

THIS INSTRUMENT PREPARED BY:

\$286,500.00

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Burr & Forman LLP
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**STATE OF ALABAMA)
SHELBY COUNTY)**

MORTGAGE AND SECURITY AGREEMENT

Inst # 2001-36457

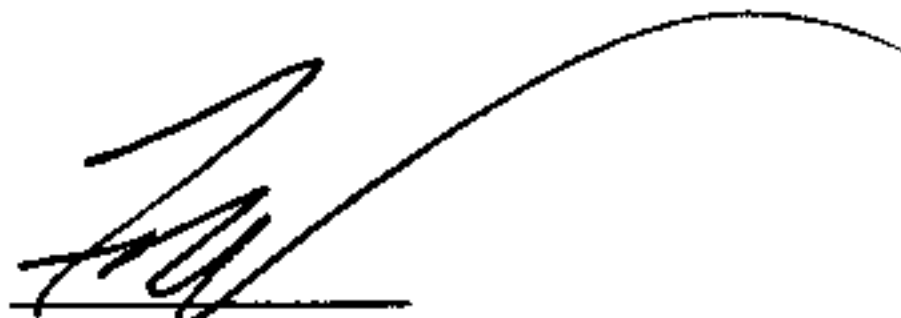
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THIS MORTGAGE AND SECURITY AGREEMENT ("Mortgage"), made and entered into effective as of the 24th day of August, 2001, is by **FREDDIE F. WILHITE**, a single man, ("Grantor"), whose mailing address is P.O. Box 1254; Alabaster, Alabama 35007, in favor of **SOUTHTRUST BANK**, an Alabama banking corporation, formerly known as SouthTrust Bank, National Association, and SouthTrust Bank, N.A., with principal offices in Birmingham, Alabama, whose mailing address is 112 North 20th Street, 2nd Avenue North Branch, 420 North 20th Street (zip code 35203), P.O. Box 2554 (zip code 35290), Birmingham, Alabama, Attn: Market Bank Special Assets Department ("Lender," said term referring always to the lawful owner and holder of the indebtedness secured hereby).

WITNESSETH:

For and in consideration of the sum of Ten Dollars, and other good and valuable consideration, the undersigned Grantor does hereby irrevocably **GRANT, BARGAIN, SELL, CONVEY, ALIEN, REMISE, RELEASE, ASSIGN, TRANSFER, MORTGAGE, HYPOTHECATE, PLEDGE, DELIVER, SET OVER, WARRANT AND CONFIRM** unto Lender, its successors and assigns, and grant to Lender a security interest in all of the following described land and interests in land, estates, easements, rights, improvements, personal property, fixtures, equipment, furniture, furnishings, appliances and appurtenances, all whether now owned or hereafter acquired, and including replacements, additions, accessions, substitutions and products thereto (hereinafter referred to collectively as the "Premises"), to wit:

THIS MORTGAGE AND SECURITY AGREEMENT SERVES AS A FINANCING STATEMENT FILED AS A FIXTURE FILING, PURSUANT TO SECTION 7-9-402(6), CODE OF ALABAMA, 1975, AS AMENDED, AND SHOULD BE CROSS-INDEXED IN THE INDEX OF FIXTURE FILINGS.

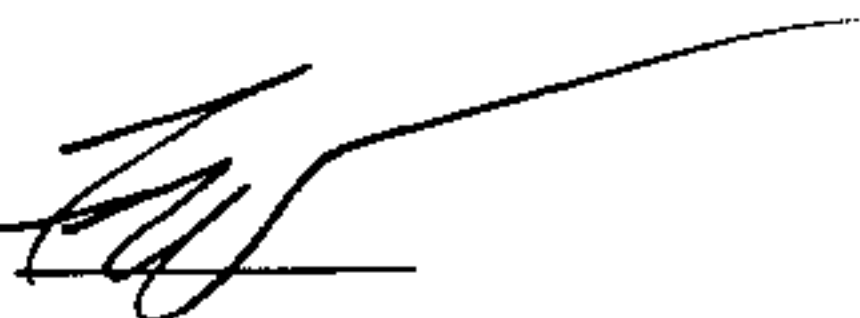


(a) All those certain tracts, pieces or parcels of land located in Shelby County, Alabama, more particularly described in "Exhibit A" attached hereto and by this reference made a part hereof (the "Land");

(b) All buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land, and all gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, elevators and motors, plumbing and heating fixtures, carpeting and other floor coverings, water heaters, awnings and storm sashes, and cleaning apparatus which are or shall be attached to said buildings, structures or improvements, and all other furnishings, furniture, fixtures, machinery, equipment, appliances, and personal property of every kind and nature whatsoever now or hereafter owned by Grantor and located in, on or about, or used or intended to be used with or in connection with the construction, use, operation or enjoyment of the Premises, including all extensions, additions, improvements, betterments, renewals and replacements, substitutions, or proceeds from a permitted sale of any of the foregoing (collectively the "Improvements"), all of which are hereby declared and shall be deemed to be fixtures and accessions to the Land and a part of the Premises as between the parties hereto and all persons claiming by, through or under Grantor and which shall be deemed to be a portion of the security for the indebtedness herein described and to be secured by this Mortgage;

(c) All building materials, equipment, fixtures, fittings, and personal property of every kind or character now owned or hereafter acquired by the Grantor for the purpose of being used or useful in connection with the Improvements located or to be located on the Land, whether such materials, equipment, fixtures, fittings, and personal property are actually located on or adjacent to said Land or not, and whether in storage or otherwise, wheresoever the same may be located, including, but without limitation, all lumber and lumber products, bricks, building stones, and building blocks, sand and cement, roofing material, paint, doors, windows, hardware, nails, wires and wiring, plumbing and plumbing fixtures, heating and air conditioning equipment and appliances, electrical and ornamental and decorative fixtures, furniture, ranges, refrigerators, dishwashers, disposals, washers, dryers, and in general all building materials and equipment of every kind and character used or useful in connection with said Improvements;

(d) All easements, rights-of-way, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, minerals, flowers, shrubs, crops, trees, timber and other emblements now or hereafter located on the Land or under or above the same or any part or parcel thereof, and all ground leases, estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances, reversions, and remainders whatsoever, in any way belonging, relating or appertaining to the Premises or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Grantor;



(e) All rents, issues, profits, revenues, accounts, accounts receivable, and general intangibles of the Grantor now existing or hereafter accruing from or relating to the Premises (including, without limitation, all payments under leases, ground leases or tenancies, proceeds of insurance, condemnation payments, tenant security deposits and escrow funds), and all of the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of Grantor of, in and to the same, reserving only the right to them to collect the same so long as Grantor is not in default hereunder or such collection is not otherwise restricted by this Mortgage; and

(f) All business or operating licenses, certificates, permits and contracts now held or hereafter acquired relating to the operation of any businesses conducted by Grantor at the location of the Land from time to time (it being agreed that Grantor shall have no right to utilize any of them, whether or not transferable, at any location other than the Land).

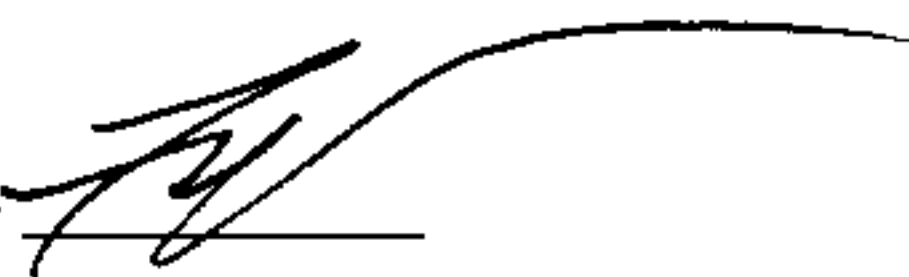
TO HAVE AND TO HOLD the Premises and all parts, rights, members and appurtenances thereof, to the use and benefit of Lender and the successors, successors-in-title and assigns of Lender, forever.

PROVIDED, HOWEVER, that this conveyance is made to secure the following, to-wit (hereinafter, the "Secured Obligations"):

(a) To secure the obligations of Grantor and **CENTRAL ALABAMA CABINET, INC.** (hereinafter, "Central", and collectively with Grantor, the "Borrowers") under the terms of that certain Renewed and Amended Construction/Term Note, in the stated principal amount of Two Hundred Eighty Six Thousand Five Hundred Dollars and Zero Cents (\$286,500.00) made by Borrowers to the order of Lender and dated August 24, 2001 (hereinafter, together with any extensions, modifications and/or renewals thereof and any notes given in payment of any indebtedness evidenced thereby, the "Note"; the Note amends and renews the indebtedness evidenced by that certain Consolidation and Renewal Note, Security Agreement and Disclosure Statement signed and dated December 22, 2000 from Grantor and Central to the order of Lender, in the original principal amount of \$197,078.63, and is referred to, collectively with this Mortgage and all other documents and instruments now or hereafter executed by one or more of the Borrowers evidencing or securing the Secured Obligations, as the "Loan Documents";

(b) To secure all sums advanced by Lender to Borrowers or Grantor or expended by Lender for and on Borrowers' or Grantor's account, including but not limited to advances for taxes and insurance, or otherwise for Borrowers' and Grantor's benefit pursuant to the terms of this Mortgage;

(c) To secure any and all other obligations or sums due from Grantor and Borrowers pursuant to, and the faithful performance by Grantor and Borrowers of all terms and conditions contained in, this Mortgage; and,



(d) To secure the payment of all court costs, expenses and costs of whatever kind incident to the collection of any indebtedness secured hereby and the enforcement or protection of the lien of this conveyance, including reasonable attorney's fees, whether at trial, on appeal or in any bankruptcy proceedings.

PROVIDED, FURTHER, that this Mortgage shall secure the foregoing only to the extent of the Secured Obligations and any and all other present and future indebtedness of Borrowers or Grantor, individually or collectively, to Lender, including without limitation any modifications, renewals, amendments, consolidations, refinancings, alterations or changes thereof or thereto.

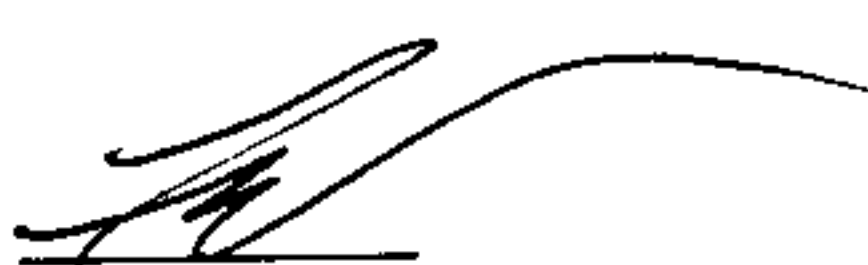
PROVIDED, FURTHER, that if the Borrowers and Grantor shall perform the Secured Obligations in full, and the Borrowers shall pay and perform their obligations under the terms of the Loan Documents at the times and in the manner stipulated therein and herein, all without any deduction or credit for taxes or other similar charges paid by the Borrowers or Grantor, and Borrowers and Grantor shall keep, perform, and observe all and singular the covenants and promises herein and in the Loan Documents expressed to be kept, performed, and observed by and on the part of the Borrowers and/or Grantor, all without fraud or delay, then this Mortgage, and all the properties, interest, and rights hereby granted, bargained, and sold shall cease, determine, and be void, but shall otherwise remain in full force and effect.

AND GRANTOR HEREBY FURTHER COVENANTS AND AGREES WITH LENDER AS FOLLOWS:

ARTICLE I

1.01. Performance of Guaranty and Mortgage. This Mortgage will secure the Secured Obligations and any and all other present and future indebtedness of Borrowers and Grantor, individually and collectively, to Lender..

1.02. Warranty of Title. The Grantor is lawfully seized of an indefeasible estate in fee simple in the land and real property hereby conveyed, and has good and absolute title to all existing personal property hereby encumbered, and Grantor has good right, full power and lawful authority to sell, convey and mortgage his interest in said property in the manner and form aforesaid; that the same is free and clear of all liens, charges, and encumbrances whatsoever, including, as to the personal property and fixtures, conditional sales contracts, chattel mortgages, security agreements, financing statements, and anything of a similar nature, and that Grantor shall and will warrant and forever defend the title thereto unto the Lender, its successors and assigns, against the lawful claims of all persons whomsoever. The Premises is the homestead of Grantor.



1.03 Taxes, Liens and Other Charges.

(a) Grantor shall pay, on or before the delinquency date thereof, all taxes, levies, license fees, permit fees and all other charges (in each case whether general or special, ordinary or extraordinary, or foreseen or unforeseen) of every character whatsoever (including all penalties and interest thereon) now or hereafter levied, assessed, confirmed or imposed on, or in respect of, or which may be a lien upon the Premises, or any part thereof, or any estate, right or interest therein, or upon the rents, issues, income or profits thereof, and shall submit to Lender such evidence of the due and punctual payment of all such taxes, assessments and other fees and charges as may be required by law. Grantor shall have the right before it becomes delinquent to contest or object to the amount or validity of any such tax, assessment, fee or charge by appropriate legal proceedings, but this shall not be deemed or construed in any way as relieving, modifying or extending Grantor's covenant to pay any such tax, assessment, fee or charge at the time and in the manner provided herein, unless Grantor has given prior written notice to Lender of Grantor's intent to so contest or object, and unless (i) Grantor shall demonstrate to Lender's satisfaction that the legal proceedings shall conclusively operate to prevent the sale of the Premises, or any part thereof, to satisfy such tax, assessment, fee or charge prior to final determination of such proceedings; and (ii) if required by Lender, Grantor shall furnish a good and sufficient bond or surety as requested by and satisfactory to Lender; and (iii) Grantor shall have provided a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of such proceedings.

(b) Except for income tax, gross receipts tax or similar tax imposed on Lender by reason hereof, Grantor shall pay, on or before the due date thereof, all taxes, assessments, charges, expenses, costs and fees which may now or hereafter be levied upon, or assessed or charged against, or incurred in connection with, this Mortgage or any other instrument now or hereafter evidencing, securing or otherwise relating to this Mortgage.

(c) Grantor shall pay, on or before the due date thereof, all premiums on policies of insurance covering, affecting or relating to the Premises, as required pursuant to Section 1.04, below; and all utility charges which are incurred by Borrowers or Grantor for the benefit of the Premises, or which may become a charge or lien against the Premises for gas, electricity, water and sewer services and the like furnished to the Premises, and all other public or private assessments or charges of a similar nature affecting the Premises or any portion thereof, whether or not the nonpayment of same may result in a lien thereon. Grantor shall submit to Lender such evidence of the due and punctual payment of all such premiums, rentals and other sums as Lender may require.

(d) Grantor shall not suffer any mechanic's, materialmen's, laborer's, statutory or other lien to be created and remain outstanding against the Premises for more than twenty (20) days; provided, however, that Grantor may contest any such lien in good faith by appropriate legal proceedings provided the lien is bonded in such manner as not adversely to affect the priority of this Mortgage. Lender has not consented and will not consent to the performance of any work or the furnishing of any materials which might be deemed to create a lien or liens superior to the lien hereof.



1.04 Insurance.

(a) During the term of this Mortgage, Grantor shall comply with the provisions of the Loan Agreement with respect to insurance coverages required by Lender.

(b) Lender is hereby authorized and empowered, at its option, to collect and receive all proceeds from the insurance policies required under this Section 1.04, and Grantor does hereby authorize and direct each insurance company to make payment for all such losses accordingly. In the event any insurance company fails to disburse directly and solely to Lender but disburses instead either solely to Grantor or to Grantor and Lender jointly, Grantor agrees immediately to endorse and transfer such proceeds to Lender to the extent of Lender's interest therein. Upon the failure of Grantor to endorse and transfer such proceeds as aforesaid, Lender may execute such endorsements or transfers for and in the name of Grantor, and Grantor hereby irrevocably appoint Lender as Grantor's agent and attorney-in-fact so to do. After deducting from said insurance proceeds all of its expenses incurred in the collection and administration of such sums, including reasonable attorney's fees, Lender may release any moneys so received by it for the repair or restoration of the property so damaged, without affecting the lien of this Mortgage, or Lender may apply the same in such manner as the Lender shall determine to reduce the sums secured hereby, and any balance of such moneys then remaining shall be paid to the Grantor.

(c) The delivery of any insurance policies under the Loan Agreement shall constitute an assignment of all unearned premiums as further security hereunder. In the event of the foreclosure of this Mortgage or any other transfer of title to the Premises in extinguishment or partial extinguishment of the Secured Obligations, all right, title and interest of Grantor in and to all insurance policies then in force shall pass to the purchaser or Lender, and Lender is hereby irrevocably appointed by Grantor as attorney-in-fact for Grantor to assign any such policy to said purchaser or to Lender without accounting to Grantor for any unearned premiums thereon.

(d) In the event Grantor and Borrowers fail to provide, maintain, keep in force or deliver and furnish to Lender evidence of policies of insurance required by this Section 1.04, Lender may procure such insurance or single-interest insurance for such risks covering Lender's interest, and Grantor and Borrowers will pay all premiums thereon promptly upon demand by Lender. Until such payment is made by Grantor or Borrowers, the amount of all such premiums, together with interest as hereinafter set forth, shall be added to the Secured Obligations and shall be secured by this Mortgage.

1.05 Monthly Deposits. If hereafter required by applicable banking regulatory authority, or otherwise at the option of Lender after the occurrence of an Event of Default, Grantor shall, upon request of Lender, deposit with Lender, on the due date of each installment under the Notes, an amount equal to one-twelfth (1/12) of the yearly taxes and assessments and insurance premiums as estimated by the Lender to be sufficient to pay such charges; said deposits to be held and to be used by Lender to pay current taxes and assessments, insurance premiums and other charges on the Premises as the same accrue and are payable. Payment from said sums for said purposes shall be

made by Lender at its discretion and may be made even though such payments will benefit subsequent owners of the Premises. Said deposits shall not be, nor be deemed to be, trust funds, but may be, to the extent permitted by applicable law, commingled with the general funds of Lender; Lender agrees to deposit such funds in an interest bearing account acceptable to Grantor and Lender, and to pay such interest to Grantor upon the payment in full of the sums secured by this Mortgage. If said deposits are insufficient to pay the taxes and assessments, insurance premiums and other charges in full as the same become payable, Grantor will deposit with Lender such additional sum or sums as may be required in order for Lender to pay such taxes and assessments, insurance premiums and other charges in full. Upon any default in the provisions of this Mortgage or the Guaranty, or any instrument evidencing, securing or in any way related to the Secured Obligations, Lender may, at its option, apply any money in the fund relating from said deposits to the payment of the Secured Obligations in such manner as it may elect.

1.06 Condemnation. If all or any Material Part (as herein defined) of the Premises shall be damaged or taken through condemnation (which term when used in this Mortgage shall include any damage or taking by any governmental authority, and any transfer by private sale in lieu thereof), either temporarily or permanently, the indebtedness secured hereby shall at the option of the Lender become immediately due and payable. For purposes hereof, a "Material Part" of the Premises shall be any part thereof, which, if damaged or taken, shall prevent the cash flow available after such taking from the remaining portions of the Premises from supporting the remaining debt secured hereby in substantially the same coverage as the debt is being supported prior to such damage or taking. Grantor, immediately upon obtaining knowledge of any institution, or any proposed, contemplated or threatened institution of any action or proceeding for the taking through condemnation of the Premises or any part thereof, will notify Lender, and Lender is hereby authorized, at its option, to commence, appear in and prosecute, through counsel selected by Lender, in its own or in Grantor's name, any action or proceeding relating to any condemnation. Grantor may compromise or settle any claim for compensation but shall not make any compromise or settlement for an award that is less than \$1,000,000 without the prior written consent of Lender. All such compensation, awards, damages, claims, rights of action and proceeds and the right thereto are hereby assigned by Grantor to Lender, and Lender is authorized, at its option, to collect and receive all such compensation, awards or damages and to give proper receipts and acquittances therefor without any obligation to question the amount of any such compensation, awards or damages. After deducting from said condemnation proceeds all of its expenses incurred in the collection and administration of such sums, including reasonable attorney's fees, Lender may release any moneys so received by it for the repair or restoration of the Premises taken, or may apply the same in such manner as the Lender shall determine to reduce the sums secured hereby, and any balance of such moneys shall be paid to the Grantor.

1.07 Restoration and Repair. Notwithstanding any contrary provision hereof or of any other Loan Document, Lender agrees that Lender shall make the net proceeds of any casualty insurance or condemnation award with respect to the Premises (after payment of costs and expenses of Lender) available to Grantor for Grantor's repair and restoration of the Premises on the following terms and subject to Grantor's satisfaction of the following conditions:

(a) At the time of such damage or condemnation, and at all times thereafter while Lender is holding any portion of such proceeds, there shall exist no Event of Default and no uncured event which, but for the giving of any required notice or expiration of any applicable grace period or both, would constitute an Event of Default on the part of Grantor under the Secured Obligations;

(b) The property, buildings, improvements and fixtures to which a damage has resulted, or the remaining portion thereof in the case of condemnation, shall be capable of being restored to its pre-existing condition and utility with a value equal to or greater than prior to such damage (taking into account any reduction in the indebtedness secured hereby in the case of excess condemnation proceeds), shall be capable of being completed prior to the maturity of the Renewal Note, and shall not be such as would allow any tenant to reduce its rental payments (except during any period in which the leased premises are uninhabitable) or terminate or reduce the term of its lease, and evidence thereof satisfactory to Lender shall have been provided to Lender;

(c) Within thirty (30) days from the date of such damage, Grantor shall have given Lender a written notice electing to have the proceeds applied for such purpose;

(d) Within sixty (60) days following the date of notice under the preceding paragraph and prior to any proceeds being disbursed to Grantor, Grantor shall have provided to Lender all of the following:

(i) complete plans and specifications for restoration of the property, buildings, improvements and fixtures damaged to the condition and utility prior to such damage;

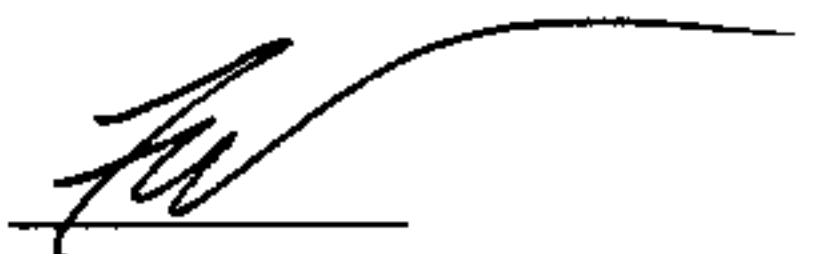
(ii) if loss or damage exceeds \$50,000, fixed-price or guaranteed maximum cost bonded construction contracts for completion of the repair and restoration work in accordance with such plans and specifications;

(iii) builder's risk insurance for the full cost of construction with Lender named under a standard mortgagee loss-payable clause;

(iv) such additional funds as in Lender's opinion are necessary to complete the repair and restoration; and

(v) copies of all permits and licenses necessary to complete the work in accordance with the plans and specifications.

(e) Lender may, at Grantor's expense, retain an independent inspecting architect or engineer to review plans and specifications and completed construction and to certify all requests for disbursement;



(f) No portion of such proceeds shall be made available by Lender for architectural reviews or for any other purposes which are not directly attributable to the cost of reconstructing those portions of the property to which damage has occurred except to the extent covered by available insurance proceeds and then only in proportion to the work completed;

(g) Grantor shall commence such work within one hundred twenty (120) days of such damage and shall diligently pursue such work to completion;

(h) Each disbursement by Lender of such proceeds and deposits shall be funded in accordance with Lender's ordinary construction loan practices and procedures then in effect and the available amount of any such disbursements shall be not greater than the cost of completed work less a reasonable retainage to be withheld until completion and receipt of lien waivers from all persons or entities supplying labor and material and written approval of the completed work by Grantor's architect and Lender's inspecting architect or engineer, if any;

(i) Grantor shall grant to Lender a first lien and security interest in all building materials and completed repair and restoration work and in all fixtures and equipment acquired with such proceeds, and Grantor shall execute and deliver such mortgages, security agreements, financing statements and other instruments as Lender shall request to create, evidence, or perfect such lien and security interest; and

(j) In the event and to the extent such proceeds are not required or used for the repair and restoration of the damaged property, buildings, improvements or fixtures, or in the event Grantor fails to timely make such election or having made such election fails to timely comply with the terms and conditions set forth herein, Lender shall be entitled without notice to or consent from Grantor to apply such proceeds, or the balance thereof, at Lender's option, either (i) to the full or partial payment or prepayment of the Secured Obligations, or (ii) the repair and/or restoration of the property, buildings, improvements or fixtures damaged, all without affecting this indenture.

1.08 Care of Premises.

(a) Grantor will keep the buildings, parking areas, roads and walkways, landscaping, and all other improvements of any kind now or hereafter erected on the Land or any part thereof in good condition and repair, will not commit or suffer any waste and will not do or suffer to be done anything which would or could increase the risk of fire or other hazard to the Premises or any other part thereof or which would or could result in the cancellation of any insurance policy carried with respect to the Premises.

(b) Grantor will not remove, demolish or alter the structural character of any improvement located on the Land without the written consent of Lender, nor make or permit use of the Premises for any purpose other than that for which the same are now used.



(c) If the Premises or any part thereof is damaged by fire or any other cause, Grantor will give immediate written notice thereof to Lender.

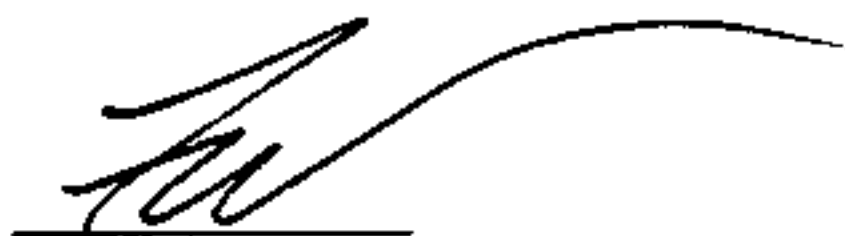
(d) Lender or its representative is hereby authorized to enter upon and inspect the Premises during normal business hours.

(e) Grantor will promptly comply with all present and future laws, ordinances, rules and regulations of any governmental authority affecting the Premises or any part thereof.

(f) If all or any part of the Premises shall be damaged by fire or other casualty, unless the Loans and all other indebtedness of Borrowers or Grantor to Lender under the Loan Documents is then paid in full, Grantor will promptly restore the Premises to the equivalent of its original condition; and if a part of the Premises shall be damaged through condemnation, Grantor will promptly restore, repair or alter the remaining portions of the Premises in a manner satisfactory to Lender. Notwithstanding the foregoing, Grantor shall not be obligated so to restore unless in each instance Lender agrees to make available to Grantor any net insurance or condemnation proceeds actually received by Lender hereunder in connection with such casualty loss or condemnation, to the extent such proceeds are required to defray the expense of such restoration; provided, however, that the insufficiency of any such insurance or condemnation proceeds to defray the entire expense of restoration shall in no way relieve Grantor of its obligation to restore. In the event all or any portion of the Premises shall be damaged or destroyed by fire or other casualty or by condemnation, and Lender shall then elect to permit restoration or repair of the Premises pursuant to Section 1.07 hereof, Grantor shall promptly deposit with Lender a sum equal to the amount by which the estimated cost of the restoration of the Premises (as determined by Lender in its good faith judgment) exceeds the actual net insurance or condemnation proceeds with respect to such damage or destruction.

1.09 Leases. Grantor shall not allow or enter into any leases with respect to the Premises without the prior written consent of Lender.

1.10 Security Agreement. With respect to the apparatus, fittings, fixtures and articles of personal property referred to or described in this Mortgage, or in any way connected with the use and enjoyment of the Premises, this Mortgage is hereby made and declared to be a security agreement encumbering each and every item of personal property included herein as a part of the Premises, in compliance with the provisions of the Uniform Commercial Code as enacted in the state wherein the Land is situated, and Grantor hereby grants to Lender a security interest in said personal property. A financing statement or statements reciting this Mortgage to be a security agreement affecting all of said personal property aforementioned shall be executed by Grantor and Lender and appropriately filed. The remedies for any violation of the covenants, terms and conditions of the security agreement contained in this Mortgage, or otherwise in respect of an Event of Default hereunder, shall be (i) as prescribed herein, or (ii) as prescribed by general law, or (iii) as prescribed by the specific statutory consequences now or hereafter enacted and specified in said Uniform Commercial Code, all at Lender's sole election. Grantor and Lender agree that the filing of such financing statement(s) in the records normally having to do with personal property shall not in any way affect the agreement



of Grantor and Lender that everything used in connection with the production of income from the Premises or adapted for use therein or which is described or reflected in this Mortgage, is, and at all times and for all purposes and in all proceedings, both legal or equitable, shall be, regarded as part of the real estate conveyed hereby regardless of whether (a) any such item is physically attached to the improvements, (b) serial numbers are used for the better identification of certain items capable of being thus identified in an Exhibit to this Mortgage, or (c) any such item is referred to or reflected in any such financing statement(s) so filed at any time. Similarly, the mention in any such financing statement(s) of the rights in and to (i) the proceeds of any fire and/or hazard insurance policy, or (ii) any award in eminent domain proceedings for taking or for loss of value, or (iii) Grantor's interest as lessor in any present or future lease or rights to income growing out of the use and/or occupancy of the Premises, whether pursuant to lease or otherwise, shall not in any way alter any of the rights of Lender as determined by this instrument or affect the priority of Lender's security interest granted hereby or by any other recorded document, it being understood and agreed that such mention in such financing statement(s) is solely for the protection of Lender in the event any court shall at any time hold, with respect to the foregoing items (i), (ii), or (iii), that notice of Lender's priority of interest, to be effective against a particular class of persons, must be filed in the Uniform Commercial Code records. This Mortgage may be filed as a financing statement in any office where Lender deems such filing necessary or desirable, and Grantor will promptly upon demand reimburse Lender for the costs therefor.

1.11 Further Assurances; After-Acquired Property. At any time, and from time to time, upon request by Lender, Grantor will make, execute and deliver or cause to be made, executed and delivered, to Lender and, where appropriate, cause to be recorded and/or filed and from time to time thereafter to be rerecorded and/or refiled at such time and in such offices and places as shall be deemed desirable by Lender, any and all such other and further deeds of trusts, security agreements, financing statements, continuation statements, instruments of further assurance, certificates and other documents as may, in the opinion of Lender, be necessary or desirable in order to effectuate, complete or perfect, or to continue and preserve (a) the Secured Obligations, and (b) the security interest created by this Mortgage as a first and prior security interest upon and security title in and to all of the Premises, whether now owned or hereafter acquired by Grantor. Upon any failure by Grantor so to do, Lender may make, execute, record, file, re-record and/or re-file any and all such deeds of trust, security agreements, financing statements, continuation statements, instruments, certificates, and documents for and in the name of Grantor, and Grantor hereby irrevocably appoints Lender the agent and attorney-in-fact of Grantor so to do. The lien of this Mortgage will automatically attach, without further act, to all after-acquired property attached to and/or used in the operation of the Premises or any part thereof.

1.12 Indemnity; Expenses. Grantor will pay or reimburse Lender, upon demand therefor, for all reasonable attorney's fees, costs and expenses incurred by Lender in any suit, action, legal proceeding or dispute of any kind in which Lender is made a party or appears as party plaintiff or defendant, affecting the Secured Obligations, this Mortgage or the interest created herein, or the Premises, including, but not limited to, the exercise of the power of sale contained in this Mortgage, any condemnation action involving the Premises or any action to protect the security hereof, and any



such amounts paid by Lender shall be added to the Secured Obligations and shall be secured by this Mortgage. Grantor will indemnify and hold Lender harmless from and against all claims, damages, and expenses, including attorney's fees and court costs, resulting from any action by a third party against Lender relating to this Mortgage or the interest created herein, or the Premises, including, but not limited to, any action or proceeding claiming loss, damage or injury to person or property, or any action or proceeding claiming a violation of any national, state or local law, rule or regulation, including those relating to environmental standards or dangerous or hazardous wastes, provided Grantor shall not be required to indemnify Lender for matters directly caused by Lender's misconduct or negligence.

1.13 Estoppel Affidavits. Upon ten (10) days prior written notice, Grantor shall furnish to Lender a written statement, duly acknowledged, based upon its records, setting forth the unpaid principal of, and interest on, the Secured Obligations, stating whether or not to its knowledge any off-sets or defenses exist against the Secured Obligations, or any portion thereof, and, if such off-sets or defenses exist, stating in detail the specific facts relating to each such off-set or defense.

1.14 Subrogation. To the full extent of the Secured Obligations, Lender is hereby subrogated to the liens, claims and demands, and to the rights of the owners and holders of each and every lien, claim, demand and other encumbrance on the Premises which is paid or satisfied, in whole or in part, out of the proceeds of the Secured Obligations, and the respective liens, claims, demands and other encumbrances shall be, and each of them is hereby preserved and shall pass to and be held by Lender as additional collateral and further security for the Secured Obligations, to the same extent they would have been preserved and would have been passed to and held by Lender had they been duly and legally assigned, transferred, set over and delivered unto Lender by assignment, notwithstanding the fact that the same may be satisfied and canceled of record.

1.15 Books and Records. Grantor shall keep and maintain or shall cause to be kept and maintained, at Grantor's cost and expense, and in accordance with standard accounting principles, proper and accurate books, records and accounts reflecting all items of income and expense in connection with any services, equipment or furnishings provided in connection with the operation of the Premises. Lender, by Lender's agents, accountants and attorneys, shall have the right from time to time to examine such books, records and accounts at the office of Grantor or such other person or entity maintaining such books, records and accounts, to make such copies or extracts thereof as Lender shall desire, and to discuss Grantor's affairs, finances and accounts with Grantor and with the officers and principals of Grantor, at such reasonable times as may be requested by Lender.

1.16 Licenses and Permits Obtained. Grantor represents and warrants that all necessary permits, licenses and certificates have been obtained to permit Grantor to operate the Premises in the manner contemplated, and Grantor will maintain in effect all such licenses, permits, and certificates, together with any other agreements necessary for the use and operation of the Premises.



1.17 Limit of Validity. If from any circumstances whatsoever, fulfillment of any provision of this Mortgage at the time performance of such provision shall be due, shall involve transcending the limit of validity presently prescribed by any applicable usury statute or any other applicable law, with regard to obligations of like character and amount, then, ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity, so that in no event shall any exaction be possible under this Mortgage that is in excess of the current limit of such validity, but such obligation shall be fulfilled to the limit of such validity. The provisions of this Section 1.17 shall control every other provision of this Mortgage.

1.18 No Default Affidavits. Upon the occurrence of any default hereunder, at Lender's request, Grantor shall deliver an affidavit specifying the nature of such default and the period of existence thereof and the action Grantor has taken or proposes to take with respect thereto.

1.19 Legal Actions. In the event that Lender is made a party, either voluntarily or involuntarily, in any action or proceeding affecting the Premises, the Loan Documents, the Secured Obligations or the validity or priority of this Mortgage (but excluding any action or proceeding involving a dispute solely between Lender and a participating Lender, if any), Grantor shall immediately, upon demand, reimburse Lender for all costs, expenses and liabilities incurred by Lender by reason of any such action or proceeding, including reasonable attorney's fees, and any such amounts paid by Lender shall be added to the Secured Obligations and shall be secured by this Mortgage.

1.20 Compliance with Zoning and Restrictions. Grantor shall at all times operate the Premises in accordance with all applicable restrictions and zoning ordinances.

1.21 Conveyance or Encumbrance of Premises. Grantor shall not directly or indirectly encumber (by lien, junior mortgage, or otherwise), pledge, convey, transfer or assign any or all of its interest in the Premises without the prior written consent of Lender. Lender's consent to such a transfer, if given in Lender's sole discretion, shall not release or alter in any manner the liability of Grantor or anyone who has assumed or guaranteed the payment of the Secured Obligations or any portion thereof. At the option of Lender the Secured Obligations shall be immediately due and payable in the event that Grantor conveys all or any portion of the Premises or any interest therein, or in the event that Grantor's equitable title thereto or interest therein shall be assigned, transferred or conveyed in any manner, without obtaining Lender's prior written consent thereto, and any waiver or consent for any prior transfer shall not preclude Lender from declaring the Secured Obligations due and payable for any subsequent transfer.

1.22 Compliance with Applicable Environmental Law. The term "Applicable Environmental Law" shall be defined as any statutory law or case law pertaining to health or the environment, or petroleum products, or asbestos, or oil, or hazardous substances, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") as codified at 42 U.S.C. § 9601 et seq.; the Resource Conservation and Recovery Act of 1976, as amended, as codified at 42 U.S.C. § 6901 et seq.; and the Superfund Amendments and Reauthorization Act of 1986, as codified at 42 U.S.C. § 9671, et seq.; the terms "hazardous

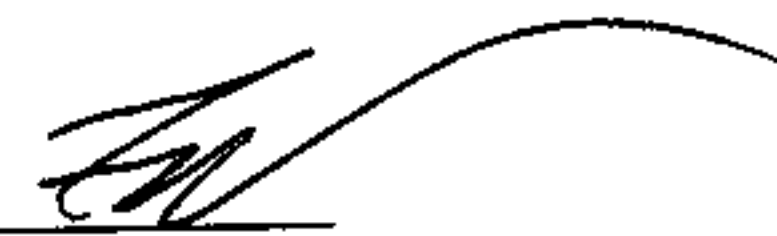


substance" and "release" shall have the meanings specified in CERCLA; provided, in the event CERCLA is amended to broaden the meaning of any term defined thereby, such broader meaning shall apply subsequent to the effective date of such amendment; and provided, to the extent that the laws of the State of Alabama establish a meaning for "hazardous substance" or "release" which is broader than that specified in CERCLA, such broader meaning shall apply. The Grantor represents and warrants to the Lender that, to the best of Grantor's knowledge and belief, the Premises and the Grantor is not in violation of or subject to any existing, pending or, to the best of Grantor's knowledge, threatened investigation or inquiry by any governmental authority or any response costs or remedial obligations under any Applicable Environmental Law and this representation and warranty would continue to be true and correct following disclosure to the applicable governmental authorities of all relevant facts, conditions and circumstances, if any, pertaining to the Premises; that the Grantor has not obtained and are not, to the best of its knowledge and belief, required to obtain any permits, licenses or similar authorizations to construct, occupy, operate or use any buildings, improvements, fixtures or equipment forming a part of the Premises by reason of any Applicable Environmental Law; that the Grantor has taken all steps necessary to determine and has determined that no asbestos, petroleum products, oil, hazardous substances, or solid wastes have been disposed of, or otherwise released on, or are otherwise located on the Premises; and that the use which the Grantor has made, makes or intends to make of the Premises will not result in the location on or disposal or other release of any asbestos, petroleum products, oil, hazardous substances or solid waste on or to the Premises. The Grantor hereby agrees to pay any fines, charges, fees, expenses, damages, losses, liabilities, or response costs arising from or pertaining to the application of any such Applicable Environmental Law to the Premises and to indemnify and forever save the Lender harmless from any and all judgments, fines, charges, fees, expenses, damages, losses, liabilities, response costs, or reasonable attorneys' fees and expenses arising from the application of any such Applicable Environmental Law to the Premises or the Lender; and this indemnity shall survive any foreclosure of this Mortgage or the taking by the Lender of a deed in lieu of foreclosure; provided, however, that this indemnity shall not extend to acts of the Lender which result in such fines, charges, fees, expenses, damages, losses, liabilities, or response costs. The Grantor agrees to notify the Lender in the event that any governmental agency or other entity notifies the Grantor that it may not be in compliance with any Applicable Environmental Laws. The Grantor agrees to permit the Lender to have access to the Premises at all reasonable times in order to conduct, at the Lender's expense, any tests which the Lender deems are necessary to ensure that the Grantor and the Premises are in compliance with all Applicable Environmental Laws.

1.23 Inspections. Lender shall be entitled to make periodic inspections of the Premises in order to determine compliance with the terms and conditions of the Loan Documents.

ARTICLE II

2.01. Events of Default. The term "Event of Default," wherever used in this Mortgage, shall mean the occurrence of any one or more of the following events:



(a) The occurrence of any "Event of Default" under, and as defined in, the Note or any other Loan Document; or

(b) The creation or suffering to exist by the Grantor of any lien or encumbrance upon the Premises, other than (i) the lien of this Mortgage, (ii) liens for ad valorem taxes and assessments not then delinquent, (iii) liens or encumbrances which are imposed without the consent or acquiescence of Grantor and are bonded off or otherwise removed from the Premises within twenty (20) days after Grantor become aware that such a lien or encumbrance has been filed against all or a part of the Premises, (iv) subordinate, inchoate, unfiled liens for labor or materials to the extent permitted by Section 1.04 hereof, and (v) the Permitted Encumbrances, unless in each instance the written consent of the Lender is first obtained, which consent may be granted or refused by the Lender in its sole discretion.

With respect to any of the foregoing wherein a notice is required, such Event of Default will be deemed to have occurred upon the occurrence of such event without notice being required if Lender is prevented from giving notice by bankruptcy or other applicable law. Nothing herein shall require notice in any item of this Section where notice is not expressly required.

2.02. Acceleration of Maturity. If an Event of Default shall have occurred, then the entire Secured Obligations shall, at the option of Lender, immediately become due and payable without notice or demand, time being of the essence of this Mortgage, and no omission on the part of Lender to exercise such option when entitled to do so shall be construed as a waiver of such right.

2.03. Right to Enter and Take Possession.

(a) If an Event of Default shall have occurred, Grantor, upon demand of Lender, shall forthwith surrender to Lender the actual possession of the Premises and if, and to the extent permitted by law, Lender itself, or by such officers or agents as it may appoint, may enter and take possession of all or any part of the Premises without the appointment of a receiver or an application therefor, and may exclude Grantor and its agents and employees wholly therefrom, and take possession of the books, papers and accounts of Grantor.

(b) If Grantor shall for any reason fail to surrender or deliver the Premises or any part thereof after such demand by Lender, Lender, may obtain a judgment or decree conferring upon Lender the right to immediate possession or requiring Grantor to deliver immediate possession of the Premises to Lender, and Grantor hereby specifically consents to the entry of such judgment or decree. Grantor will pay to Lender, upon demand, all expenses of obtaining such judgment or decree, including reasonable compensation to Lender's attorneys and agents, and all such expenses and compensation shall, until paid, become part of the Secured Obligations and shall be secured by this Mortgage.

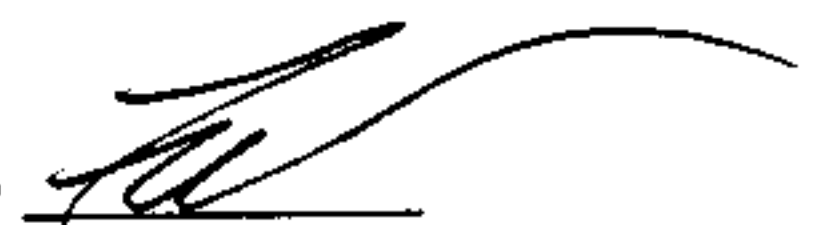
(c) Upon every such entering upon or taking of possession, Lender may hold, store, use, operate, manage and control the Premises and conduct the business thereof, and, from



time to time (i) make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon and purchase or otherwise acquire additional fixtures, personalty and other property; (ii) insure or keep the Premises insured; (iii) manage and operate the Premises and exercise all of the rights and powers of Grantor to the same extent as Grantor could in its own name or otherwise act with respect to the same; and (iv) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted to Lender, all as Lender from time to time may determine to be in its best interest. Lender may collect and receive all the rents, issues, profits and revenues from the Premises, including those past due as well as those accruing thereafter, and, after deducting (aa) all expenses of taking, holding, managing and operating the Premises (including compensation for the services of all persons employed for such purposes); (bb) the cost of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements, purchases and acquisitions; (cc) the cost of such insurance; (dd) such taxes, assessments and other similar charges as Lender may at its option pay; (ee) other proper charges upon the Premises or any part thereof; and (ff) the reasonable compensation, expenses and disbursements of the attorneys and agents of Lender, Lender shall apply the remainder of the monies and proceeds so received by Lender, first, to the payment of accrued interest; second, to the payment of deposits required in Sections 1.03 and 1.05 and to other sums required to be paid hereunder; and third, to the payment of overdue installments of principal. Anything in this Section 2.03 to the contrary notwithstanding, Lender shall not be obligated to discharge or perform the duties of a landlord to any tenant or incur any liability as a result of any exercise by Lender of its rights under this Mortgage, and Lender shall be liable to account only for the rents, income, issues and profits actually received by Lender.

(d) Whenever all such interest, deposits and principal installments and other sums due under any of the terms, covenants, conditions and agreements of this Mortgage shall have been paid and all Events of Default shall have been cured, Lender shall surrender possession of the Premises to Grantor, its successors or assigns. The same right of taking possession, however, shall exist if any subsequent Event of Default shall occur and be continuing.

2.04. Receiver. If any Event of Default shall have occurred, Lender, upon application to a court of competent jurisdiction, shall be entitled as a matter of strict right, without notice and without regard to the value of any security for the Secured Obligations or the solvency of any party bound for its payment, to the appointment of a receiver to take possession of and to operate the Premises and to collect and apply the rents, issues, profits and revenues thereof. The receiver shall have all of the rights and powers permitted under the laws of the state wherein the Land is situated. Grantor will pay unto Lender upon demand all expenses, including receiver's fees, reasonable attorney's fees, costs and agent's compensation, incurred pursuant to the provisions of this Section, and any such amounts paid by Grantor shall be added to the Secured Obligations and shall be secured by this Mortgage.



2.05. Lender's Power of Enforcement and Power of Sale.

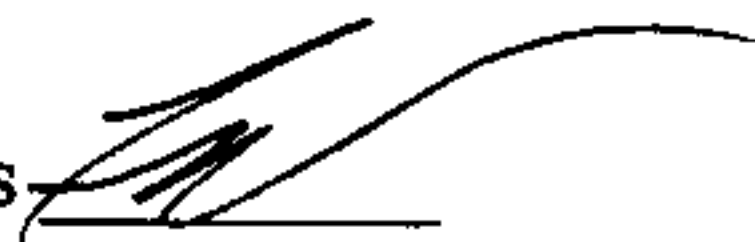
(a) If an Event of Default shall have occurred and be continuing and Lender shall have made a demand for payment of the Secured Obligations, the Lender may, either with or without entry or taking possession as hereinabove provided or otherwise, proceed by suit or suits at law or in equity or any other appropriate proceeding or remedy (i) to foreclose this Mortgage and to sell the Premises, as an entirety or in separate lots or parcels, as provided by applicable law, and (ii) to pursue any other remedy available to it, all as the Lender shall deem most effectual for such purposes. The Lender shall take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, as the Lender may determine.

(b) If an Event of Default shall have occurred, Lender may sell the Premises at public outcry to the highest bidder for cash in front of the Court House door in the county where said property is located, either in person or by auctioneer, after having first given notice of the time, place and terms of sale by publication once a week for three (3) successive weeks prior to said sale in some newspaper published in said county, and, upon payment of the purchase money, Lender or any person conducting the sale for Lender is authorized to execute to the purchaser at said sale a deed to the premises so purchased. Lender may bid at said sale and purchase said premises, or any part thereof, if the highest bidder therefor. At the foreclosure sale the Premises may be offered for sale and sold as a whole without first offering it in any other manner or may be offered for sale and sold in any other manner Lender may elect.

2.06. Purchase by Lender. Upon any foreclosure sale or sale of all or any portion of the Premises under the power herein granted, Lender may bid for and purchase the Premises and shall be entitled to apply all or any part of the Secured Obligations as a credit to the purchase price.

2.07. Application of Proceeds of Sale. In the event of a foreclosure or other sale of all or any portion of the Premises, the proceeds of said sale shall be applied, first, to the expenses of such sale and of all proceedings in connection therewith, including reasonable fees of the attorney and/or trustee conducting such sale (and attorney and trustee fees and expenses shall become absolutely due and payable whenever foreclosure is commenced); then to insurance premiums, liens, assessments, taxes and charges including utility charges advanced by Lender, and interest thereon; then to payment of the Secured Obligations and accrued interest thereon, in such order of priority as Lender shall determine, in its sole discretion; and finally the remainder, if any, shall be paid to Grantor, or to the person or entity lawfully entitled thereto.

2.08. Grantor as Tenant Holding Over. In the event of any such foreclosure sale or sale under the powers herein granted, Grantor (if Grantor shall remain in possession) shall be deemed a tenant holding over and shall forthwith deliver possession to the purchaser or purchasers at such sale or be summarily dispossessed according to provisions of law applicable to tenants holding over.



2.09. Waiver of Appraisalment, Valuation, Etc. Grantor agrees, to the full extent permitted by law, that in case of a default on the part of Grantor hereunder, neither Grantor nor anyone claiming through or under Grantor will set up, claim or seek to take advantage of any appraisalment, valuation, stay, extension, homestead, or exemption laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, or the absolute sale of the Premises, or the delivery of possession thereof immediately after such sale to the purchaser at such sale, and Grantor, for itself and all who may at any time claim through or under it, hereby waives to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the assets subject to the security interest of this Mortgage marshaled upon any foreclosure or sale under the power herein granted. Grantor waives and relinquishes the statutory right of redemption, all equities of redemption and all other rights and exemptions of every kind in, to and with respect to the real and personal property described herein.

2.10. Leases. Lender, at its option, is authorized to foreclose this Mortgage subject to the rights of any tenants of the Premises, and the failure to make any such tenants parties to any such foreclosure proceedings and to foreclose their rights will not be, nor be asserted to be by Grantor, a defense to any proceeding instituted by Lender to collect the sums secured hereby.

2.11. Discontinuance of Proceedings. In case Lender shall have proceeded to enforce any right, power or remedy under this Mortgage by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to Lender, then in every such case, Grantor and Lender shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Lender shall continue as if no such proceedings had occurred.

2.12. Remedies Cumulative. No right, power or remedy conferred upon or reserved to Lender by this Mortgage is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law, in equity or by statute.

2.13. No Waiver.

(a) No delay or omission by Lender, by any holder of the Notes or by any other party to whom the Secured Obligations are due to exercise any right, power or remedy accruing upon any default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such default, or acquiescence therein, and every right, power and remedy given by this Mortgage to Lender may be exercised from time to time and as often as may be deemed expedient by Lender. No consent or waiver expressed or implied by Lender to or of any breach or default by Grantor in the performance of the obligations of Grantor hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance of the same or any other obligations of Grantor hereunder. Failure on the part of Lender to complain of any act or failure to act or failure to declare an Event of Default, irrespective of how long such failure



continues, shall not constitute a waiver by Lender of its rights hereunder or impair any rights, powers or remedies of Lender hereunder.

(b) No act or omission by Lender shall release, discharge, modify, change or otherwise affect the original liability under the Note, or this Mortgage or any other obligation of Borrowers or Grantor or any subsequent purchaser of the Premises or any part thereof, or any maker, cosigner, endorser, surety or guarantor, nor preclude Lender from exercising any right, power or privilege herein granted or intended to be granted in the event of any default then existing or of any subsequent default, nor alter the lien of this Mortgage, except as expressly provided in an instrument or instruments executed by Lender. Without limiting the generality of the foregoing, Lender may (i) grant forbearance or an extension of time for the payment of all or any portion of the Secured Obligations; (ii) take other or additional security for the payment of any of the Secured Obligations; (iii) waive or fail to exercise any right granted herein or in the Notes or any other Loan Document; (iv) release any part of the Premises from the security interest or lien of this Mortgage or otherwise change any of the terms, covenants, conditions or agreements of the Notes or this Mortgage; (v) consent to the filing of any map, plat or replat affecting the Premises; (vi) consent to the granting of any easement or other right affecting the Premises; (vii) make or consent to any agreement subordinating the security title or lien hereof, or (viii) take or omit to take any action whatsoever with respect to the Notes, the Guaranty, this Mortgage, the Premises or any document or instrument evidencing, securing or in any way related to the Secured Obligations, all without releasing, discharging, modifying, changing or affecting any such liability, or precluding Lender from exercising any such right, power or privilege or affecting the lien of this Mortgage. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Premises, Lender, without notice, is hereby authorized and empowered to deal with any such vendee or transferee with reference to the Premises or the Secured Obligations, or with reference to any of the terms, covenants, conditions or agreements hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any liabilities, obligations or undertakings.

2.14. Suits to Protect the Premises. Lender shall have power to institute and maintain such suits and proceedings as it may deem expedient (a) to prevent any impairment of the Premises by any acts which may be unlawful or constitute a default under this Mortgage; (b) to preserve or protect its interest in the Premises and in the rents, issues, profits and revenues arising therefrom; and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would materially impair the security hereunder or be prejudicial to the interest of Lender.

2.15. Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Grantor, its creditors or its property, Lender, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Lender allowed in such proceedings for the entire amount due and payable by Grantor under this Mortgage



at the date of the institution of such proceedings and for any additional amount which may become due and payable by Grantor hereunder after such date.

2.16. **Tradenames, etc.** During the exercise of any right in the Premises pursuant to this Article II, Lender shall not be liable to Grantor for any inadvertent violation or infringement upon any tradename, trademark, service mark, or logo relating to the Premises, and Grantor waives any claim for any such violation or infringement that occurs prior to notice of such infringement by Grantor to Lender.

ARTICLE III

3.01. **Successors and Assigns.** This Mortgage shall inure to the benefit of and be binding upon Grantor and Lender and their respective successors, successors-in-title, and assigns. Whenever a reference is made in this Mortgage to "Grantor" or "Lender," such reference shall be deemed to include a reference to the successors, successors-in-title and assigns of Grantor or Lender, as the case may be, but shall not imply any permission to make or permit any transfer which is otherwise prohibited.

3.02. **Terminology.** All personal pronouns used in this Mortgage, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles and Articles are for convenience only and neither limit nor amplify the provisions of this Mortgage, and all references herein to Articles, Sections or subsections shall refer to the corresponding Articles, Sections or subsections of this Mortgage unless specific reference is made to Articles, Sections or subsections of another document or instrument.

3.03. **Severability; Complete Agreement.** If any provisions of this Mortgage or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Mortgage and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law. This Mortgage, the Loan Documents, and the instruments executed in connection herewith constitute the full and complete agreement of the parties and supersede all prior negotiations, correspondence, and memoranda relating to the subject matter hereof, and this Mortgage may not be amended except by a writing signed by the parties hereto.

3.04. **Applicable Law.** This Mortgage shall be governed by and construed in accordance with the laws of the State of Alabama.

3.05. **Notices.** Any and all notices, elections or demands permitted or required to be made to Lender or Grantor under this Mortgage, or by applicable law, shall be given and be deemed effective upon being delivered in accordance with the provisions of the Note and addressed to the addresses set forth in the Note.



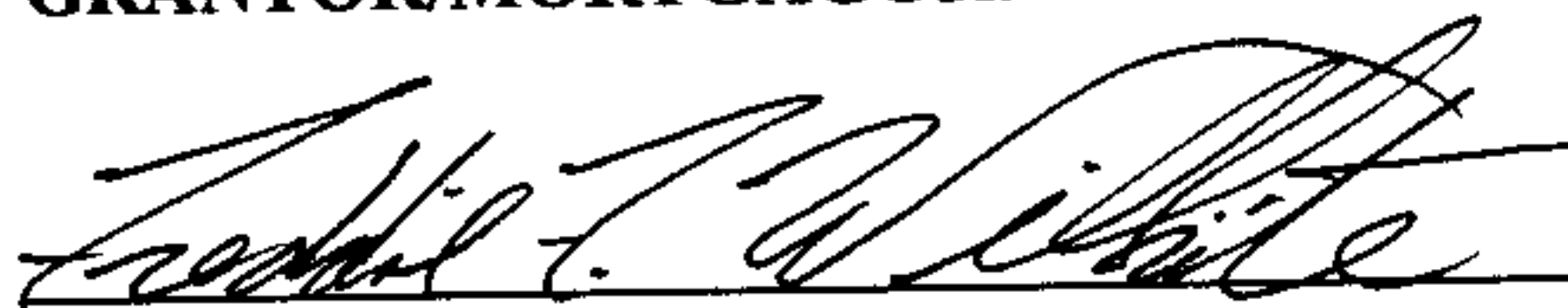
3.06. Assignment. This Mortgage is assignable by Lender and any assignment hereof by Lender shall operate to vest in the assignee all rights and powers herein conferred upon and granted to Lender.

3.07. Time of the Essence. Time is of the essence with respect to each and every covenant, agreement and obligation of Grantor under this Mortgage any and all other instruments now or hereafter evidencing, securing or otherwise relating to the Secured Obligations.

3.08. WAIVER OF JURY TRIAL. GRANTOR AND LENDER HEREBY MUTUALLY WAIVE ANY RIGHT TO A TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SETOFF, DEMAND, ACTION OR CAUSE OF ACTION ARISING OUT OF OR IN ANY WAY PERTAINING OR RELATING TO THIS MORTGAGE OR ANY OTHER LOAN DOCUMENT, OR IN ANY WAY CONNECTED WITH OR INCIDENTAL TO ANY DEALINGS OF THE PARTIES HERETO WITH RESPECT TO THIS MORTGAGE OR ANY OTHER LOAN DOCUMENT, OR THE EXERCISE OF EITHER PARTY'S RIGHTS AND REMEDIES HEREUNDER AND THEREUNDER, IN ALL OF THE FOREGOING CASES WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. GRANTOR AND LENDER AGREE THAT EITHER OR BOTH OF THEM MAY FILE A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED AGREEMENT BETWEEN THE PARTIES IRREVOCABLY TO WAIVE TRIAL BY JURY, AND THAT ANY DISPUTE OR CONTROVERSY WHATSOEVER BETWEEN THEM SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY. GRANTOR HEREBY CERTIFY THAT NO REPRESENTATIVE OR AGENT OF LENDER, INCLUDING LENDER'S COUNSEL, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT LENDER WOULD NOT, IN THE EVENT OF SUCH DISPUTE OR CONTROVERSY, SEEK TO ENFORCE THE PROVISIONS OF THIS PARAGRAPH, AND GRANTOR ACKNOWLEDGES THAT LENDER HAS, IN PART, BEEN INDUCED TO MAKE THE EXTENSION OF CREDIT GUARANTEED BY THE Grantor IN RELIANCE ON THE PROVISIONS OF THIS PARAGRAPH.

IN WITNESS WHEREOF, Grantor has caused this Mortgage to be executed as of the day and year first above written.

GRANTOR/MORTGAGOR:


FREDDIE F. WILHITE

LENDER/MORTGAGEE

**SOUTHTRUST BANK,
an Alabama banking corporation**

BY: 


JAMES M. CARTER

ITS: VICE PRESIDENT

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned Notary Public in and for said County, in said State, hereby certify that Freddie F. Wilhite, whose name is signed to the foregoing *Mortgage and Security Agreement*, and who is known to me, acknowledged before me on this day that, being informed of the contents of said *Mortgage and Security Agreement*, he executed the same voluntarily.

Given under my hand and official seal, this 24th day of August, 2001.

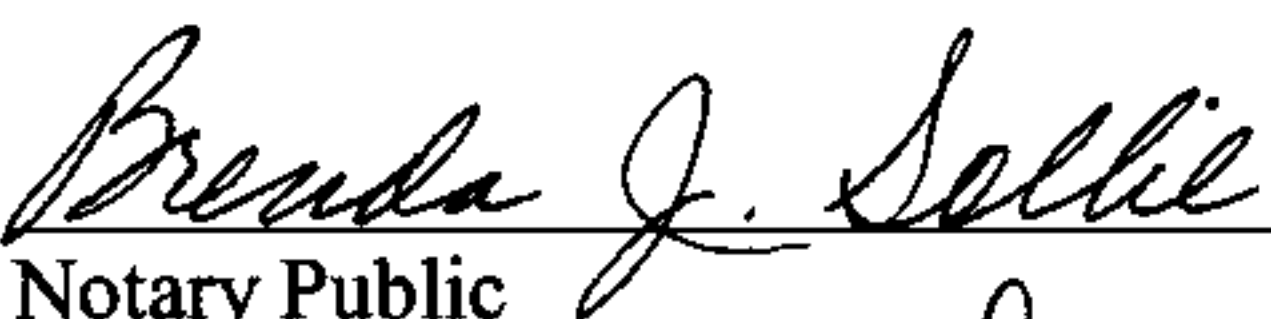


Notary Public
My Commission Expires: December 7, 2004

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned Notary Public in and for said County, in said State, hereby certify that James M. Carter, whose name as Vice President of SouthTrust Bank, an Alabama banking corporation corporation, is signed to the foregoing *Mortgage and Security Agreement*, and who is known to me, acknowledged before me on this day that, being informed of the contents of said *Mortgage and Security Agreement*, he, 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 24th day of August, 2001.



Notary Public
My Commission Expires: December 7, 2004



EXHIBIT A

Legal Description

Situated in Shelby County, Alabama.

Parcel I:

A parcel of land in the Southeast Quarter and Southeast Quarter of Section 16, Township 22 South, Range 1 West, being a part of the same land described in a Deed to Edward Gunn, recorded in Deed Book 130 at page 199, of Real Property Records of Shelby County, Alabama. Said parcel of land being more particularly described as follows: Commencing at a 1-1/2 inch pipe, found at the southeast corner of said section 16; thence South 87 degrees 57 minutes 02 seconds west, along the South line of said section, a distance of 517.85 feet to a point; thence North 02 degrees 02 minutes 58 seconds West, a distance of 213.17 feet to a ½ inch rebar set with a cap stamped "S. Wheeler CA 0502" at the Point of Beginning thence North 69 degrees 48 minutes 00 seconds west a distance of 210.00 feet to a point; thence North 20 degrees 12 minutes 00 seconds East a distance of 210.00 feet to a ½ inch rebar set, with a cap stamped "S. Wheeler CA 0502" thence South 20 degrees 12 minutes 00 seconds West a distance of 210.00 feet to the point of beginning situated in Shelby County, Alabama.

Parcel II:

A parcel of land in the Southeast Quarter of the Southeast Quarter of Section 16, Township 22 South, Range 1 West, being a part of the same land described in a Deed to Howard Gunn, recorded in Deed Book 130 at Page 199, of the Real Property Records of Shelby County, Alabama. Said parcel of land being more particularly described as follows: Commencing at a 1-1/2 inch pipe found at the Southeast corner of said Section 16; thence South 87 degrees 57 minutes 02 sections West, along the south line of said section, a distance of 517.85 feed to a point; thence North 02 degrees 02 minutes 58 seconds West, a distance of 213.17 feet to a ½ inch rebar set, with a cap stamped "S. Wheeler CA 0502"; thence North 69 degrees 48 minutes 00 seconds West, a distance of 210.00 feet to the point of beginning; thence North 69 degrees 48 minutes 00 seconds West, a distance of 135.76 feet to a ½ inch rebar set with a cap stamped "S. Wheeler CA 0502", on the Southeast right-of-way of County Highway No. 86; thence North 25 degrees 27 minutes 33 seconds East along said right-of-way, a distance of 210.89 feet to a ½ inch rebar set, with a cap stamped "S. Wheeler CA 0502"; thence south 69 degrees 48 minutes 00 seconds East a distance of 116.43 feet to a point; thence South 20 degrees 12 minutes 00 seconds East, a distance of 116.43 feet to a point; thence South 20 degrees 12 minutes 00 seconds West, a distance of 210.00 feet to the Point of beginning; situated in Shelby County, Alabama.

Parcel III:

Beginning at the SE corner of Section 16, Township 22 South, Range 1 West, Shelby County, Alabama said point being the POINT OF BEGINNING: thence South 87 degrees 56 minutes 52 seconds West, a distance of 1,016.58 to the easterly right-of-way line of Shelby County Highway 86; thence North 25 degrees 27 minutes 33 seconds East along said right-of-way, a distance of 387.70; thence South 69 degrees 48 minutes 00 seconds East and leaving said right-of-way, a distance of 345.76 feet; thence North 20 degrees 12 minutes 00 seconds East, a distance of 210.00 feet; thence North 69 degrees 48 minutes 00 seconds West, a distance of 326.43 feet to the easterly right-of-way line of Shelby County Highway 86; thence North 25 degrees 27 minutes 33 seconds East along said right-of-way, a distance of 308.31 feet to the southerly right-of-way line of Heart of Dixie Railroad; thence North 88 degrees 46 minutes 50 seconds East and leaving said County Right-of-way and along said Railroad right-of-way, a distance of 175.88 feet to a point of a curve to the right having a radius of 1,402.50 feet and a central angle of 17 degrees 50 minutes 52 seconds; thence easterly along the arc and along said right-of-way a distance of 436.88 feet; thence South 01 degrees 25 minutes 14 seconds East and leaving said right-of-way, a distance of 728.07 feet to the POINT OF BEGINNING.

Parcel IV:

Commence at the Southeast corner of Section 16, Township 22 South, Range 1 West, Shelby County, Alabama; thence North 01 degrees 25 minutes 14 seconds West, a distance of 728.07 feet; thence continue northerly along said line, a distance of 104.81 feet to the POINT OF BEGINNING; thence continue northerly along said line, a distance of 106.88 feet to the southerly right-of-way line of Shelby County Highway 42 and to the point on a curve to the left having a radius of 2,933.08 feet and a central angle of 9 degrees 20 minutes 09 seconds said curve subtended by a chord bearing North 67 degrees 31 minutes 32 seconds west and chord distance of 477.39 feet; thence westerly along the arc and along said right-of-way, a distance of 477.91 feet to the easterly right-of-way line of Shelby County Highway 85; thence South 25 degrees 27 minutes 33 seconds West and leaving said Highway 42 and along said Highway 85, a distance of 264.15 feet to the Northerly right-of-way line of Heart of Dixie Railroad; thence North 88 degrees 46 minutes 50 seconds East and leaving said Highway 85 and along said Railroad right-of-way a distance of 126.63 feet to a point of curve to the right having a radius of 1,502.50 feet and a central angle of 16 degrees 36 minutes 34 seconds; thence easterly along the arc of and along said right-of-way a distance of 435.56 feet to the POINT OF BEGINNING.

Inst # 2001-36457