

LEASEHOLD MORTGAGE, SECURITY  
AGREEMENT, FINANCING STATEMENT AND  
ASSIGNMENT OF RENTS AND LEASES

THIS LEASEHOLD MORTGAGE, SECURITY AGREEMENT, FINANCING STATEMENT AND ASSIGNMENT OF RENTS AND LEASES ("Mortgage") entered into as of the 28<sup>th</sup> day of September 2001, by HOUCHENS INDUSTRIES, INC., a Kentucky corporation ("Mortgagor" or "Borrower") having its principal office at 900 Church Street, Bowling Green, Kentucky 42102, in favor of FIRSTAR BANK, NATIONAL ASSOCIATION, a national banking association having an office at 500 East Main Street, Bowling Green, Kentucky 42102, as Administrative Agent for its benefit and for the benefit of the "Holders of Secured Obligations" ("Mortgagee") as defined in that certain Credit Agreement (as amended, restated, modified, supplemented or substituted from time to time, the "Credit Agreement"), dated as of September 28, 2001, by and among Borrower, LaSalle Bank National Association, Harris Trust and Savings Bank, Mortgagee and the institutions from time to time parties thereto as Lenders. The term "Holders of Secured Obligations" shall include those who are, and those who may hereafter become, parties to the Credit Agreement in such capacity. Except as otherwise provided herein, all capitalized terms used but not defined herein shall have the respective meanings given to them in the Credit Agreement.

WITNESSETH:

WHEREAS, pursuant to and upon satisfaction of the conditions set forth in the Credit Agreement, the Lenders have agreed to make certain Term Loans and Revolving Loans (the "Loans"), and Mortgagee and Lenders have agreed to extend certain other financial accommodations from time to time to Borrowers, all in an aggregate principal amount not to exceed One Hundred Million and no/100 Dollars (\$100,000,000.00); and

WHEREAS, as a condition to Mortgagee's and Lenders' extension of such credit and financial accommodations to Borrower, including, without limitation, the extension of credit pursuant to the Credit Agreement, Mortgagee and Lenders have required that Mortgagor enter into this Mortgage and grant to Mortgagee the liens and security interests referred to herein to secure (i) the payment of the principal amount of the Loans together with interest thereon, (ii) payment of the principal amount, together with interest thereon, of all present and future advances of money made by Mortgagee or Lenders to Borrower, including, without limitation,

This document was prepared by  
and after recording should be  
returned to:

James L. Marovitz  
Sidley Austin Brown & Wood  
Bank One Plaza  
10 South Dearborn Street  
Chicago, Illinois 60603

10/10/2001-43927  
09:32 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
016 MEL 168.50

the reborrowing of principal previously repaid, pursuant to the Credit Agreement, as well as all other Obligations of Borrower thereunder; (iii) all payment and performance obligations and liabilities related to all other Loan Documents to which Borrower or Mortgagor is a party; and (iv) other payment and performance obligations related to this Mortgage (the aforesaid Obligations of Mortgagor and Borrower to Mortgagee and the Lenders, together with the other payment and performance obligations and liabilities described herein, being hereinafter referred to collectively as the "Liabilities"); provided however, this Mortgage shall secure only the Restricted Indebtedness (as hereinafter defined); and

WHEREAS, the Liabilities secured hereby shall be restricted to an aggregate principal amount, at any one time outstanding of Seventy Five Thousand and no/100 Dollars (\$75,000.00) ("Restricted Indebtedness"), provided, that the foregoing limitation shall apply only to the lien upon the real property created by this Mortgage, and it shall not in any manner limit, affect or impair any grant of a security interest or other right in favor of the Mortgagee under the provisions of the Credit Agreement or under any other security agreement at any time executed by Mortgagor;

NOW, THEREFORE, in consideration of the premises contained herein and to secure payment of the Liabilities and in consideration of One Dollar (\$1.00) in hand paid, the receipt and sufficiency whereof are hereby acknowledged, Mortgagor does hereby grant, remise, release, alien, convey, mortgage and warrant to Mortgagee, its successors and assigns, all of Mortgagor's interest as lessee or tenant under that certain Lease between Eastern Dixie Properties, Inc., as Landlord, and Mortgagor, as successor to Gregerson's Holdings, Inc., as Tenant, dated February 9, 1994 (the "Primary Lease") of the following described real estate (the "Land") in Shelby County, Alabama, and does further grant a security interest to Mortgagee in all Mortgaged Property (as defined below) as may be secured under the Uniform Commercial Code (the "Code") in effect in the State of Alabama (the "State"):

See Exhibit A attached hereto and by this reference made a part hereof for the legal description of the Land

which interest in the Primary Lease, together with all right, title and interest, if any, which Mortgagor may now have or hereafter acquire in the Land and to all improvements, buildings and structures now or hereafter located thereon of every nature whatsoever, is herein called the "Premises".

TOGETHER WITH all right, title and interest, if any, including any after-acquired right, title and interest, and including any right of use or occupancy, which Mortgagor may now have or hereafter acquire in and to (a) all easements, rights of way, gores of land or any lands occupied by streets, ways, alleys, passages, sewer rights, water courses, water rights and powers, and public places adjoining said Land, and any other interests in property constituting appurtenances to the Premises, or which hereafter shall in any way belong, relate or be appurtenant thereto, and (b) all hereditaments, gas, oil, minerals (with the right to extract, sever and remove such gas, oil and minerals) and easements, of every nature whatsoever, located in or on the Premises and all other rights and privileges thereunto belonging or appertaining and all extensions, additions, improvements, betterments, renewals, substitutions and replacements to or



of any of the rights and interests described in subparagraphs (a) and (b) above (hereinafter the "Property Rights").

TOGETHER WITH all right, title and interest, if any, including any after-acquired right, title and interest, and including any right of use or occupancy, which Mortgagor may now or hereafter acquire in and to all fixtures and appurtenances of every nature whatsoever now or hereafter located in, on or attached to, and used or intended to be used in connection with, or with the operation of, the Premises, including, but not limited to (a) all apparatus, machinery and equipment of Mortgagor and (b) all extensions, additions, improvements, betterments, renewals, substitutions and replacements to or of any of the foregoing (the items described in the foregoing clauses (a) and (b) being the "Fixtures"). It is mutually agreed, intended and declared that the Premises and all of the Property Rights and Fixtures owned by Mortgagor (referred to collectively herein as the "Real Property") shall, so far as permitted by law, be deemed to form a part and parcel of the Land and for the purpose of this Mortgage to be real estate and covered by this Mortgage. It is also agreed that if any of the property herein mortgaged is of a nature so that a security interest therein can be perfected under the Code in effect in the State, this instrument shall constitute a security agreement, fixture filing and financing statement, and Mortgagor agrees to execute, deliver and file or refile any financing statement, continuation statement, or other instruments Mortgagee may reasonably require from time to time to perfect or renew such security interest under the Code. To the extent permitted by law, (i) all of the Fixtures are or are to become fixtures on the Land and (ii) this instrument, upon recording or registration in the real estate records of the proper office, shall constitute a "fixture-filing" within the meaning of Sections 9-334 and 9-502 of the Code. Subject to the terms and conditions of the Credit Agreement, the remedies for any violation of the covenants, terms and conditions of the agreements herein contained shall be as prescribed herein or by general law, or, as to that part of the security in which a security interest may be perfected under the Code, by the specific statutory consequences now or hereafter enacted and specified in the Code, all at Mortgagee's sole election; provided, if there is a conflict between the terms of this paragraph and the terms of the Credit Agreement, the terms of the Credit Agreement shall govern.

TOGETHER WITH all the estate, right, title and interest of the Mortgagor in and to (i) all judgments, insurance proceeds, awards of damages and settlements resulting from condemnation proceedings or the taking of the Real Property, or any part thereof, under the power of eminent domain or for any damage (whether caused by such taking or otherwise) to the Real Property, or any part thereof, or to any rights appurtenant thereto, and all proceeds of any sales or other dispositions of the Real Property or any part thereof; and (except as otherwise provided herein or in the Credit Agreement) the Mortgagee is hereby authorized to collect and receive said awards and proceeds and to give proper receipts and acquittances therefor, and to apply the same as provided in the Credit Agreement; and (ii) all contract rights, general intangibles, actions and rights in action relating to the Real Property including, without limitation, all rights to insurance proceeds and unearned premiums arising from or relating to damage to the Real Property; and (iii) all proceeds, products, replacements, additions, substitutions, renewals and accessions of and to the Real Property. (The rights and interests described in this paragraph shall hereinafter be called the "Intangibles".)

As additional security for the Liabilities secured hereby, Mortgagor (i) does hereby pledge and assign to Mortgagee from and after the date hereof (including any period of redemption), primarily and on a parity with the Real Property, and not secondarily, all the rents, issues and profits of the Real Property and all rents, issues, profits, revenues, royalties, bonuses, rights and benefits due, payable or accruing (including all deposits of money as advance rent, for security or as earnest money or as down payment for the purchase of all or any part of the Real Property) (the "Rents") under any and all present and future leases, contracts or other agreements relative to the ownership or occupancy of all or any portion of the Real Property, and (ii) except to the extent such a transfer or assignment is not permitted by the terms thereof, does hereby transfer and assign to Mortgagee all such leases and agreements (including all Mortgagor's rights under any contracts for the sale of any portion of the Mortgaged Property and all revenues and royalties under any oil, gas and mineral leases relating to the Real Property) (the "Leases"). Mortgagee hereby grants to Mortgagor the right to collect and use the Rents as they become due and payable under the Leases, but not more than one (1) month in advance thereof, unless an Event of Default, as hereinafter defined, shall have occurred provided that the existence of such right shall not operate to subordinate this assignment to any subsequent assignment, in whole or in part, by Mortgagor, and any such subsequent assignment shall be subject to the rights of the Mortgagee under this Mortgage. Mortgagor further agrees to execute and deliver such assignments of leases or assignments of land sale contracts as Mortgagee may from time to time request. In the event of an Event of Default (1) the Mortgagor agrees, upon demand, to deliver to the Mortgagee all of the Leases with such additional assignments thereof as the Mortgagee may request and agrees that the Mortgagee may assume the management of the Real Property and collect the Rents, applying the same upon the Liabilities in the manner provided in the Credit Agreement, and (2) the Mortgagor hereby authorizes and directs all tenants, purchasers or other persons occupying or otherwise acquiring any interest in any part of the Real Property to pay the Rents due under the Leases to the Mortgagee upon request of the Mortgagee. Mortgagor hereby appoints Mortgagee as its true and lawful attorney in fact to manage said property and collect the Rents, with full power to bring suit for collection of the Rents and possession of the Real Property, giving and granting unto said Mortgagee and unto its agent or attorney full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in the protection of the security hereby conveyed; provided, however, that (i) this power of attorney and assignment of rents shall not be construed as an obligation upon said Mortgagee to make or cause to be made any repairs that may be needful or necessary and (ii) Mortgagee agrees that until such Event of Default as aforesaid, Mortgagee shall permit Mortgagor to perform the aforementioned management responsibilities. Upon Mortgagee's receipt of the Rents, at Mortgagee's option, it may use the proceeds of the Rents to pay: (1) reasonable charges for collection thereof, costs of necessary repairs and other costs requisite and necessary during the continuance of this power of attorney and assignment of rents, (2) general and special taxes, insurance premiums, and (3) any or all of the Liabilities pursuant to the provisions of the Credit Agreement. This power of attorney and assignment of rents shall be irrevocable until this Mortgage shall have been satisfied and released of record and the releasing of this Mortgage shall act as a revocation of this power of attorney and assignment of rents. Mortgagee shall have and hereby expressly reserves the right and privilege (but assumes no obligation) to demand, collect, sue for, receive and recover the Rents, or any part thereof, now existing or hereafter made, and apply the same in accordance with the provisions of the Credit Agreement.



All of the property described above, and each item of property therein described, not limited to but including the Land, the Premises, the Property Rights, the Primary Lease, the Fixtures, the Real Property, the Intangibles, the Rents and the Leases, is herein referred to as the "Mortgaged Property."

Nothing herein contained shall be construed as constituting the Mortgagee a mortgagee-in-possession in the absence of the taking of actual possession of the Mortgaged Property by the Mortgagee. Nothing contained in this Mortgage shall be construed as imposing on Mortgagee any of the obligations of the lessor under any Lease of the Mortgaged Property in the absence of an explicit assumption thereof by Mortgagee. In the exercise of the powers herein granted the Mortgagee, except as provided in the Credit Agreement, no liability shall be asserted or enforced against the Mortgagee, all such liability being expressly waived and released by Mortgagor.

TO HAVE AND TO HOLD the Mortgaged Property, properties, rights and privileges hereby conveyed or assigned, or intended so to be, unto Mortgagee, and its successors and assigns, forever for the uses and purposes herein set forth. Mortgagor hereby releases and waives all rights under and by virtue of the Homestead Exemption Laws, if any, of the State and Mortgagor hereby covenants, represents and warrants that, at the time of the ensealing and delivery of these presents, Mortgagor is well and lawfully possessed of the Mortgaged Property by virtue of the Primary Lease as a good and perfect leasehold estate for the full term thereof, subject only to the full fee simple interest of the fee owner thereof to the extent set forth in the Primary Lease and with lawful authority to sell, assign, convey and mortgage the Mortgaged Property, and that the Mortgagor's title to the Mortgaged Property described in Exhibit A attached hereto is free and clear of encumbrances, except as described on Exhibit B attached hereto and made a part hereof, and, except for the encumbrances set forth on Exhibit B, Mortgagor will forever defend the title and quiet possession against all lawful claims.

The following provisions shall also constitute an integral part of this Mortgage:

1. Payment of Taxes on the Mortgage. Without limiting any of the provisions of the Credit Agreement, Mortgagor agrees that, if the United States or any department, agency or bureau thereof or if the State or any of its subdivisions having jurisdiction shall at any time require documentary stamps to be affixed to this Mortgage or shall levy, assess, or charge any tax, assessment or imposition upon this Mortgage or the credit or indebtedness secured hereby or the interest of Mortgagee in the Premises or upon Mortgagee by reason of or as holder of any of the foregoing then, Mortgagor shall pay for such documentary stamps in the required amount and deliver them to Mortgagee or pay (or reimburse Mortgagee for) such taxes, assessments or impositions. Mortgagor agrees to exhibit to Mortgagee, at any time upon request, official receipts showing payment of all taxes, assessments and charges which Mortgagor is required or elects to pay under this paragraph. Mortgagor agrees to indemnify Mortgagee against liability on account of such documentary stamps, taxes, assessments or impositions, whether such liability arises before or after payment of the Liabilities and regardless of whether this Mortgage shall have been released.

2. Leases and Subleases Affecting the Mortgaged Property. Mortgagor agrees faithfully to perform all of its obligations under the Primary and all present and future Leases at any time assigned to Mortgagee by separate instrument as additional security, and to refrain from any action or inaction which would result in termination of the Primary Lease, or of any such other Leases or in the diminution of the value thereof or of the Rents due thereunder, and in any event, to promptly give notice to the Mortgagee of any notice of default received from the landlord under the Primary Lease, as well as any other notice received from the landlord pursuant to the Primary Lease. Mortgagor further agrees that any future sublease of the Mortgaged Property made after the date of recording of this Mortgage shall contain a covenant to the effect that such sublessee shall, at Mortgagee's option, agree to attorn to Mortgagee as sublessor and, upon demand, to pay rent to Mortgagee, with the further agreement that Mortgagee shall not be responsible under such sublease for matters arising prior to Mortgagee becoming sublessor thereunder. Mortgagor shall not, without the prior written approval of Mortgagee in each instance, (i) make or enter into any sublease of all or any part of the Mortgaged Property; (ii) change, amend, modify, or assign in any manner whatsoever the Primary Lease, any Lease or any sublease; (iii) terminate or cancel, surrender or accept a surrender of, suffer or permit any cancellation, termination or surrender of, the Primary Lease, any Lease or sublease, or any leasehold estate in any manner whatsoever; or (iv) receive, collect or accept or permit the receipt, collection or acceptance of any prepayment of rent or other charges under any sublease for more than one (1) month except that the Mortgagor may, at the execution of a sublease, accept any rent security deposits.

3. Use of the Real Property. Mortgagor agrees that it shall not permit the public to use the Real Property in any manner that might tend, in Mortgagee's reasonable judgment, to impair Mortgagor's title to such property or any portion thereof, or to make possible any claim or claims of easement by prescription or of implied dedication to public use. Mortgagor shall not use or permit the use of any part of the Real Property for an illegal purpose, including, without limitation, the violation of any environmental laws, statutes, codes, regulations or practices.

4. Indemnification. Without limiting any indemnification Mortgagor has granted in the Credit Agreement, Mortgagor agrees to indemnify and hold harmless Mortgagee from and against any and all losses, suits, liabilities, fines, damages, judgments, penalties, claims, charges, costs and expenses (including reasonable attorneys' and paralegals' fees, court costs and disbursements) which may be imposed on, incurred or paid by or asserted against the Real Property by reason or on account of or in connection with (i) the construction, reconstruction or alteration of the Real Property, (ii) any negligence or misconduct of Mortgagor, any lessee of the Real Property, or any of their respective agents, contractors, subcontractors, servants, employees, licensees or invitees, (iii) any accident, injury, death or damage to any person or property occurring in, on or about the Real Property or any street, drive, sidewalk, curb or passageway adjacent thereto, or (iv) any other transaction arising out of or in any way connected with the Mortgaged Property.

5. Insurance. Mortgagor shall, at its sole expense, obtain for, deliver to, assign and maintain for the benefit of Mortgagee, until the Liabilities are paid in full, insurance policies as specified in the Credit Agreement. Moreover, if required by applicable laws, rules or regulations or by Mortgagee, Mortgagor shall purchase flood insurance covering the Real Property in such amounts as may be required or otherwise specified by Mortgagee. In the event



of a casualty loss, the net insurance proceeds from such insurance policies shall be paid and applied as specified in the Credit Agreement.

6. Condemnation Awards. Mortgagor hereby assigns to Mortgagee, as additional security, all awards of damage resulting from condemnation proceedings or the taking of or injury to the Real Property for public use, and Mortgagor agrees that the proceeds of all such awards shall be paid and applied as specified in the Credit Agreement.

7. Remedies. Subject to the provisions of the Credit Agreement, upon the occurrence of a Default under the terms of the Credit Agreement ("Event of Default"), in addition to any rights and remedies provided for in the Credit Agreement, and to the extent permitted by applicable law, the following provisions shall apply:

(a) Mortgagee's Power of Enforcement. Mortgagee may, (i) enter upon and take possession of the Mortgaged Property and after, or without, taking such possession of the same, immediately sell the Mortgaged Property in whole or in separate parcels, as prescribed by State law, under power of sale (which power is hereby granted to Mortgagee to the full extent permitted by State law) at public outcry, in front of the courthouse door of the county wherein the Mortgaged Property is located, to the highest bidder for cash, either in person or by auctioneer, after first giving notice of the time, place and terms of such sale by publication once a week for three (3) consecutive weeks in some newspaper of general circulation published in said county, and, upon the payment of the purchase money, the Mortgagee or any person conducting said sale for it is authorized and empowered to execute to the purchaser at said sale a deed to the property so purchased in the name of and on the behalf of Mortgagor, and the certificate of the holder of the Liabilities, or any part thereof, appointing said auctioneer to make such sale, shall be prima facie evidence of his authority in the Mortgaged Property, or the equity of redemption from this Mortgage may be foreclosed by suit in any court of competent jurisdiction as now provided by law in the case of past due mortgages. The Mortgagee, or the then holder of the Liabilities hereby secured may bid at any such sale and become the purchaser of said property if the highest bidder therefor.

(b) Mortgagee's Right to Enter and Take Possession, Operate and Apply Income. Mortgagee shall, at its option, have the right, acting through its agents or attorneys, either with or without process of law, forcibly or otherwise, to enter upon and take possession of the Real Property, expel and remove any persons, goods, or chattels occupying or upon the same, to collect or receive all the Rents, and to manage and control the same, and to lease the same or any part thereof, from time to time, and, after deducting all reasonable attorneys' fees and expenses, and all reasonable expenses incurred in the protection, care, maintenance, management and operation of the Real Property, distribute and apply the remaining net income in accordance with the terms of the Credit Agreement or upon any deficiency decree entered in any foreclosure proceedings.

8. Application of the Rents or Proceeds from Foreclosure or Sale. In any foreclosure of this Mortgage by judicial action, or any sale of the Mortgaged Property by advertisement, in addition to any of the terms and provisions of the Credit Agreement, there shall be allowed (and included in the decree for sale in the event of a foreclosure by judicial action) to be paid out of the Rents or the proceeds of such foreclosure proceeding and/or sale:

(a) Liabilities. All of the Liabilities and other sums secured hereby which then remain unpaid; and

(b) Other Advances. All other items advanced or paid by Mortgagee pursuant to this Mortgage; and

(c) Costs, Fees and Other Expenses. All court costs, reasonable attorneys' and paralegals' fees and expenses, appraiser's fees, advertising costs, filing fees and transfer taxes, notice expenses, expenditures for documentary and expert evidence, stenographer's charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all abstracts of title, title searches and examinations, title guarantees, title insurance policies, Torrens certificates and similar data with respect to title which Mortgagee in the reasonable exercise of its judgment may deem necessary. All such expenses shall become additional Liabilities secured hereby when paid or incurred by Mortgagee in connection with any proceedings, including but not limited to probate and bankruptcy proceedings, to which Mortgagee shall be a party, either as plaintiff, claimant or defendant, by reason of this Mortgage or any indebtedness hereby secured or in connection with the preparations for the commencement of any suit for the foreclosure, whether or not actually commenced, or sale by advertisement. The proceeds of any sale (whether through a foreclosure proceeding or Mortgagee's exercise of the power of sale) shall be distributed and applied in accordance with the terms of the Credit Agreement.

9. Cumulative Remedies; Delay or Omission Not a Waiver. Each remedy or right of Mortgagee shall not be exclusive of but shall be in addition to every other remedy or right now or hereafter existing at law or in equity. No delay in the exercise or omission to exercise any remedy or right accruing on the occurrence or existence of any Event of Default shall impair any such remedy or right or be construed to be a waiver of any such Event of Default or acquiescence therein, nor shall it affect any subsequent Event of Default of the same or different nature. Every such remedy or right may be exercised concurrently or independently and when and as often as may be deemed expedient by Mortgagee.

10. Mortgagee's Remedies against Multiple Parcels. If more than one property, lot or parcel is covered by this Mortgage, and if this Mortgage is foreclosed upon, or judgment is entered upon any Liabilities secured hereby, or if Mortgagee exercises its power of sale, execution may be made upon or Mortgagee may exercise its power of sale against any one or more of the properties, lots or parcels and not upon the others, or upon all of such properties or parcels, either together or separately, and at different times or at the same time, and execution sales or sales by advertisement may likewise be conducted separately or concurrently, in each case at Mortgagee's election.

11. No Merger. In the event of a foreclosure of this Mortgage or any other mortgage or deed of trust securing the Liabilities, the Liabilities then due the Mortgagee shall not be merged into any decree of foreclosure entered by the court, and Mortgagee may concurrently or subsequently seek to foreclose one or more mortgages or deeds of trust which also secure said Liabilities.



12. Notices. All notices and other communications provided to any party hereto under this Mortgage shall be in writing or by telex or by facsimile and addressed or delivered to such party at its address set forth below or at such other address as may be designated by such party in a notice to the other parties. Any notice, if mailed and properly addressed with postage prepaid, shall be deemed given when received; any notice, if transmitted by telex or facsimile, shall be deemed given when transmitted (answerback confirmed in the case of telexes).

if to Mortgagor:

Houchens Industries, Inc.  
900 Church Street  
Bowling Green, Kentucky 42102  
Attn: Jimmie Gipson  
Telecopy No.: (279) 780-2893

with a copy to:

Bell, Orr, Ayers & Moore, P.S.C  
1010 College Street  
Bowling Green, Kentucky 42102  
Attn: George E. Strickler, Jr.  
Telecopy No.: (270) 781-9027

if to Mortgagee:

Firststar Bank, National Association  
500 East Main Street  
Bowling Green, Kentucky 42102  
Attn: Eric Walker  
Telecopy No.: (270) 843-1016

with a copy to:

Sidley Austin Brown & Wood  
Bank One Plaza  
10 South Dearborn Street  
Chicago, Illinois 60603  
Attn: James R. Looman  
Telecopy No.: (312) 853-7036

Mortgagor or Mortgagee shall, from time to time, have the right to specify as the proper addressee and/or address for the purposes of this Mortgage any other party or address in the United States upon giving five (5) days' written notice thereof.

13. Extension of Payments. Mortgagor agrees that, without affecting the liability of any person for payment of the Liabilities secured hereby or affecting the lien of this Mortgage upon the Mortgaged Property or any part thereof (other than persons or property explicitly released as a result of the exercise by Mortgagee of its rights and privileges hereunder),

Mortgagee may at any time and from time to time, on request of the Mortgagor, without notice to any person liable for payment of any Liabilities secured hereby, but otherwise subject to the provisions of the Credit Agreement, extend the time, or agree to alter or amend the terms of payment of such Liabilities. Mortgagor further agrees that any part of the security herein described may be released with or without consideration without affecting the remainder of the Liabilities or the remainder of the security.

14. Governing Law. Mortgagor agrees that this Mortgage is to be construed, governed by and enforced on accordance with the laws of the State. Wherever possible, each provision of this Mortgage shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Mortgage shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Mortgage.

15. Satisfaction of Mortgage. Upon full payment of all the Liabilities, at the time and in the manner provided in the Loan Agreement, upon expiration of the Primary Lease by passage of time or upon satisfaction of the conditions set forth in the Loan Agreement for release of all or any portion of the Mortgaged Property from this Mortgage, this conveyance or lien shall be null and void as to all or such portion, as the case may be, and, upon demand therefor following such payment, expiration of the Primary Lease by passage of time or satisfaction of the conditions set forth in the Loan Agreement for release of this Mortgage, a satisfaction of this Mortgage shall promptly be provided by Mortgagee to Mortgagor.

16. Successors and Assigns Included in Parties. This Mortgage shall be binding upon the Mortgagor and upon the successors, assigns and vendees of the Mortgagor and shall inure to the benefit of the Mortgagee's successors and assigns; all references herein to the Mortgagor and to the Mortgagee shall be deemed to include their respective successors and assigns. Mortgagor's successors and assigns shall include, without limitation, a receiver, trustee or debtor in possession of or for the Mortgagor. Wherever used, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall be applicable to all genders.

17. Waiver of Appraisement, Valuation, Stay, Extension and Redemption Laws. Mortgagor agrees, to the full extent permitted by law, that at all times following an Event of Default, neither Mortgagor nor anyone claiming through or under it shall or will set up, claim or seek to take advantage of any appraisement, valuation, stay, or extension 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 Mortgaged Property or the final and absolute putting into possession thereof, immediately after such sale, of the purchaser thereat; and Mortgagor, 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 comprising the Mortgaged Property marshaled upon any foreclosure of the lien hereof and agrees that Mortgagee or any court having jurisdiction to foreclose such lien may sell the Mortgaged Property in part or as an entirety. To the full extent permitted by law, Mortgagor hereby waives any and all statutory or other rights of redemption from sale under any order or decree of foreclosure of this Mortgage,



on its own behalf and on behalf of each and every person acquiring any interest in or title to the Mortgaged Property subsequent to the date hereof.

18. Interpretation with Other Documents. Notwithstanding anything in this Mortgage to the contrary, in the event of a conflict or inconsistency between the Mortgage and the Credit Agreement, the provisions of the Credit Agreement shall govern.

19. Invalid Provisions to Affect No Others. In the event that any of the covenants, agreements, terms or provisions contained in this Mortgage shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein or in the Credit Agreement shall not be in any way affected, prejudiced or disturbed thereby. In the event that the application of any of the covenants, agreements, terms or provisions of this Mortgage is held to be invalid, illegal or unenforceable, those covenants, agreements, terms and provisions shall not be in any way affected, prejudiced or disturbed when otherwise applied.

20. Changes. Neither this Mortgage nor any term hereof may be changed, waived, discharged or terminated orally, or by any action or inaction, but only by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought. To the extent permitted by law, any agreement hereafter made by Mortgagor and Mortgagee relating to this Mortgage shall be superior to the rights of the holder of any intervening lien or encumbrance.

21. Time of Essence. Time is of the essence with respect to the provisions of this Mortgage.

22. Acquisition of Fee Interest. In the event Mortgagor acquires the fee interest in the Mortgaged Property, either pursuant to the terms of the Primary Lease or otherwise, this Mortgage shall continue in full force and effect against the Mortgaged Property until its release of record, and this Mortgage shall become and remain a valid first fee mortgage lien on the Mortgaged Property.

23. General Covenants; Representations and Warranties. Mortgagor hereby covenants, represents and warrants that as of the date hereof and at all times during the term hereof: (a) the Primary Lease is a valid and subsisting demise of the premises which it demises for the full term thereof; (b) there are no known existing defaults under the Primary Lease on the part of Mortgagor and to the best of Mortgagor's knowledge, there are no existing defaults under the Primary Lease on the part of any other person or persons obligated to act or refrain from acting by reason thereof; (c) Mortgagor has not assigned the Primary Lease and to the best of Mortgagor's knowledge there are no other assignments of the Primary Lease; (d) to the best of Mortgagor's knowledge, the landlord under the Primary Lease had good right to demise the premises therein demised; (e) to the best of Mortgagor's knowledge, the Primary Lease is in full force and effect without any condition pending which would by the passage of time ripen into a default; and (f) there have been no amendments to the Primary Lease, except as stated herein.

24. No Strict Construction. The parties hereto have participated jointly in the negotiation and drafting of this Mortgage. In the event an ambiguity or question of intent or interpretation arises, this Mortgage shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Mortgage.

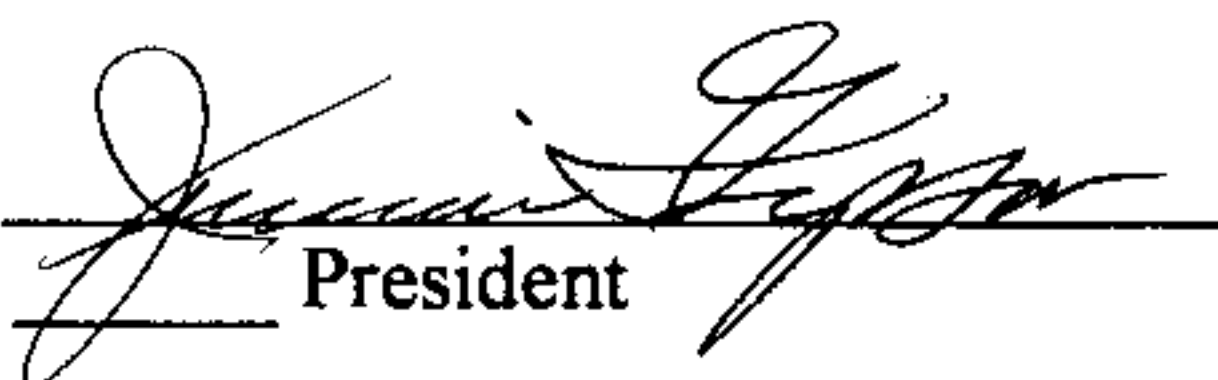
IN WITNESS WHEREOF, this instrument is executed as of the day and year first above written by the person or persons identified below on behalf of Mortgagor (and said person or persons hereby represent that they possess full power and authority to execute this instrument).



THE MORTGAGOR HEREBY DECLARES AND ACKNOWLEDGES THAT  
THE MORTGAGOR HAS RECEIVED, WITHOUT CHARGE, A TRUE COPY OF THIS  
MORTGAGE.

MORTGAGOR:

HOUCHENS INDUSTRIES, INC.

By   
Its \_\_\_\_\_ President

Attest:  
  
Its ASSI Secretary

STATE OF ILLINOIS       )  
                                      ) SS.  
COUNTY OF COOK        )

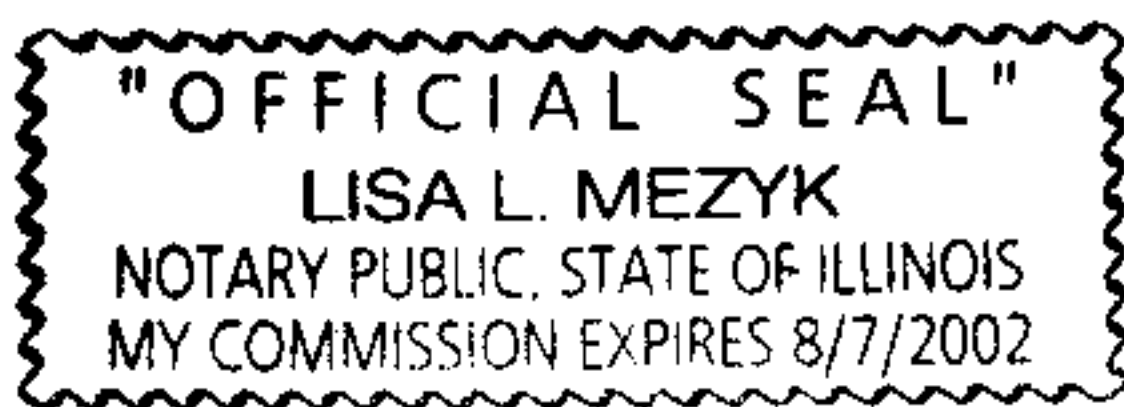
I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Jimmie Gipson and Quinten B. Marquette whose names as President and Assistant Secretary of Houchens Industries, Inc., a Kentucky corporation, are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of the said corporation.

Given under my hand and Official seal this 28<sup>th</sup> day of September, 2001.

(Seal)

  
\_\_\_\_\_  
Notary Public

My commission expires: 8-7-02



LISA L. MEZYK  
\_\_\_\_\_  
Notary Public in and for the  
State of Illinois



Lessor: Eastern Dixie Properties, Inc.  
5002 L. Whitling Drive  
Pelham, AL 35124

Store #202  
244 First Street SW  
Alabaster, AL 35007

Leased by:  
HOUCHENS INDUSTRIES, INC. AND  
HOUCHENS MARKET OF TENNESSEE, INC.  
Save-A-Lot Food Stores

**EXHIBIT A**  
**Legal Description**

**Parcel I:**

Block 1 of Cardwell's Subdivision, situated in the NE 1/4 of Section 2, Township 21 South, Range 3 West, in the City of Alabaster, Shelby County, Alabama, more particularly described as follows:  
From the NE corner of Section 2, Township 21 South, Range 3 West, run westerly along the north boundary of said section a distance of 965.69 feet to the intersection of the section line with the westerly right of way line of the northbound L & N Railway main; thence angle 83 deg. 06 min. to the left for a distance of 201.45 feet; thence angle left 0 deg. 56 min. for a distance of 583.08 feet; thence angle left 6 deg. 55 min. for a distance of 30.0 feet to the point of beginning of Block 1. From said point thence angle right 91 deg. 27 min. from the last described course for a distance of 150.0 feet; thence angle right 90 deg. 00 min. for a distance of 150.0 feet; thence angle left 90 deg. 46 min. for a distance of 494.0 feet; thence angle left 90 deg. 00 min. for a distance of 471.3 feet; thence angle left 91 deg. 01 min. for a distance of 646.3 feet; thence angle left 89 deg. 40 min. for a distance of 307.8 feet to the point of beginning.

**PARCEL II:**

From the NE corner of Section 2, Township 2 South, Range 3 West, run westerly along the north boundary of said section a distance of 965.69 feet to the intersection of the section line with the westerly right of way line of the northbound L & N Railway main, thence angle 83 deg. 06 min. to the left for a distance of 201.45 feet; thence angle left 0 deg. 56 min. for a distance of 583.08 feet; thence angle left 6 deg. 55 min. for a distance of 30.0 feet, thence angle right 91 deg. 27 min. from the last described course for a distance of 150.0 feet; thence angle right 90 deg. 00 min. for a distance of 150.0 feet; thence angle left 90 deg. 46 min. for a distance of 494.0 feet to the point of beginning; thence continue along the last described course a distance of 263.0 feet to the point of beginning; thence continue along the last described course a distance of 263.0 feet to the point of intersection of said line with the Easterly right of way line of the L & N Railroad Southbound main; thence left with an interior angle of 111 deg. 00 min. and run Southwesterly along said railroad right of way a distance of 550.0 feet; thence left with an interior angle of 66 deg. 20 min. and run Easterly a distance of 384.0 feet; thence left with an interior angle of 44 deg. 20 min. and run Northwesterly a distance of 40 feet; thence right with an interior angle of 42 deg. 41 min. and run Easterly a distance of 109.7 feet; thence 42 deg. 41 min. and run Easterly a distance of 109.7 feet; thence 88 deg. 59 min. left and run 471.3 feet to the point of beginning.

**PARCEL III:**

Commencing at the NE corner of Section 2, Township 21 South, Range 3 West and run Westerly along the North boundary of said section 2 for 965.69 feet to the point of intersection with the west right of way of the North bound L & N Railway main; thence turn an angle of 83 deg. 06 min. to the left and run 201.45 feet to the SE corner of the W. F. Stroud subdivision; thence turn an angle 0 deg. 56 min. to the left and run 583.08 feet to the point of beginning of the tract of land herein described; thence turn an angle of 84 deg. 32 min. to the right and run for a distance of 150 feet; thence turn an angle of 90 deg. to the left and run for a distance of 30 feet; thence turn an angle of 90 deg. to the left and run Easterly a distance of 150 feet to the Westerly line of 1st Street S.W.; thence turn left and run Northerly 30 feet to the point of beginning.

## EXHIBIT B

### Permitted Exceptions to Title

Those title exceptions listed on title commitment dated September 28, 2001,  
issued by Chicago Title Insurance Company for the property described on Exhibit A hereof.

Inst # 2001-43927

10/10/2001-43927  
09:32 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
016 MEL 168.50