

Prepared by:  
Damon P. Denney, Esq.  
BURR & FORMAN LLP  
3100 SouthTrust Tower  
420 North 20th Street  
Birmingham, Alabama 35203-3202  
(205) 251-3000

STATE OF ALABAMA

COUNTIES OF JEFFERSON, SHELBY, ST. CLAIR AND WALKER

Inst # 2002-04105

01/24/2002-04105  
08:40 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE

013 CH

47.00

### CROSS-COLLATERALIZATION AGREEMENT

**THIS CROSS-COLLATERALIZATION AGREEMENT** (this "Agreement") is made and entered into as of the 27<sup>th</sup> day of November, 2001, by **FINLEY PROPERTIES, L.L.C.**, an Alabama limited liability company ("Finley Properties") and **MCCULLOUGH SNAPPY SERVICE OIL CO., INC.**, a Delaware corporation ("McCullough"; and, together with Finley Properties, the "Borrowers") to **SOUTHTRUST BANK**, an Alabama banking corporation (the "Lender").

### R E C I T A L S:

A. Contemporaneously herewith, the Lender is making a loan to McCullough in the principal amount of \$4,000,000 (the "\$4,000,000 McCullough Loan"). The \$4,000,000 McCullough Loan is evidenced by that certain promissory note from McCullough to Lender in the original stated principal amount of \$4,000,000 (the "\$4,000,000 McCullough Note") and is secured by the real and personal property more particularly described in Exhibits A-1 through A-5 attached hereto (the "\$4,000,000 McCullough Property") pursuant to that certain Mortgage and Security Agreement of even date herewith to be filed with the Judges of Probate of Jefferson, St. Clair, Shelby and Walker Counties, Alabama (the "\$4,000,000 McCullough Mortgage"; and together with the \$4,000,000 McCullough Note and any and all other documents, instruments and or statements executed in connection therewith, and any amendments thereto, the "\$4,000,000 McCullough Loan Documents").

B. The Lender has previously made a loan to McCullough in the principal amount of \$675,000 (the "\$675,000 McCullough Loan"). The \$675,000 McCullough Loan is evidenced by that certain promissory note from McCullough to Lender in the original stated principal amount of \$675,000 (the "\$675,000 McCullough Note") and is secured by the real and personal property more particularly described in Exhibit A-6 attached hereto (the "\$675,000 McCullough Property") pursuant to that certain Mortgage and Security Agreement dated February 2, 1999, and filed with the Judge of Probate of Jefferson County as Instrument number 9902/3472 (the "\$675,000 McCullough Mortgage"; and together with the \$675,000 McCullough Note and any and all other documents, instruments and or statements executed in connection therewith, and any amendments thereto, the "\$675,000 McCullough Loan Documents"). The \$675,000 McCullough Loan and the \$4,000,000 McCullough Loan are collectively referred to as the McCullough Notes. The \$675,000 McCullough Note and the \$4,000,000 McCullough Note are collectively referred to as the McCullough Notes. The \$675,000 McCullough Mortgage and the \$4,000,000 McCullough Mortgage are collectively referred to as the McCullough Mortgages. The \$675,000

McCullough Loan Documents and the \$4,000,000 McCullough Loan Documents are collectively referred to as the McCullough Loan Documents. The \$675,000 McCullough Property and the \$4,000,000 McCullough Property are collectively referred to as the McCullough Properties.

C. The Lender has previously made a loan to Finley Properties in the principal amount of \$391,000 (the "Finley Properties Loan"). The Finley Properties Loan is evidenced by that certain promissory note from Finley Properties to Lender in the original stated principal amount of the Finley Properties Loan (the "Finley Properties Note") and is secured by the real and personal property more particularly described in Exhibit B attached hereto (the "Finley Properties Property") pursuant to that certain Mortgage and Security Agreement dated February 16, 1996, filed with the Judge of Probate of Jefferson County as Instrument number 9602/8785 (the "Finley Properties Mortgage"; and together with the Finley Properties Note and any and all other documents, instruments and or statements executed in connection therewith, and any amendments thereto, the "Finley Properties Loan Documents").

D. As a condition to making the \$4,000,000 McCullough Loan to McCullough, the Lender has required that the McCullough Loans and the Finley Properties Loan be cross-collateralized. McCullough and Finley Properties are affiliates and will each derive benefit from entering into this Agreement.

### **AGREEMENT**

**NOW, THEREFORE**, in consideration of the foregoing recitals, to induce the Lender to make the GL 10003 Technology Loan, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower agrees with Lender, and Lender agrees with Borrower, as follows:

1. **Cross-collateralization.**

(A) The \$675,000 McCullough Loan, the \$4,000,000 McCullough Loan and the Finley Properties Loan are hereby cross-collateralized.

(B) Borrower and Finley Properties agree that the collateral described in the \$675,000 McCullough Loan Documents shall secure, in addition to the \$675,000 McCullough Loan obligations described therein, and on a pari passu basis, (i) the obligations of the Borrower under each of the \$4,000,000 McCullough Loan Documents including, without limitation, the Borrower's obligation to pay the principal and interest on the \$4,000,000 McCullough Loan, as the same may hereafter be renewed, modified, amended or extended, and to pay all other indebtedness and other agreed charges and to perform all of the terms and conditions under each of the \$4,000,000 McCullough Loan Documents, and (ii) the obligations of Finley Properties under each of the Finley Properties Loan Documents including, without limitation, the Finley Properties' to pay the principal and interest on the Finley Properties Loan, as the same may hereafter be renewed, modified, amended or extended, and to pay all other indebtedness and other agreed charges and to perform all of the terms and conditions under each of the Finley Properties Loan Documents.

(C) Borrower and Finley Properties further agree that the collateral described in the \$4,000,000 McCullough Loan Documents shall secure, in addition to the \$4,000,000 McCullough Loan obligations described therein, and on a pari passu basis, (i) the obligations of the Borrower under each of



the \$675,000 McCullough Loan Documents including, without limitation, the Borrower's obligation to pay the principal and interest on the \$675,000 McCullough Loan, as the same may hereafter be renewed, modified, amended or extended, and to pay all other indebtedness and other agreed charges and to perform all of the terms and conditions under each of the \$675,000 McCullough Loan Documents, and (ii) the obligations of Finley Properties under each of the Finley Properties Loan Documents including, without limitation, the Finley Properties' to pay the principal and interest on the Finley Properties Loan, as the same may hereafter be renewed, modified, amended or extended, and to pay all other indebtedness and other agreed charges and to perform all of the terms and conditions under each of the Finley Properties Loan Documents.

(D) Borrower and Finley Properties further agree that the collateral described in the Finley Properties Loan Documents shall secure, in addition to the Finley Properties Loan obligations described therein, and on a pari passu basis, (i) the obligations of the Borrower under each of the \$675,000 McCullough Loan Documents including, without limitation, the Borrower's obligation to pay the principal and interest on the \$675,000 McCullough Loan, as the same may hereafter be renewed, modified, amended or extended, and to pay all other indebtedness and other agreed charges and to perform all of the terms and conditions under each of the \$675,000 McCullough Loan Documents, and (ii) the obligations of the Borrower under each of the \$4,000,000 McCullough Loan Documents including, without limitation, the Borrower's obligation to pay the principal and interest on the \$4,000,000 McCullough Loan, as the same may hereafter be renewed, modified, amended or extended, and to pay all other indebtedness and other agreed charges and to perform all of the terms and conditions under each of the \$4,000,000 McCullough Loan Documents.

2. **Miscellaneous.**

(a) This Agreement is being given as additional collateral to secure the obligations of the Borrowers and Finley Properties under the \$675,000 McCullough Loan Documents, the \$4,000,000 McCullough Loan Documents and the Finley Properties Loan Documents.

(b) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, administrators, successors and assigns.

3. **Controlling Law.** THE VALIDITY, INTERPRETATION, ENFORCEMENT AND EFFECT OF THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ALABAMA. THE LENDER'S PRINCIPAL PLACE OF BUSINESS IS LOCATED IN JEFFERSON COUNTY IN THE STATE OF ALABAMA, AND EACH OF BORROWER AND FINLEY PROPERTIES AGREES THAT THIS AGREEMENT SHALL BE DELIVERED TO AND HELD BY LENDER AT SUCH PRINCIPAL PLACE OF BUSINESS, AND THE HOLDING OF THIS AGREEMENT BY LENDER THEREAT SHALL CONSTITUTE SUFFICIENT MINIMUM CONTACTS OF EACH OF BORROWER AND FINLEY PROPERTIES WITH JEFFERSON COUNTY AND THE STATE OF ALABAMA FOR THE PURPOSE OF CONFERRING JURISDICTION UPON THE FEDERAL AND STATE COURTS PRESIDING IN SUCH COUNTY AND STATE. EACH OF BORROWER AND FINLEY PROPERTIES CONSENTS THAT ANY LEGAL ACTION OR PROCEEDING ARISING HEREUNDER MAY BE BROUGHT IN THE CIRCUIT COURT OF THE STATE OF ALABAMA, JEFFERSON COUNTY, ALABAMA OR THE UNITED STATES DISTRICT COURT PRESIDING OVER JEFFERSON COUNTY, ALABAMA AND ASSENTS AND SUBMITS TO THE

**PERSONAL JURISDICTION OF ANY SUCH COURT IN ANY ACTION OR PROCEEDING INVOLVING THIS AGREEMENT. NOTHING HEREIN SHALL LIMIT THE JURISDICTION OF ANY OTHER COURT.**

**4. Waiver of Jury Trial. EACH OF BORROWER AND FINLEY PROPERTIES HEREBY WAIVES ANY RIGHT THAT IT MAY HAVE TO A TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SETOFF, DEMAND, ACTION OR CAUSE OF ACTION (A) ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR THE LOANS, OR (B) IN ANY WAY CONNECTED WITH OR PERTAINING OR RELATED TO OR INCIDENTAL TO ANY DEALINGS OF LENDER AND/OR BORROWER WITH RESPECT TO THE LOANS OR IN CONNECTION WITH THIS AGREEMENT OR THE EXERCISE OF EITHER PARTY'S RIGHTS AND REMEDIES UNDER THIS AGREEMENT OR OTHERWISE, OR THE CONDUCT OR THE RELATIONSHIP OF THE PARTIES HERETO, IN ALL OF THE FOREGOING CASES WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. EACH OF BORROWER AND FINLEY PROPERTIES AGREES THAT LENDER MAY FILE A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY, AND BARGAINED AGREEMENT OF EACH OF BORROWER AND FINLEY PROPERTIES IRREVOCABLY TO WAIVE ITS RIGHTS TO TRIAL BY JURY AS AN INDUCEMENT OF LENDER TO MAKE THE LOANS, AND THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY DISPUTE OR CONTROVERSY WHATSOEVER (WHETHER OR NOT MODIFIED HEREIN) BETWEEN EITHER OF BORROWER AND/OR FINLEY PROPERTIES AND LENDER SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.**

[The remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed or have caused this Agreement to be properly executed as of the day and year first above written.

**MCCULLOUGH SNAPPY SERVICE OIL CO.,  
INC.,** a Delaware corporation

By: D. Lloyd Bowers  
Name: D. LLOYD BOWERS  
Title: PRESIDENT


**FINLEY PROPERTIES, L.L.C.,** an Alabama  
limited liability company

By: D. Lloyd Bowers  
Name: D. LLOYD BOWERS  
Title: MEMBER

STATE OF ALABAMA       )  
COUNTY OF JEFFERSON   )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that D. Lloyd Bowers, the President of McCullough Snappy Service Oil Co., Inc., a Delaware corporation, whose name is signed to the foregoing Cross Collateralization Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of the Cross Collateralization Agreement, he, as such President, executed the same as the voluntary act of said corporation on the day the same bears date.


Given under my hand and seal this the 27<sup>th</sup> day of November, 2001.

  
NOTARY PUBLIC  
My Commission expires: 4-20-04

STATE OF ALABAMA       )  
COUNTY OF JEFFERSON   )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that D. Lloyd Bowers, the Member of Finley Properties, L.L.C., an Alabama limited liability company, whose name is signed to the foregoing Cross Collateralization Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of the Cross Collateralization Agreement, he, as such Member, executed the same as the voluntary act of said limited liability company on the day the same bears date.

Given under my hand and seal this the 27<sup>th</sup> day of November, 2001.

  
NOTARY PUBLIC  
My Commission expires: 4-20-04



**Legal Description**  
**A-1**  
**Jefferson County**  
**7583 U.S. Highway No. 78**  
**Dora, Alabama 35062**

Commence at the Northeast corner of the Southeast quarter of the Southwest quarter of Section 13, Township 15 South, Range 5 West and South along the East line of said quarter Section for a distance of 165.50' for the POINT OF BEGINNING, thence continue South along the last described course for a distance of 403.69' to the northerly right of way line of US Highway 78; thence run North 45 degrees 33'30" West along said right of way for a distance of 345.0'; said point being on the east right of way line of Turner Road; thence run North 08 degrees 59'30" West, along the east right of way line of Turner Road, for a distance of 132.30' to a point; thence North 83 degrees 16'35" East (Deed) North 83 degrees 16'53" East (Measured) for a distance of 268.86' (Deed) 268.84' (Measured) to the POINT OF BEGINNING and containing 67,487.79 square feet or 1.5493 acres.

**Legal Description**  
**A-2**  
**Jefferson County**  
**290 Cane Creek Road**  
**Warrior, Alabama 35180**

A part of the Northwest quarter of the Northeast quarter of Section 23, Township 14 South, Range 3 West, situated in Jefferson County, Alabama, more particularly described as follows:

Commence at the southwest corner of the northwest quarter of the northeast quarter of Section 23, Township 14 South, Range 3 West and run North along the west line thereof for 643.7' to the southerly right of way line of Cane Creek Road; thence 96 degrees 33 minutes 52 seconds right and run East along said right of way for 20.13' to the POINT OF BEGINNING; thence continue along the last described course and along said right of way for 210.0', thence 83 degrees 26'08" right and run South for 208.71', thence 96 degrees 33'52" right and run West for 210.0'; thence 83 degrees 26'08" right and run North for 208.71' to the POINT OF BEGINNING and containing 1.0 acres more or less.

LESS AND EXCEPT any part within the right of way of New Cane Creek Road.



**Legal Description**  
**A-3**  
**Shelby County**  
**132 Shelby County Highway No. 87**  
**Calera, Alabama 35040**

Being Lot 1, in Airport Plaza, as recorded in Map Book 19, Page 36, in the Probate Office of Shelby County, Alabama, containing 1.35 acres, more or less.

**Legal Description**  
**A-4**  
**St. Clair County**  
**780 Mineral Springs Road**  
**Pell City, Alabama 35125**

From the Southeast corner of the Southwest quarter of the Northwest quarter of Section 34, Township 16 South, Range 3 East go North 0 degrees 16 minutes 17 seconds West, 89.56 feet for the point of beginning; thence South 74 degrees 51 minutes 00 seconds East 201.4 feet; thence North 05 degrees 47 minutes 48 seconds West, 479.41 feet; thence South 34 degrees 12 minutes 24 seconds West 199.75 feet; thence South 81 degrees 56 minutes 48 seconds West, 264.83 feet to the Southeast right of way of Eden Cut off Road; thence left 135.7 feet along an arc of a curve which has a delta angle of 5 degrees 39 minutes 16 seconds and a radius of 1375 feet, and a chord bearing of South 24 degrees 05 minutes 45 seconds West; thence South 68 degrees 59 minutes 52 seconds East, 200.79 feet to a point; thence South 74 degrees 46 minutes 52 seconds East, a distance of 99.96 feet to the point of beginning and containing 2.6 acres and lying in the Southwest quarter of the Northwest quarter, and in the Southeast quarter of the Northwest quarter of Section 34, Township 16 South, Range 3 East, St. Clair County, Alabama.

**Legal Description**  
**A-5**  
**Walker County**  
**5500 Highway No. 78 West**  
**Jasper, Alabama 35501**

A parcel of land located in the East half of the Northwest quarter of the Southwest quarter of Section 1, Township 14 South, Range 8 West, Walker County, Alabama, being more particularly described as follows:

Starting at the Northeast corner of said East half, thence N 89°46'51" W along the north boundary of the East half a distance of 206.59'; thence S 46°14'15" W a distance of 479.88' to the East right of way of Gamble Road; thence S 39°19'05" E along said right of way a distance of 60.00' to the POINT OF BEGINNING; thence, continue S 39°19'05" E along said right of way a distance of 88.62' to a point; thence S 03°16'33" W along said right of way a distance of 177.99' to a found right of way marker; thence S 41°31'03" E Deed, S 36°21'19" E Measured a distance of 38.99' to the North right of way of Highway 78; thence S 86°43'01" E along said North right of way a distance of 206.29' thence N 03°16'59" E a distance of 318.16', thence N 86°43'01" W a distance of 249.35', thence S 46°14'15" W a distance of 61.37' to thence POINT OF BEGINNING and containing 1.7651 acres.

## **Legal Description**

**A-6**

Lot 14-A, according to a Resurvey of Lots 14 and 15 Crow's First Addition to Huffman, as recorded in Map Book 88, page 78, in the Probate Office of Jefferson County, Alabama.



## **Legal Description**

### **B**

Lot 3-A, according to the Map and Survey of C.T. Realty Company's Resurvey and Subdivision, as recorded in Map Book 72, Page 12, being a Resurvey of Lots 3, 4 and Part of Lot 5, Block 6, Munger Realty Company, First Addition to Acipco, as recorded in Map Book 15, Page 97 and Part of Lot 7, Block 6, Julius Ellsberry Park, as recorded in Map Book 29, Page 85, in the Probate Office of Jefferson County, Alabama.

**Inst # 2002-04105**

896417.1

**01/24/2002-04105  
08:40 AM CERTIFIED**

**SHELBY COUNTY JUDGE OF PROBATE**

**013 CH 47.00**