

STATE OF ALABAMA )  
COUNTY OF SHELBY )

THIS INSTRUMENT PREPARED BY:  
James J. Odom, Jr.  
P.O. Box 11244  
Birmingham, Alabama 35202

Inst # 2002-19184

**MORTGAGE**

**KNOW ALL MEN BY THESE PRESENTS, THAT**

**WHEREAS**, the undersigned Big Mountain, LLC, an Alabama limited liability company, is justly indebted to GINGO-MORGAN PARK, an Alabama General Partnership, in the sum of ONE MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$1,500,000.00) (the "Indebtedness") evidenced by a promissory note of even date, and

**WHEREAS**, the undersigned desires to secure the prompt payment of the Indebtedness.

**NOW, THEREFORE**, in consideration of the Indebtedness, and to secure the prompt payment thereof at maturity, the undersigned Big Mountain, LLC (hereinafter called Mortgagor) does hereby grant, bargain, sell and convey unto the said GINGO-MORGAN PARK (hereinafter called Mortgagee) the following described real property (the "Property") situated in Shelby County, Alabama, to-wit:

**SEE ATTACHED EXHIBIT "A" FOR LEGAL DESCRIPTION.**

Mineral and mining rights excepted.

**SUBJECT TO:** (1) Current taxes; (2) Transmission Line Permits to Alabama Power Company as shown by instruments recorded in Deed Book 101, at Page 502, Deed Book 180, at Page 288, and Deed Book 145, at Page 377, in the Probate Office of Shelby County, Alabama; (3) Right of Way granted to Shelby County by instrument recorded in Deed Book 252, at Page 871, in the Probate Office of Shelby County, Alabama; (4) Easement to Trustee of Homewood, Lodge No. 1738 BPO Elks, as shown by instrument recorded in Real 114, at Page 821, in the Probate Office of Shelby County, Alabama; (5) Less and Except any portions of subject land lying within any road right of ways, including US Highway #31, Shelby County Road #17, Park View Road, Little Mountain Circle & Morgan Park Road.

**TO HAVE AND TO HOLD** the above granted premises unto the Mortgagee forever; and for the purpose of further securing the payment of the Indebtedness, the undersigned, agrees to pay all taxes, or assessments, when legally imposed upon the Property, and should default be made in the payment of taxes or assessments, the Mortgagee has the option of paying off them; and to further secure the Indebtedness, the undersigned agrees to keep the improvements on the real estate insured against loss or damage by fire, lightning and tornado for the reasonable insurable value thereof in companies satisfactory to the Mortgagee, with loss, if any, payable to the Mortgagee, as the interest of the Mortgagee may appear, and promptly to deliver the policies, or any renewals of the policies, to the Mortgagee; and if undersigned fail to keep the Property insured as above specified, or fail to deliver the insurance policies to the Mortgagee then the Mortgagee has the option of insuring the Property for the reasonable insurable value for the benefit of the Mortgagee, the policy, if collected, to be credited on the Indebtedness, less cost of collecting same; all amounts so expended by the Mortgagee for taxes, assessments or insurance, shall become a debt to the Mortgagee, additional to the debt hereby specially

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secured, and shall be covered by this Mortgage, and bear interest from the date of payment by the Mortgagee, and be at once due and payable.


Upon condition, however, that if the Mortgagor pays the Indebtedness, and reimburses the Mortgagee for any amounts Mortgagee may have expended for taxes, assessments and insurance, and the interest thereon, then this conveyance to be null and void, but should default be made in the payment of any sum expended by the Mortgagee, or should the Indebtedness hereby secured, or any part thereof, or the interest thereon, remain unpaid at maturity, or should the interest of the Mortgagee in the Property become endangered by reason of the enforcement of any prior lien or encumbrance thereon, so as to endanger the debt hereby secured, or if any statement of lien is filed under the Statutes of Alabama relating to the liens of mechanics and materialmen without regard to form and contents of such statement and without regard to the existence or non-existence of the debt or any part thereof or of the lien on which such statement is based, then in any one of said events, the whole of the Indebtedness hereby secured shall at once become due and payable, and this mortgage be subject to foreclosure as now provided by law in case of past due mortgages, and the Mortgagee shall be authorized to take possession of the premises hereby conveyed and with or without first taking possession, after giving twenty-one days' notice by publishing once a week for three consecutive weeks, the time, place and terms of sale, in some newspaper published in Shelby County, Alabama, to sell the same in lots or parcels, or en masse, as Mortgagee may deem best, in front of the Court House door in Shelby County, at public outcry, to the highest bidder for cash and apply the proceeds of the sale; first, to the expense of advertising, selling and conveying, including a reasonable attorney's fee; second, to the payment of any amounts that may have been expended, or that it may be necessary then to expend in paying insurance, taxes, or other encumbrances, with interest thereon; third, to the payment of the Indebtedness in full, whether or not it shall have fully matured, at the date of the sale, but no interest shall be collected beyond the day of sale; and fourth, the remainder, if any, to be turned over to the Mortgagor; and the undersigned, further agree that the Mortgagee may bid at said sale and purchase the Property, if the highest bidder therefor, as though a stranger hereto, and the person acting as auctioneer at such sale is hereby authorized and empowered to execute a deed to the purchaser thereof in the name of the Mortgagor by such auctioneer as agent, or attorney in fact; and undersigned further agree to pay a reasonable attorney's fee to the Mortgagee for the foreclosure of this mortgage in Chancery, should the same be so foreclosed, said fee to be a part of the debt hereto secured.

It is expressly understood that the word "Mortgagee" wherever used in this mortgage refers to the person named as grantees in the granting clause herein.

Any estate or interest herein conveyed to the Mortgagee, or any right or power granted to the Mortgagee in or by this mortgage, is hereby expressly conveyed and granted to the heirs, and agents, and assigns of the Mortgagee.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on this the 19<sup>th</sup> day of April, 2002.

WITNESS:

  
\_\_\_\_\_

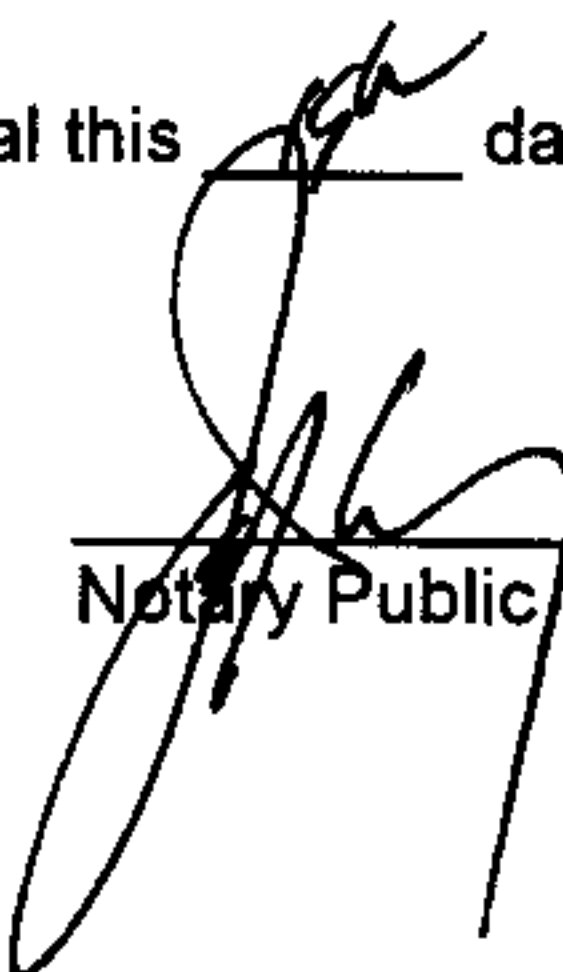
Big Mountain, LLC

By:   
\_\_\_\_\_ James O. Lunceford, as its Manager

STATE OF ALABAMA            )  
COUNTY OF SHELBY        )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that James O. Lunceford, whose name as Manager of Big Mountain, LLC, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day, that, being informed of the contents of the conveyance, he, in his capacity as Manager, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 19<sup>th</sup> day of April, 2002.

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

My commission expires: 7/14/2003

## EXHIBIT A

Commence at the Northwest corner of the NW ¼ of the NW ¼ of Section 31, Township 19 South, Range 2 West, thence run Easterly along the North line of said Section 31, a distance of 99.00 feet to the point of beginning; thence continue Easterly along said North line of Section 31 a distance of 1097.00 feet; thence turn 90 deg. 00 min. right and run Southerly 295.00 feet; thence turn 4 deg. 24 min. 20 sec. right and run southwesterly 27.65 feet; thence turn 88 deg. 37 min. 36 sec. right to the chord of a curve to the left (said curve having a central angle of 6 deg. 08 min. 38 sec. and a radius of 447.09 feet), and run along said curve 47.94 feet; thence turn a deflection angle of 3 deg. 04 min. 19 sec. left from the chord of said curve and run 149.75 feet; thence turn 3 deg. 14 min. left to the chord of a curve to the left (said curve having a central angle of 6 deg. 28 min. and a radius of 860.08 feet) and run along said curve 97.07 feet; thence turn 92 deg. 57 min. 52 sec. left from the chord of said curve and run southeasterly 329.18 feet; thence turn 87 deg. 13 min. 10 sec. left and run easterly 89.30 feet; thence turn 5 deg. 40 min. 05 sec. right and run southeasterly 144.20 feet; thence turn 7 deg. 15 min. 40 sec. left and run northeasterly 616.27 feet; thence turn 91 deg. 35 min. right and run southeasterly 394.95 feet; thence turn 113 deg. 45 min. right and run Northwesterly 387.40 feet to a point, (said point being on a 50.0 foot radius Cul De Sac and on the centerline of street, the last described course intersecting the centerline of said street at an angle of 18 deg. 33 min.); thence left around Cul De Sac 130.90 feet to a point 25.0 feet from centerline of street; thence turn left and run Northwesterly parallel to and 25.0 feet off centerline of said street a distance of 142.33 feet and the P.C. of a curve; thence turn a deflection angle of 18 deg. 20 min. 30 sec. left for a chord distance of 79.18 feet (Arc distance being 80.56 feet), to the P.T. of said curve; thence turn a deflection angle of 18 deg. 20 min. 30 sec. left and run 94.44 feet to the P.C. of a curve; thence turn a deflection angle of 2 deg. 47 min. 30 sec. left for a chord distance of 97.44 feet (Arc distance being 97.58 feet) to the P.T. of said curve; thence turn a deflection angle of 2 deg. 47 min. 30 sec. left and run 67.50 feet to the P.C. of a curve; thence turn a deflection angle of 29 deg. 36 min. 30 sec. left for a chord distance of 105.64 feet; (Arc distance being 111.06 feet) to the P.T. of said curve; thence turn a deflection angle of 29 deg. 36 min. 30 sec. left and run 231.06 feet to the P.C. of a curve; thence turn a deflection angle of 3 deg. 45 min. left for a chord distance of 196.29 feet (Arc distance being 196.43 feet) to the P.T. of said curve; thence turn 86 deg. 15 min. right and run northwesterly 55.38 feet; thence turn 51 deg. 00 min. 34 sec. left and run 291.62 feet to a point on the Northeasterly right of way line of U.S. Highway No. 31; thence turn 94 deg. 55 min. right to the chord of a curve to the right (said curve having a central angle of 10 deg. 24 min. 21 sec. and a radius of 1809.96 feet) and run along said curve and said right of way 328.70 feet; thence 90 deg. right from the tangent of said curve and run along a radial line of said curve 50.0 feet; thence turn 90 deg. left to the tangent of a curve to the right (said curve having a central angle of 15 deg. 00 min. and a radius of 1759.86 feet) and run along said curve and right of way 460.73 feet; thence turn 90 deg. left from the tangent of said curve and run along a radial line of said curve 50.0 feet; thence turn 94 deg. 25 min. 35 sec. right to the chord of a curve to the right (said curve having a central angle of 8 deg. 51 min. 11 sec. and a radius of 1809.96 feet) and run along said curve and said right of way 279.65 feet to the end of said curve and the beginning of a spiral curve to the right; thence turn 7 deg. 30 min. right from the chord of last described curve and run 248.00 feet to the point of beginning; being situated in Shelby County, Alabama.

### Less and Except :

A parcel of land located in the Northwest ¼ of the Northwest ¼ of Section 31, Township 19 South, Range 2 West, Shelby County, Alabama, being more particularly described by the following metes and bounds legal description, based on a Boundary Survey prepared by Walter Schoel Engineering Company, Inc., dated August 27, 1998, to wit: Commence at the Northwest corner of the said Section 31 (also known as the Southwest corner of Section 30), run thence along the North boundary of said Section 31, North 90 deg. 00 min. 00 sec. East (assumed bearing) for a distance of 94.14 feet, to the point of beginning of the parcel herein described, said point also being a point on the Easterly right of way line of U.S. Highway 31; thence continue along said North boundary of Section 31, North 90 deg. 00 min. 00 sec. East a distance of 214.44 feet; thence South 00 deg. 25 min. 21 deg. West for a distance of 90.00 feet; thence along a line lying 90.00 feet South of and parallel with the aforesaid North boundary of Section 31, North 90 deg. 00 min. 00 sec. East for a distance of 224.27 feet, to a point on the aforesaid Easterly right of way line of U.S. Highway 31, lying 100 feet Easterly of concentric with the centerline of said highway, being a spiral angle 4 deg. 30 min.; thence along said right of way, across the chord North 06 deg. 38 min. 57 sec. East for a distance of 90.61 feet, to the point of beginning. Being situated in Shelby County, Alabama.

A parcel of land situated in the Northwest ¼ of the Northwest ¼ of Section 31, Township 19 South, Range 2 West, Shelby County, Alabama and being more particularly described as follows:

Commence at the Northwest corner of Block 2 of the Cahaba Valley Parkway Business Park North, as recorded in Map Book 13, Page 140, Office of the Judge of Probate, Shelby County, Alabama; thence run North 1 deg. 15 min. 24 sec. West for a distance of 191.42 feet to a point; thence run South 86 deg. 43 min. 00 sec. West for a distance of 521.87 feet to a point; said point being the point of beginning; thence run South 1 deg. 15 min. 24 sec. East for a distance of 50.65 feet to a point on the North right of way line of Morgan Park Drive; thence run on a curve to the left having a radius of 351.07 feet, an arc length of 68.63 feet and being subtended by a chord bearing North 65 deg. 33 min. 23 sec. West with a distance of 68.52 feet; thence run North 0 deg. 00 min. 00 sec. West for a distance of 18.14 feet to a point; thence run North 86 deg. 42 min. 34 sec. East for a distance of 61.64 feet to a point, said point being the point of beginning. Being situated in Shelby County, Alabama.

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