may, at its option, apply the balance of the proceeds and moneys received, and whether or not there due, or held such balance as a cash collateral reserve against the Debt, or apply such balance to the satisfaction of the Property, or release the lien hereon to the Mortgagee.

[illegible]

SECTION 3.04. Rents and Leases. The Mortgagor covenants and agrees that the Mortgagee shall: (a) comply with all of its obligations under the terms of the Leases and give prompt notice to the Mortgagee of any default of the Mortgagee or any lessee; (b) enforce the performance of the obligations to be performed by any lessee under the terms of the Leases; (c) appear in and defend any action or proceeding related to the Leases (upon request by the Mortgagee), in the name and on behalf of the Mortgagee but at the expense of the Mortgagee and pay all costs and expenses of the Mortgagee, including reasonable attorneys' fees, in any action or proceeding in which the Mortgagee may appear; (d) not receive or collect any Rents for a period of more than one month in advance of the date the Mortgagee or otherwise encumber or assign future payments of the Rents; (e) not waive, compromise or in any manner release or discharge any lessee of any obligations under any Lease; (f) not cancel, terminate or amend any Lease, without the prior written consent of the Mortgagee; (g) not renew or otherwise extend the term of any Lease; (h) promptly upon the execution by the Mortgagee of any lease which the Mortgagee with a copy of such Lease, and execute all such further assignments of such Lease and the Rents thereon as the Mortgagee may require; and (i) not enter into any Lease without the prior written consent of the Mortgagee, which consent may be withheld for any reason whatsoever, in the sole discretion of the Mortgagee, and nothing contained in this mortgage shall be construed as consent by the Mortgagee for the Mortgagee to enter into or execute any Lease.

SECTION 3.07. Sale, Lease or Transfer, etc. Notwithstanding any other provisions of this mortgage or the Note, if the Real estate or the Improvements, or any part thereof, or any interest therein, is sold, conveyed or transferred, without the Mortgagee'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 the Mortgagee's prior written consent, the mortgagee may, at its sole option, (a) declare the Debt immediately due and payable, 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 Debt as a condition to not exercising such right, or (c) require the payment, after the date of such sale, lease conveyance or transfer, of a higher rate of interest on the Debt, or to protect the security of this mortgage

SECTION 3.08. Hazardous Materials. (a) As used in this mortgage, the term "hazardous materials, radioactive materials, hazardous materials, hazardous waste, hazardous or toxic substances, or related or unrelated substances or materials defined regulated controlled, limited or restricted by any local, state or federal law, rule or regulation, whether now or hereafter in effect and as may be amended from time to time, pertaining to environmental regulations, contamination, cleanup or disclosure, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, the Superfund Amendments and Reauthorization Act, the Toxic Substances Control Act, the Clean Air Act, the Clean Water Act, and the rules and regulations of the Occupational Safety and Health Administration, pertaining to contamination or exposure to asbestos. The Mortgagee covenants, warrants and represents and shall be deemed to continually covenant, warrant and represent during the term of this mortgage that except as has been disclosed in writing to the Mortgagee with specific reference to this paragraph, (a) there are not now and shall not in the future be any Hazardous Substances on or under the Property and no Hazardous Substances have been or will be stored upon or utilized in operations on the Real Estate or utilized in the construction of the Improvements, (b) there are not underground storage tanks, whether or not used, located in, on or under any part of the Real Estate, (c) there are no pending claims or threats of claims by private or governmental or administrative agencies relating to Hazardous Substances or environmental impacts, violations, or regulatory requirements with respect to the Property, (d) the Property and its use fully complies with all applicable building and zoning codes and other applicable regulations, any applicable environmental laws or regulations, and (any other applicable laws or regulations), (e) no part of the Real Estate has been unlawfully filled, and (f) the Mortgagee shall give immediate and written notice to the Mortgagee of its receipt of any notice of a violation of any law, rule or regulation covered by this paragraph, or of any other facts relating to Hazardous Substances or the environmental condition of the Property or of the Mortgagee (knowing of any matter which would make the representations, warranties, and covenants herein made untrue in any material respect.

(c) The Mortgagee hereby agrees to indemnify and hold the Mortgagor harmless from all loss, cost, damage, claim and expense incurred by the Mortgagee or its agent(s) in the execution of any action taken, warranty or covenant set forth in the preceding paragraph (b) (i) the Mortgagee's failure to perform any obligations of the preceding paragraph; or (ii) the Mortgagee's failure, as the owner of the Property, to fully comply with all environmental laws, rules and regulations, or with all occupational health and safety laws, rules and regulations, or for any other matter related to environmental issues. This obligation shall survive the closing of the Loan, payment of the debt, the expiration of any right or remedy under this mortgage, and the death of the Mortgagor. Subsequent to, under or affecting the Property. This indemnification shall survive the closing of the Loan, payment of the debt, the expiration of any right or remedy under this mortgage, and the death of the Mortgagor, any subsequent sale or transfer of all or any part of the Property, and all similar or related events or circumstances.

SECTION 3.09. Compliance with Laws. The Mortgagor shall comply with and shall cause the Property (including, without limitation, the improvements) to comply with any and all applicable federal, state or local laws, rules and regulations, including, without limitation, the federal Americans With Disabilities Act. If the Mortgagor or the Property fails to so comply, then, at the election of the Mortgagee and at the expense of the Mortgagor, the Mortgagee may, but shall not be obligated to, take such action as the Mortgagee may deem necessary or advisable to effect such compliance. All amounts spent by the Mortgagee to effect such compliance shall become a debt due by the Mortgagor to the Mortgagee and, at once payable, without demand upon or notice to the Mortgagor, and shall be secured by this mortgage and shall bear interest at the rate of interest set forth in the Note, or such lesser rate of interest as shall then be the maximum amount permitted by law, from the date of payment by the Mortgagee and paid by the Mortgagee.

IV. DEFEASANCE, DEFAULT AND REMEDIES

SECTION 4.01. Default and Default. This mortgage is made upon the condition that if the Mortgagor pays the Debt (as defined in this Mortgage) (which Debt includes without limitation the debt represented by the Note, and interest thereon, and all other indebtedness, obligations and liabilities of the Mortgagor to the Mortgagee) of every kind and description whatsoever (due or to become due, and whether hereafter incurred, contracted or arising), and reimburses the Mortgagee for any amounts the Mortgagee has paid in respect of liens or insurance premiums, and interest thereon, and fulfill its other obligations under this mortgage, this conveyance shall be null and void. But the Mortgagee shall be deemed in default hereunder upon the occurrence of any of the following events: (1) any of the Mortgagor shall fail to pay to the Mortgagee when due the principal or interest on the Debt evidenced by the Note or any other sum due under the Construction Loan Agreement, or any of the other Security Documents (as defined in the Construction Loan Agreement), or any other Debt secured hereby, or (2) if in the judgment of the Mortgagee any of the proceeds of the Loan Agreement, or any other security instrument have been, diverted to a purpose other than the payment or discharge of expenses related to the Project as defined in the Construction Loan Agreement, which expenses have been approved by the Mortgagee, or (3) if the Mortgagor fails to comply with any of the provisions of this mortgage or of the Note, the Construction Loan Agreement or the other Security Documents, or (4) if any written representation or warranty contained in this mortgage, the Construction Loan Agreement or any of the other Security Documents, or any report, certificate or other instrument delivered to the Mortgagee in connection with any of the same shall be untrue in any material respect as of the time made, or (5) if the Mortgagor conveys or further encumbers all or part of the Collateral (as defined in the Construction Loan Agreement), or (6) if any Lien, statement of Lien or suit to enforce a Lien is filed against any of the Collateral and the Mortgagor fails to have such Lien satisfied or withdrawn or to pay the principal or the amount claimed thereby by a bond, letter of credit or other security satisfactory to the Mortgagee within ten days after the filing thereof, or if the Mortgagor at any time prior to the completion of the construction of the Project, or ceases to work thereon for a period of more than ten consecutive calendar days, or fails diligently to prosecute the work on the Project, or (7) if any event or action, such as the construction and development of the Project and the improvements occurs, whether as the result of energy shortages, any governmental law, order, rule or regulation relating to environmental protection, sewage treatment, zoning, energy conservation or other matter, lack of utilities (including but not limited to gas, electricity, water and sewage treatment), or other reason whatsoever, or if the Mortgagor or the Mortgagee shall, upon completion of the Project, energy and utilities will not be available in sufficient quantities to permit the operation of the Project, or (8) if the Mortgagor or any of the other parties to the mortgage, or guarantor of the Note or any of the other Debts hereinafter collectively called the "Obligor" and singularly an "Obligor" fails to pay such Obligor's debt generally as they become due, or if any lien, charge, judgment, tax, assessment, lien or other obligation is appointed for any Obligor or for any of the property of any Obligor, or if a petition in bankruptcy (whether for liquidation or reorganization) is filed against any Obligor or otherwise is filed by or against any Obligor, 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 (9) if any Obligor dies, if an individual, or dissolves, if a corporation or partnership, any general partner becomes insolvent, dies or resigns from the partnership, or, if a corporation, any principal officer thereof becomes insolvent, dies or ceases to be employed by such Obligor, or (10) the interest of the mortgagee in any of the Property hereunder and subject to the enforcement of any prior Lien thereon, or (11) any law is passed imposing, or authorizing the imposition of, any specific tax upon this mortgage or the Debt or permitting, or authorizing the imposition of any such tax from the principal of, interest on, the Debt, or by virtue of which any lien or assignment upon the Property shall be chargeable against the principal of the mortgage, or (12) if any liquidation, dissolution or other event in this mortgage is declared invalid or impermissible by any court of competent jurisdiction, or (13) if any other event of default occurs under the Construction Loan Agreement, or any of the other Security Documents, or (14) if the Mortgagee at any time in good faith deems itself insecure for any reason with respect to the Loan or the Collateral.

SECTION 4.02. Rights and Remedies of Mortgagee Upon Default.

(c) **Acceleration of Debt.** Upon the occurrence of an Event of Default or at any time thereafter, the Mortgagee may, at its option and without demand or notice to the Mortgagor, declare any part of the Debt immediately due and payable, whereupon all such Debt shall forthwith become due and payable, without presentment, demand, protest or further notice of any kind, and shall be hereby expressly assumed by the Mortgagee, and the Mortgagee may immediately enforce payment of all such arrears and may exercise any or all of its rights and remedies under this Mortgage and Note, any of the other Security Documents and applicable law. The Mortgagee also issues any and all rights the mortgagor may have in a hearing before any subordinate lienholder with priority to the mortgagee's lien. Notwithstanding any of its rights under this mortgage, the Note, any of the other Security Documents and applicable law.

(b) **Operation of Property by Mortgagee.** Upon the acquisition of an interest in the Property by or for any Mortgagee, in addition to all other rights and remedies available to any mortgagee, the Mortgagee shall have the right to operate and manage the Property, and shall be obligated to, enter upon and take possession of any or all of the Property, as described in the Mortgage, and shall use, administer, manage and operate the same to the extent that the Mortgagee could do so without any liability to the Mortgagee resulting therefrom. All the Mortgagee shall collect, receive and accept all proceeds deriving from such operation and management, make repairs and purchase needed additional property and services necessary and proper to the maintenance with respect to the Property.

(e) **Judicial Proceedings; Right to Receive.** Upon the occurrence of an Event of Default or at any time thereafter, the Mortgagee, in lieu of or in addition to exercising the powers hereinbefore granted, may proceed to put its lender's claim on security interest in, and assignment of, the Property to sue the Mortgagor for damages on account of its mortgage, and to obtain a judgment or decree for the specific performance of any provision contained herein, or to enforce any other appropriate legal or equitable right or remedy. The Mortgagee shall be entitled to initiate and prosecute all such or other proper legal proceedings being commenced for the foreclosure of this mortgage to the appointment by any competent court or tribunal, without notice to the Mortgagor or any other party, and 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.

[illegible]

(b) Personal Property and Matures. On the happening of any Event of Default or at any time thereafter, the Mortgagee shall have and may exercise with respect to the Personal Property and fixtures included in the Property (the "PP&F Collateral") all rights, remedies and powers of a secured party under the Alabama Uniform Commercial Code with reference to the PP&F Collateral in any other items in which a security interest has been granted herein, including without limitation the right and power to sell or public or private sale or sales or otherwise dispose of, lease or license the PP&F 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 PP&F Collateral or its value and without the necessity of a court order. The Mortgagee shall have, among other things, the right to take possession of the PP&F Collateral and to store, repair, sell, lease, pledge or otherwise dispose of the same as it may deem appropriate for the purpose of repossessing the same without being guilty of trespass and without liability for damages acknowledged hereby, and to make any other reasonable repairs or alterations to the same as it may deem appropriate or desirable by the Mortgagee, at its option and its sole discretion, to repair, restore or otherwise prepare the PP&F Collateral for sale, lease or other use or disposition. All the Mortgagee's actions taken pursuant to this section shall constitute a defense to any claim for conversion or damages by the Mortgagor or any third party claiming an interest in the PP&F Collateral. Upon request, the mortgagee shall assemble any other disposition of the PP&F Collateral and (any rights or remedies of the Mortgagee with respect to, and the limitations prescribed by law relative to, the sale, lease or disposition of the PP&F Collateral) or to the exercise of any other right or remedy of the Mortgagee existing after default. To the extent that such notice is required and cannot be waived, the Mortgagee agrees that if such notice is given to the Mortgagee in accordance with the provisions of Section 5-1-4 below, at least five days before the time of the sale or other disposition, such notice shall constitute the deemed compliance with and shall fully satisfy any requirement for giving said notice.

14. The Mortgagee agrees that the Mortgagee 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 instrument with respect to the real property covered hereby. The Mortgagee hereby grants the Mortgagee the right of its option after default hereunder, to transfer at any time to itself or to any other person the full interest in and right to receive the rents, income, proceeds and benefits attributable to the same and to hold the same as Collateral or to apply it on the debt in satisfaction and discharge of the Mortgagee's indebtedness. The Mortgagee covenants and agrees that all records in any instrument transferring, assigning, leasing or making other disposition of the Property, whether or not such instrument shall be a deed or the nature stated therein and no other proof shall be required to establish the legal propriety of the sale or other action taken by the Mortgagee and that no interest shall be paid thereon until such time as the same shall have been performed or so have occurred.

(f) **Revs and Loans.** Upon the occurrence of an Event of Default or at any time thereafter

(d) The Manufacturer, at its option, shall have the right, power and authority to execute and enforce any or all of the following rights and remedies with respect to Rights and Licenses:

(A) to terminate the license granted to the Mortgagee in Granting Clause (c) (ii) hereof to collect the Rents and, without taking possession, in the Mortgagee's own name to demand, collect, receive, sue for, attach and levy the rents, to give proper receipts, releases and acquittances thereby, and after deducting all necessary and reasonable costs and expenses of collection including attorney's fees, from the proceeds thereof, to pay the same to the Debtor or its duly authorized agent; and, at least once monthly, to deposit the net proceeds of such collections, less the above stated amounts allowed by the Debt in each entry and accounts as the Mortgagee may choose for hold the same in a reserve in security for the Debt.

(8) 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 a court, in order upon take possession of, manage and operate the Property or any part thereof for the benefit of the Mortgagee, make, modify, enforce, cancel or accept surrender of any lease, remove and evict any tenant or tenants, in case a lease or leases, decorate, clean and make repairs and otherwise do any act or incur any cost or expenses the Mortgagee shall deem proper to protect the security hereof, or fully and to the same extent as the Mortgagee could do if in possession, and in each event to apply any funds so collected to the operation and management of the Property (including payment of taxes and other charges, interest and principal on the Debt) in such order and amounts as the Mortgagee may choose for hold the same in reserve as security for the Debt.

newcastle management, brokerage and attorney's fees, and payment of the Debt in such order and amounts as the Mortgagee may choose. (b) The Borrower shall not be entitled to any cash proceeds or disbursement to make a new obligation or payment or payment of the Mortgagee under this Mortgage.

(j) The execution of the Bond and application thereof for holding thereof is reserved on closure of the entry upon and taking possession of the Property, or both shall not constitute any default or breach, besides or other any other default under this mortgage, or involve any act done pursuant to such notice, and the enforcement of such right is reserved in the mortgage, and is hereby

shall continue to be bound as the Mortgagee shall deem it notwithstanding that the collection and application of the Rents may have ceased the day after the date of the completion of the sale of the property and the Mortgagee shall be entitled to the same as if the same had been collected and applied to the payment of the Rents. The Mortgagee shall be entitled to the same as if the same had been collected and applied to the payment of the Rents.

(g) **Application of Proceeds.** All payments received by the Mortgagee as proceeds of the Property, or any part thereof, as well as any and all other moneys received by the Mortgagee, shall be first applied to the entire amount of any right or remedy under or with respect to this mortgage, shall be applied by the Mortgagee as follows: (1) to the payment of all amounts required to be paid by the mortgagor to the Mortgagee under this mortgage, including reasonable attorneys' fees as provided herein and in the Note, the Constitution, the Loan Agreement and the other Security Documents; (2) to the payment of all other amounts due to the Mortgagee as provided herein and in the Note, the Constitution, the Loan Agreement and the other Security Documents; (3) to a cash collateral reserve fund for the benefit of the Mortgagee; and (4) to the payment of any other amounts due to the Mortgagee or its other creditors, in the order of their priority, and the balance, if any, shall be paid to the Mortgagee or its other creditors, in the order of their priority, and the balance, if any, shall be paid to the Mortgagee or its other creditors, in the order of their priority.

(b) **Multiple Sales.** Upon the occurrence of any Event of Default or if any time thereafter, the mortgagee shall have the right to proceed with foreclosure as provided for in this mortgage, but without discharging the whole Debt due. Any such sale may be made subject to any prior and superior mortgage or lien, and such sale, if so made, shall not in any manner affect the unmortgaged part of the Debt secured by the mortgage, but as to such unmortgaged part of the Debt the mortgagee shall have the same effect as though no sale had been made under the provisions of this paragraph. Several sales may be made under the provisions of the paragraph without making any difference in the order of payment of the Debt whether then matured or unmortgaged, the purpose hereof being to provide for a foreclosure and sale of the Property for any and all part of the Debt with the same effect as if the legislature and the power to sell the Property for any other part of the Debt, whether then due or at the time or subsequently maturing.

10. Waiver of Appraisalment Laws. The Mortgagee agrees, to the fullest extent permitted by law, the benefit of all laws, rules and regulations relating to the sale of any portion of the Property (commonly known as appraisal laws, or (ii) any extension of time for the redemption of the Property, or (iii) any extension of time for redemption from any sale made in collecting the Debt (commonly known as stay laws and redemption laws).

(D) Prerequisites of Sales. In case of any sale of the Property as authorized by this Section 4.02, all prerequisites set forth in the Declaration shall be satisfied prior to the consummation of the sale. In the event that the Declaration is amended to require the satisfaction of additional prerequisites, the same shall apply to any sale of the Property as authorized by this Section 4.02. The sale of the Property shall be subject to the satisfaction of all prerequisites set forth in the Declaration, and the satisfaction of such prerequisites shall be a condition precedent to the completion of the sale. The sale of the Property shall be subject to the satisfaction of all prerequisites set forth in the Declaration, and the satisfaction of such prerequisites shall be a condition precedent to the completion of the sale.

V. MISCELLANEOUS

[illegible]

SECTION 5.02. No Obligations with Respect to Losses. The Mortgagee shall not by virtue of this mortgage or otherwise be liable for loss of, destruction of, damage to, theft of, or any other loss of or damage to the Real Estate, the Improvements, the Personal Property, the Real Estate or any of the other Property (unless expressly assumed by the Mortgagee under a separate agreement) or for any loss or damage incurred to, or on, the Mortgagee or any claim or obligations that would make the Mortgagee directly or derivatively liable to any person or organization in connection with the performance of its duties hereunder, directly and solely from the Mortgagee from and against any and all claims, causes of action and judgments resulting from the loss of, destruction of, damage to, theft of, or any other loss of or damage to, the Real Estate, the Improvements, the Personal Property, or any of the other Property.

SECTION 5.03. Construction of Mortgage. This mortgage is and may be construed only as a mortgage, based on that a better mortgage, in substance, is required to be so expressed, because of the terms, hypothesis or contract, or any one or more of them, in order fully to effectuate the intention and the enjoyment and security thereof, and the purpose and intent of the parties to the same.

SECTION 5.04. Successors and Assigns. All covenants and agreements herein made by the undersigned shall bind the undersigned and their heirs, personal representatives, successors and assigns of the undersigned and every option, right and privilege herein reserved or set out to this Mortgage shall inure to the benefit of the Mortgagee's successors and assigns.

SECTION 5.05. Waiver and Election. The exercise by the Mortgagee of any option given under the terms of this mortgage shall not be considered as a waiver of the right to exercise all or any other option given under the terms of this mortgage, and the filing of a suit to foreclose this loan, security interest and assignment granted by this mortgage, either on any matured portion of the Debt or for the whole of the Debt, shall not be considered as a waiver of the right to exercise all or any other option given under the terms of this mortgage, and the exercise of any option given under the terms of this mortgage shall not be considered as a waiver of the right to exercise all or any other option given under the terms of this mortgage. The exercise of any option given under the terms of this mortgage shall not be considered as a waiver of the right to exercise all or any other option given under the terms of this mortgage, and the exercise of any option given under the terms of this mortgage shall not be considered as a waiver of the right to exercise all or any other option given under the terms of this mortgage.

SECTION 5.06. Landlord-Tenant Relationship. Any sale of the Property under this mortgage shall, without further notice, create the same status of landlord and tenant as if there were no mortgage.

SECTION 5.07. Enforceability. If any provision of this mortgage is now or at any later hereafter becomes invalid or unenforceable, the other provisions hereof shall nevertheless remain in full force and effect and the remaining provisions hereof shall be construed in favor of the Mortgagee to effectuate the provisions hereof.

SECTION 5.04. Application of Payments. If the lien, assignment or security interest created by this mortgage is involved or operative in whole or in any part of the Debt, or in whole or in any part of the Property, the unsecured or partially secured portion of the Debt shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the Debt, and all payments made on the Debt, whether voluntary or under foreclosure or other enforcement action or process, shall be considered to have been first paid on and applied to the unpaid portion of the portion of the Debt which is not secured or not fully secured by said lien, assignment or security interest created hereby.

SECTION 5.09. Other Mortgages Encumbering the Real Estate. The Mortgagee hereby authorizes the holder of any other mortgage encumbering the Real Estate to obtain information from time to time and at any time the following information: (a) the amount of Debt secured by such mortgage; (b) the interest rate then in effect on such mortgage; (c) whether there is or has been any default with respect to such mortgage or the Debt secured thereby; and (d) any other information regarding such mortgage. The holder of any other mortgage encumbering the Real Estate shall be entitled to obtain such information from time to time.

The 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, the Mortgagor and the Mortgagee may (but shall not be required to) pay all or any part of such amount in default without notice to the Mortgagee. The Mortgagee agrees to repay any such sum advanced and to be repaid with interest from the date such advance is made at the rate provided for in the Note, or the highest rate permitted by law, whichever shall be less, and any sum so advanced with interest shall be a part of the sum secured by the Mortgage.

SECTION 2.10. 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 "Manager" and "Managers" shall include their respective successors and assigns. Plural or singular words used herein to designate the undersigned shall be construed to refer to the undersigned, whether one or more natural persons, corporations, unincorporated associations, partnerships or other entities.

SECTION 5.11. Advances by the Mortgagee. If the Mortgagee shall fail to comply with the provisions hereof with respect to the payment of insurance, the payment of taxes, the recording of the Mortgage, or the performance of the mortgagee's obligations under any lease, the payment of any prior mortgages, or the performance of any other term of a mortgage herein included, then the Mortgagee may, at its option, 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. The Mortgagee's payment of such advances shall be repaid upon demand, with interest from the date such advances are made, at the rate provided for in the Note, or the highest rate permitted by law, which rate shall be less than the rate at which advances are made. Interest shall be a part of the Debt and shall be secured hereby. The making of any such advances shall not be construed as a waiver by the Mortgagee of any default or breach of any term of the Mortgage, and the Mortgagee shall be entitled to recover the amounts paid.

SECTION 5.12. Release or Extension by the Mortgagor. The Mortgagor, without notice to the mortgagee and without in any way affecting the rights of the Mortgagee hereunder, may, at any time, at its option, in its entirety or in part, release any part of the Property or any person liable for any of the Debt and may agree with any party with an interest in the Property to extend the time for payment of any part of the Debt or to waive the prompt and full performance of any term, condition or covenant of the Note, the Construction Loan Agreement, any of the Security Instruments and the Mortgagee's obligations provided evidence is securing the Debt.

SECTION 5.1.3. Partial Payments. Acceptance by the Mortgagee of any payment of less than the full amount due on the Debt shall be deemed acceptance of such payment, and the Mortgagee shall not be deemed to have waived or released its rights to receive the entire amount then due shall be deemed to constitute an Event of Default, and, at any time thereafter and until the entire amount due on the Debt has been paid, the Mortgagee shall be deemed to reserve all rights conferred on it by the terms of this mortgage in case of the occurrence of an Event of Default.

SECTION 5.14. Addresses for Notices. All notices, requests, demands and other communications provided for hereunder shall be in writing or by telex, telegraph, or other mail and be addressed to the addressee named, 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.

SECTION 5.16. Satisfaction of Mortgage. The Mortgagee agrees to pay all costs and expenses associated with the release or satisfaction of this mortgage.

THE WITNESS WHEREOF, the undersigned, Mega Builders, Inc

to execute this instrument (has caused this instrument) to be executed by its duly authorized _____ **President**
 & the duplicate written above

(Corporation or Partnership Signature)

Mega Builders Inc

B.

Robert Clark
President

Researcher's Statement

MS:

114

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STATE OF ALABAMA

COUNTY

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that _____, 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 instrument, he/she executed the same voluntarily for and as the act of said _____.

Given under my hand and official seal this _____ day of _____.

Notary Public

UPPER SEAL

My Commission Expires: _____

[Corporate]

STATE OF ALABAMA

SHELBY COUNTY

The Undersigned

a Notary Public in and for said County in said State, hereby certify

Robert Clark

President

whose name as

Mega Builders, Inc

a corporation, is signed to the foregoing instrument

and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this _____ day of _____.

Notary Public

UPPER SEAL

MY COMMISSION EXPIRES OCTOBER 27, 2002

My Commission Expires: _____

[Partnership]

STATE OF ALABAMA

COUNTY

a Notary Public in and for said County in said State, hereby certify

_____ whose name as general partner of _____

(general) (limited) partnership, a

signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she, as such general partner and with full authority, executed the same voluntarily for and as the act of said partnership.

Given under my hand and official seal this _____ day of _____.

Notary Public

UPPER SEAL

My Commission Expires: _____

This instrument prepared by:

Valencia Smith

Inst # 2000-20710

06/21/2000-20710
10:39 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
004 CJ1 430.50