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Shelby Cnty Judge of Probate, AL
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This document prepared by and
should be returned to:

David A. Weissmann, Esq.
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3490 Piedmont Road, Suite 650
Atlanta, Georgia 30305

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (hereinafter sometimes referred to as this "Mortgage and Security Agreement") made this 10th day of July, 2002, by CROW WOOD SPRINGS, LLC, a Delaware limited liability company (hereinafter called "Mortgagor"), and by REGIONS BANK (hereinafter called "Mortgagee");

W I T N E S S E T H:

That for and in consideration of the sum of ONE HUNDRED AND NO/100 (\$100.00) DOLLARS in hand paid and the other considerations hereinafter mentioned, receipt whereof is hereby acknowledged, Mortgagor does hereby mortgage, grant, bargain, sell and convey to Mortgagee, its successors and assigns, all of the following described land, buildings, improvements (including improvements to be made hereafter), fixtures, furniture and appliances and other personal property (hereinafter sometimes collectively called the "Premises"), to wit:

(a) All that tract or parcel of land (the "Land") more particularly described in Exhibit "A" attached hereto and made a part hereof and buildings and other improvements now or hereafter placed thereupon;

(b) All of Mortgagor's right, title and interest in and to the following: 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, mirrors, mantels, air conditioning apparatus, refrigerating plants, refrigerators, cooking apparatus and appurtenances, window screens, awnings and storm sashes attached to said buildings, structures or improvements and all other furnishings, furniture, fixtures, machinery, equipment, appliances, building supplies and materials, books and records, chattels, inventory, accounts, consumer goods, general intangibles and personal property of every kind and nature whatsoever owned by Mortgagor

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

Land Title

and now or hereafter located in, on or about, or used or intended to be used with or in connection with the use, operation or enjoyment of the Land and the improvements located from time to time thereon, including all extensions, additions, improvements, betterments, after-acquired property, renewals, replacements and substitutions or proceeds from a permitted sale of any of the foregoing, all tradenames, trademarks, servicemarks, logos, and goodwill related thereto which in any way not or hereafter belong, relate or appertain to the Land and the improvements located thereon or any part thereof and are now or hereafter acquired by Mortgagor; and all right, title and interest of Mortgagor in and to the following: all inventory, accounts, chattel paper, documents, equipment, fixtures, consumer goods and general intangibles constituting proceeds acquired with cash proceeds of any of the property described hereinabove, all of which are hereby declared and shall be deemed to be fixtures and accessions to the Land as between the parties hereto and all persons claiming by, through or under them, and which shall be deemed to be a portion of the security for the indebtedness herein described and to be secured by this Mortgage and Security Agreement;

TOGETHER WITH all right, title and interest of Mortgagor in and to the following: all building materials, fixtures, building machinery and building equipment delivered on site to the Land during the course of, or in connection with, construction of the buildings and improvements upon the Land;

TOGETHER with all easements, rights-of-way, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way belonging, relating or appertaining to the Land or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto or to any part or parcel thereof, whether now owned or hereafter acquired by Mortgagor, and the reversion and reversions, remainder and remainders, the rents, issues, profits and revenues of the Premises from time to time accruing (including, without limitation, proceeds of insurance and condemnation payments) and all the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of Mortgagor of, in and to the same; reserving only the license to Mortgagor to collect, use and enjoy the rents, issues, profits and revenues of the Premises so long as Mortgagor is not in default hereunder;

TOGETHER WITH all and singular the rights, members and appurtenances whatsoever, in any way belonging, relating or appertaining to any of the Premises hereinabove mentioned or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Mortgagor, including but not limited to all insurance proceeds and condemnation awards, all tenant security deposits whether held by Mortgagor or in a trust account, all escrow funds, and all rents, profits, issues and revenues of the Premises from time to time accruing, whether under leases or tenancies now existing or hereafter created, reserving only the right to Mortgagor to collect the same so long as Mortgagor is not in default hereunder and so long as the same are not subjected to garnishment, levy, attachment or lien. In addition, Mortgagor hereby assigns, transfers and conveys to Mortgagee, its successors and assigns, all of Mortgagor's right, title and interest in, to and under all lease, occupancy agreements, tenant contracts and rental agreements now or hereafter leasing or affecting the Premises or any part thereof (herein each sometimes referred to as a "lease").

TOGETHER with all other interest of every kind and character which Mortgagor now has or at any time hereafter acquires in and to the property, tangible and intangible, which is used or useful in connection with the operation of the Premises, to the extent assignable, including, but not limited to, construction contracts, architects' contracts, engineering contracts, management agreements, maintenance and service contracts, licenses and permits issued by governmental authorities, accounts receivable, cash maintained in governmental authorities, any capital accounts, operating accounts and replacement reserve accounts now existing or hereafter created and utility deposits, if any;

TOGETHER with all unearned premiums accrued, accruing or to accrue under insurance policies now or hereafter obtained by Mortgagor and Mortgagor's interest in and to all proceeds of the conversion and the interest payable thereon, voluntary or involuntary, of the Premises, or any part thereof, into cash or liquidated claims, including, without limiting the generality of the foregoing, proceeds of casualty insurance, title insurance or any other insurance maintained on the Premises, and the right to collect and receive the same, and all awards and/or other compensation including the interest payable thereon and the right to collect and receive the same, heretofore and hereafter made to the present and all subsequent owners of the Premises by the United States, the State of Alabama, or any political subdivision thereof, or any agency, department, bureau, board, commission, or instrumentality of any of them, now existing or hereafter created for the taking by eminent domain, condemnation or otherwise, of all or any part of the Premises or any easement or other right therein;

TOGETHER with all proceeds, both cash and noncash, of the foregoing which may be sold or otherwise be disposed of pursuant to the terms hereof;

TOGETHER with any and all monies now or hereafter on deposit for the payment of real estate taxes or special assessments against the Premises or any part thereof or for the payment of premiums on policies of fire and other hazard insurance covering the foregoing property or otherwise on deposit pursuant to the terms of this Mortgage and Security Agreement, and the proceeds thereof;

TO HAVE AND TO HOLD the Premises and all parts rights, members and appurtenances thereof, unto Mortgagee, its successors-in-trust and assigns, forever, subject to the terms and conditions herein;

Mortgagor covenants that Mortgagor is lawfully seized and possessed of the Premises and has good right to convey the same, that the same is unencumbered except for those matters (hereinafter referred to as the "Permitted Encumbrances") expressly set forth in Exhibit "B" attached hereto and by this reference made a part hereof, and that Mortgagor does warrant and will forever defend the title thereto against the claims of all persons and entities whomsoever, except as to the Permitted Encumbrances.

This Mortgage and Security Agreement is given for the following purpose, and not otherwise: to secure to Mortgagee the payment of the following described indebtedness (hereinafter referred to collectively as the "Indebtedness"):

(a) the debt evidenced by that certain Real Estate Note of even date herewith made by Mortgagor, payable to the order of Mortgagee, in the principal face amount of \$500,000, or any replacement note that may be substituted for said note after the date hereof, together with any and all renewals, modifications, consolidations and extensions of the indebtedness evidenced by such note (hereinafter said note or any replacement note, as the case may be, is referred to as the "Note" and to which Note reference is hereby made for all purposes), together with interest on such principal amount;

(b) any and all additional advances made by Mortgagee to protect or preserve the Premises or the security interest created hereby in the Premises or for taxes, assessments or insurance premiums as hereinafter provided or any future advance made for any other purpose permitted hereunder or under the Loan Documents and related to the indebtedness evidenced by the Note, to the same extent as if such advances were made on the date of the execution of this Mortgage and Security Agreement (whether or not the original Mortgagor remains the owner of the Premises at the time of such advances and whether or not the total amount of advances and disbursements should exceed the aggregate face amount of the Note), and any advances made to Mortgagor shall be evidenced by the Note or by another note or notes executed by Mortgagor, bearing such rate of interest and with such maturities as shall be determined from time to time. Any such advances may be made at the option of Mortgagee;

(c) any and all costs, expenses, charges, liabilities, commissions and attorneys' fees now or hereafter chargeable to or incurred by, or disbursed by Mortgagee as provided herein, or by applicable law;

(d) any and all other indebtedness now or hereafter owing by Mortgagor to Mortgagee in connection with the loan evidenced by the Note, however incurred, whether absolute or contingent, direct or indirect;

(e) Any and all costs, expenses, charges, liabilities, commissions and attorneys' fees now or hereafter chargeable to or incurred by, or disbursed by, Mortgagee as provided for herein, or by applicable law or incurred or advanced to protect or preserve the Premises or the security interest created hereby in the Premises, or for taxes, assessments or insurance premiums as hereinafter provided or for performance of any of Mortgagor's obligations hereunder or for any other purpose permitted hereunder or under the Loan Documents and related to the indebtedness evidenced by the Note (whether or not the original Mortgagor remains the owner of the Premises at the time of such advances);

(f) the performance of all covenants, agreements, obligations and liabilities of Mortgagor under or pursuant to the provisions of the Note, this Mortgage and Security Agreement, or any other documents evidencing or securing the Indebtedness or the performance of the Obligations and any extensions, renewals or modifications of any of the foregoing (the Note, this Mortgage and Security Agreement and all other documents and instruments from time to time evidencing, securing or relating to the payment of the

Indebtedness or the performance of the Obligations are hereinafter collectively referred to as the "Loan Documents").

provided, however, that if Mortgagor shall pay, perform and discharge (or cause to be paid, performed and discharged) the obligations secured hereby (the "Secured Obligations") as and when the same shall become due and payable and are to be performed and discharged, then the liens, security interest, estates and rights granted by this Mortgage shall terminate; otherwise same shall remain in full force and effect. A certificate or statement from Mortgagee confirming that the Secured Obligations have been paid in full or fully performed and discharged shall be sufficient evidence thereof for the purposes of reliance by third parties on that fact.

Mortgagor covenants with Mortgagee as follows:

ARTICLE I

1.01 Payment of Indebtedness. The Mortgagor shall pay the Note in accordance with its terms thereof and all other sums secured hereby promptly as the same shall become due and shall perform the Obligations as and when required hereby or by the other Loan Documents. Acceptance by the Mortgagee of any payment in an amount less than the amount then due shall be deemed an acceptance on account only, and not an accord and satisfaction or waiver of the terms hereof, and the failure to pay the entire amount due shall be and continue to be a default hereunder.

1.02 Monthly Deposits. To secure further the payment of the taxes and assessments hereinafter referred to and the premiums on the insurance hereinafter referred to, the Mortgagor shall, upon the request of the Mortgagee following an Event of Default or an Unmatured Default (as defined below), deposit with the Mortgagee on the first day of each and every month a sum which, in the estimation of the Mortgagee, shall be equal to one-twelfth of the annual taxes, assessments and insurance premiums; said deposits to be held by the Mortgagee, free of interest, and free of any liens or claims on the part of creditors of the Mortgagor and as part of the security of the Mortgagee, and to be used by the Mortgagee to pay current taxes and assessments and insurance premiums on the Premises as the same accrue and are payable. Said deposits shall not be, nor be deemed to be, trust funds but may be commingled with the general funds of the Mortgagee. If said deposits are insufficient to pay the taxes and assessments and insurance premiums in full as the same become payable, the Mortgagor shall deposit with the Mortgagee such additional sum or sums as may be required in order for the Mortgagee to pay such taxes and assessments and insurance premiums in full. Upon any default hereunder or under the Note, the Mortgagee may, at its option, apply any money in the fund resulting from said deposits to the payment of the Indebtedness secured hereby in such manner as it may elect. The Mortgagor hereby pledges to the Mortgagee any and all monies now or hereafter held by the Mortgagee pursuant to this Mortgage and Security Agreement, including, without limitation, the monies deposited pursuant to this Section 1.02, and condemnation awards and insurance proceeds, as additional security for the Obligations and Indebtedness, until expended or applied as provided herein or in the other Loan Documents. "Unmatured Default" means the occurrence of any event, happening or circumstance defined in this Agreement which would constitute an Event of Default hereunder after the expiration of a grace period hereunder or

after the giving of any notice if required hereunder to be given by the Mortgagee, but for the passage of time.

1.03 Taxes, Liens and Other Charges.

(a) In the event of the passage of any state, federal, municipal or other governmental law, order, rule or regulation, subsequent to the date hereof, in any manner changing or modifying the laws now in force governing the taxation of debts secured by deeds of trust or the manner of collecting taxes related to deeds of trust so as to affect adversely the Mortgagee with regard to the loan secured hereby, the Mortgagor shall promptly pay any such tax; if the Mortgagor fails to make such prompt payment or if, in the reasonable opinion of the Mortgagee, any such state, federal, municipal or other governmental law, order, rule or regulation prohibit the Mortgagor from making such payment or would penalize the Mortgagee if the Mortgagor makes such payment, then the entire balance of the principal sum secured by this indenture and all interest accrued thereon shall, without notice, immediately become due and payable at the option of the Mortgagee.

(b) Mortgagor shall pay, before the same become delinquent, all taxes, liens, assessments and charges of every character already levied or assessed or that may hereafter be levied or assessed upon or against the Premises and all utility charges, whether public or private; and upon demand shall furnish Mortgagee receipted bills evidencing such payment.

(c) Mortgagor shall not suffer any mechanic's, materialmen's, laborer's, statutory or other lien to be created or to remain outstanding upon any part of the Premises.

(d) Notwithstanding the provisions of Paragraph 1.03(a), 1.03(b) or 1.03(c) hereinabove to the contrary, Mortgagor shall not be required to pay or discharge any obligation imposed upon Mortgagor in any of said paragraphs so long as Mortgagor shall in good faith and at Mortgagor's sole expense contest the same or the validity thereof by appropriate legal proceedings which shall operate to prevent the collection thereof or other realization thereon and the sale, levy or forfeiture of or upon all or any part of the Premises to satisfy the same; provided, however, that in the event Mortgagee in its sole judgment determines that the failure to pay or discharge any such obligation during any such contest would adversely affect or impair Mortgagee's security in the Premises, Mortgagor shall, within five (5) days of demand, deposit with Mortgagee as security for the payment and discharge of such contested item an amount equal thereto, plus interest and penalties. Mortgagee shall be entitled to pay over to the taxing authority or lienning party entitled thereto any or all of such funds at any time when, in Mortgagee's sole discretion, the entitlement of such authority to such funds is established.

1.04 Insurance.

(a) Mortgagor shall keep all building and improvements whether now standing on the Premises or hereafter constructed on the Premises, continuously insured against loss or damage by fire, by the perils covered by extended coverage insurance, by builder's risk insurance during the period of any reconstruction following a casualty or condemnation, and by malicious mischief and against such other hazards as Mortgagee, in its sole discretion, shall from time to time require for the benefit of Mortgagee as set forth below. Mortgagor shall procure for, deliver to and maintain for the benefit of Mortgagee during the term of this Mortgage and Security Agreement, original paid-up insurance policies of such insurance companies, in such amounts, in form and substance, and with such expiration dates as are acceptable to Mortgagee, with loss, if any, payable to Mortgagee as its interest may appear pursuant to non-contributory standard mortgagee clauses, their equivalent or a mortgagee loss payable endorsement in favor of Mortgagee, satisfactory in all respects to Mortgagee. Such policies and renewals shall be promptly delivered to Mortgagee. Such policies shall include:

(i) Title Insurance. A mortgagee title insurance policy in amounts, form, and substance and written by a title insurance company satisfactory to Mortgagee and insuring a valid first priority security interest upon the Premises by virtue of this Mortgage, the original of which policy shall be promptly delivered to Mortgagee and shall contain no exceptions except those as shall be acceptable to Mortgagee; said mortgagee's title insurance policy shall include, without limitation, affirmative insurance coverage against filed and possible unfiled mechanic's, laborer's and materialmen's liens and claims of liens.

(ii) Builder's Risk Insurance. During the period of construction of any improvements upon the Premises ("Improvements"), builder's all risk replacement cost insurance on a non-reporting completed value basis and such other hazard insurance as Mortgagee may, from time to time, require, with standard noncontributing mortgagee clauses and standard waiver of subrogation clauses, such insurance to be in such amounts covering such risks and form and by such companies as shall be approved, from time to time, by Mortgagee, and the originals of such policies (together with appropriate endorsements thereto, with evidence of payment of premiums thereon, with written agreement by the insurer or insurers therein to give Mortgagee thirty (30) days' prior written notice of intention to cancel or non-renew and with renewals and extensions thereof) shall be promptly delivered to Mortgagee; said insurance coverage to be kept in full force and effect at all times until the completion of construction of said Improvements and delivery to Mortgagee of evidence of the insurance described in the following subparagraph.

(iii) Hazard Insurance. Fire and extended coverage insurance and such other hazard insurance as Mortgagee may, from time to time, require, commencing at

such time as the Improvements are substantially complete but in all events prior to the time any tenant occupies any portion of the Premises, with standard noncontributing mortgagee clauses and standard waiver of subrogation clauses, such insurance to be in such amounts covering such risks and form and by such companies as shall be approved, from time to time, by Mortgagee, and the originals of such policies (together with appropriate endorsements thereto, with evidence of payment of premiums thereon, with written agreement by the insurer or insurers therein to give Mortgagee thirty (30) days' prior, written notice of intention to cancel or non-renew and with all renewals and extensions thereof) shall be promptly delivered to Mortgagee upon completion of construction of all of said Improvements, with such insurance to be kept in full force and effect at all times thereafter until the payment in full of the Loan.

(iv) Public Liability and Worker's Compensation Insurance. Public liability and worker's compensation insurance and such other insurance as may be required by Mortgagee from time to time or by applicable governmental authorities, insuring Mortgagor and the general contractor, if any, and naming Mortgagee as an additional insured and in such amounts and form and by such companies as shall be approved from time to time by Mortgagee, and the originals of such policies or certificates of such policies (with true, correct and complete copies of the master insurance policies to which they appertain) acceptable to Mortgagee (together with appropriate endorsements thereto, with evidence of payment of premiums thereon, with written agreement by the insurer or insurers therein to give Mortgagee thirty (30) days' prior written notice of intention to cancel or non-renew and with all renewals and extensions thereof) shall be promptly delivered to Mortgagee, with such insurance to be kept in full force and effect at all times until the payment in full of the Loan.

(v) Flood Insurance. Flood insurance as Mortgagee may, from time to time, reasonably require, such insurance to be in such amounts and form and issued by such insurers as shall be approved, from time to time, by Mortgagee, and the originals or certified copies of such policies (together with appropriate endorsements thereto, with evidence of payment of premiums thereon, with written agreement by the insurer or insurers therein to give Mortgagee thirty (30) days' prior, written notice of intention to cancel or non-renew and with all renewals and extensions thereof) shall be promptly delivered to Mortgagee; said coverage to be kept in full force and effect at all times until payment in full of the Loan; provided, however, Mortgagor shall not be required to provide such insurance during any such time when the Premises are determined not to be located in an area designated by the Secretary of Housing and Urban Development as having special flood hazards or as being in a flood prone area, as evidenced by a certificate to that effect by an engineer reasonably acceptable to Mortgagee.

(v) Other Insurance. Such other types, coverages and amounts of

insurance issued by such insurers acceptable to Mortgagee as Mortgagee may, from time to time, reasonably request.

(b) Mortgagee is hereby authorized and empowered, at its option, to adjust or compromise any loss, irrespective of the amount of such loss and notwithstanding anything contained herein to the contrary, under any insurance policies maintained pursuant to this Paragraph 1.04, and to collect and receive any such policy or policies. Each insurance company is hereby authorized and directed to make payment for all such losses directly to Mortgagee, instead of to Mortgagor and Mortgagee jointly. In the event any insurance company fails to disburse directly and solely to Mortgagee but disburses instead either solely to Mortgagor or to Mortgagor and Mortgagee jointly, Mortgagor agrees immediately to endorse and transfer such proceeds to Mortgagee. Upon the failure of Mortgagor to endorse and transfer such proceeds as aforesaid, Mortgagee may execute such endorsements or transfers for and in the name of Mortgagor and Mortgagor hereby irrevocably appoints Mortgagee as Mortgagor'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 attorneys' fees, Mortgagee may, in its sole discretion, apply the net proceeds or any part thereof, at its option, (i) to the payment of the Indebtedness secured hereby, whether or not due and in whatever order Mortgagee elects, (ii) to the repair and/or restoration of the Premises or (iii) for any other purposes or objects for which Mortgagee is entitled to advance funds under this Mortgage and Security Agreement, all without affecting the security interest created by this Mortgage and Security Agreement; and any balance of such moneys then remaining shall be paid to the party legally entitled thereto. Mortgagee shall not be held responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure.

(c) At least thirty (30) days prior to the expiration date of each policy maintained pursuant to Paragraph 1.04, a renewal or replacement thereof satisfactory to Mortgagee shall be delivered to Mortgagee. Mortgagor shall deliver to Mortgagee, upon request, receipts evidencing the payment for all such insurance policies and renewals or replacements. The delivery of any insurance policies hereunder shall constitute an assignment of all unearned premiums as further security hereunder. In the event of the foreclosure of this Mortgage and Security Agreement or any other transfer of title to the Premises in extinguishment or partial extinguishment of the indebtedness secured hereby, all right, title and interest of Mortgagor in and to all insurance policies then in force shall pass to the purchaser or to Mortgagee, as the case may be, and Mortgagee is hereby irrevocably appointed by Mortgagor as attorney-in-fact for Mortgagor to assign any such policy to said purchaser or to Mortgagee, as the case may be, without accounting to Mortgagor for any unearned premiums thereon.

1.05 Care of the Premises.

(a) Mortgagor shall keep the roads and walkways, common areas, landscaping and all other improvements of any kind now or hereafter erected on the Premises in good condition and repair, normal wear and tear accepted, shall not commit or suffer any waste

and shall not do or suffer to be done anything which shall increase the risk of fire or other hazard to the Premises or any part thereof.

(b) If the Premises or any part thereof is damaged by fire or any other cause, Mortgagor shall give immediate written notice of the same to Mortgagee.

(c) Mortgagee or its representative is hereby authorized with reasonable advance notice to enter upon and inspect the Premises at any time during normal business hours and in such a manner as not to unreasonably interrupt the operations being conducted on the Premises.

(d) Mortgagor shall promptly comply with all present and future laws, ordinances, rules, orders and regulations of any governmental authority affecting the Premises or any part thereof. If Mortgagor receives notice from any federal, state or other governmental entity that the Premises fails to comply with any applicable law, ordinance, rule, order or regulation, Mortgagor shall promptly furnish a copy of such notice to Mortgagee.

(e) If all or any part of the Premises shall be damaged by fire or other casualty, Mortgagor shall, upon request of Mortgagee, promptly restore the Premises to the equivalent of its condition immediately prior to such damage, if Mortgagor provides insurance proceeds to Mortgagee for such repair pursuant to Section 1.04 herein, and if a part of the Premises shall be damaged through condemnation, Mortgagor shall, upon request of Mortgagee, promptly restore, repair or alter the remaining part of the Premises in a manner satisfactory to Mortgagee if Mortgagee provides condemnation proceeds to Mortgagor. If Mortgagee requests Mortgagor to restore the Premises, Mortgagee shall make insurance proceeds available to Mortgagor for such restoration in accordance with disbursement procedures satisfactory to Mortgagee, in its sole discretion for the purpose of paying the cost of such restoration.

(f) The Mortgagor shall not initiate, join in, acquiesce in, or consent to any change in any private restrictive covenant, zoning law or other public or private restriction, limiting or defining the uses which may be made of the Premises or any part thereof which may have a material adverse affect on the use, operation or value of the Premises. If under applicable zoning provisions, the use of all or any portion of the Premises is or shall become a nonconforming use, the Mortgagor will not cause or permit the nonconforming use to be discontinued or abandoned without the express written consent of the Mortgagee.

1.06 Further Assurances. At any time, and from time to time, upon request by Mortgagee, Mortgagor shall make, execute and deliver or cause to be made, executed and delivered, to Mortgagee, any and all other further instruments, certificates and other documents as may, in the opinion of Mortgagee, be necessary or desirable in order to effectuate, complete, or perfect or to continue and preserve the obligations of Mortgagor under the Note and the security interest of this Mortgage and Security Agreement 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 Mortgagor. Upon any failure by Mortgagor so to do, Mortgagee may make, execute and record any and all such instruments, certificates and documents for and in the name of Mortgagor and Mortgagor hereby irrevocably appoints Mortgagee, the agent and attorney-in-fact of Mortgagor so to do. The security title of this Mortgage and Security Agreement and the security interest created hereby 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.

1.07 Leases Affecting the Premises. Mortgagor shall observe and perform all covenants, conditions and agreements contained in any lease or leases now and hereinafter affecting the Premises, or any portion thereof, on the part of Mortgagor to be observed and performed. Mortgagor, upon request, from time to time, shall furnish to Mortgagee a statement, in such detail as Mortgagee may desire, certified by Mortgagor, of all leases relating to the Premises and, if desired, conformed true copies of any and all such leases. Mortgagor will neither do, nor neglect to do, nor permit to be done, anything which may cause the material modification, cancellation or surrender of any lease which Mortgagor has assigned to Mortgagee. Upon demand, Mortgagor shall promptly furnish Mortgagee copies of any leases on the Premises or any part thereof and a rent roll reflecting the current status of such leases, including, without limitation, any defaults, concessions and commissions relating thereto, certified as true, correct and complete by Mortgagor. Mortgagee shall execute a Subordination, Non-Disturbance and Attornment agreement in form reasonably agreed upon by Mortgagee upon Mortgagor's request on Leases approved by Mortgagee.

1.08 Expenses. Mortgagor shall pay or reimburse Mortgagee for all fees, costs and expenses incurred by Mortgagee with respect to any and all transactions contemplated herein including, without limiting the generality of the foregoing, all title and conveyancing charges, recording and filing fees, mortgage taxes, intangible personal property taxes, escrow fees, revenue and stamp expenses, insurance premiums (including title insurance premiums), brokerage commissions, finder's fees, court costs, surveyors', photographers', appraisers', architects', engineers', accountants' and attorneys' fees and disbursements, and will reimburse to Mortgagee all of the foregoing expenses paid by Mortgagee which have been or may be incurred by Mortgagee with respect to any or all of the transactions contemplated herein. In addition to the foregoing, if any action or proceeding be commenced (including but not limited to any action to foreclose this Mortgage and Security Agreement or to collect the Indebtedness), to which action or proceeding Mortgagee is made a party, or in which it becomes necessary to defend or uphold the lien of this Mortgage and Security Agreement, or in which Mortgagee is served with any legal process, discovery notice or subpoena relating to Mortgagee's lending to Mortgagor or accepting a guaranty from a guarantor of the Indebtedness, Mortgagor will reimburse Mortgagee all of the foregoing expenses (including, without limitation, the cost of any environmental audit) which have been or may be incurred by Mortgagee with respect to the foregoing. All sums paid to Mortgagee for the expense of any litigation to prosecute or defend the rights and lien created by this Mortgage and Security Agreement or to appear or to take action in response to any such legal process, discovery notice or subpoena (including attorneys' fees and disbursements) shall be paid by Mortgagor, upon demand by Mortgagee, and any such sum shall be a lien on the Premises, prior to any right, or title to, interest in or claim upon the Premises attaching or accruing subsequent to the lien of this Mortgage and Security Agreement, and shall be deemed to be secured hereby. In any action or

proceeding to foreclose this Mortgage and Security Agreement, the provisions of law respecting the recovering of costs, disbursements and allowances shall prevail unaffected by this covenant. Furthermore, if any action or proceeding be commenced (including but not limited to any action to foreclose this Mortgage and Security Agreement or to collect the Indebtedness), to which action or proceeding is made a party, or in which it becomes necessary to defend or uphold the lien of this Mortgage and Security Agreement, or in which Mortgagee is served with any legal process, discovery notice or subpoena relating this Mortgage, Mortgagor will reimburse Mortgagee all of the foregoing expenses which have been or may be incurred by Mortgagee with respect to the foregoing.

1.09 Estoppel Affidavits. Mortgagor shall, upon ten (10) days' prior written notice, furnish Mortgagee a written statement, duly acknowledged, setting forth the unpaid principal of, and interest on, the Indebtedness secured hereby and whether or not any off-sets or defenses exist against such principal and interest, or any portion thereof, and, if any such off-set or defense exists, stating in detail the specific facts relating to each such off-set or defense.

1.10 Subrogation. To the full extent of the Indebtedness secured hereby, Mortgagee 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 Indebtedness secured hereby, 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 Mortgagee as additional collateral and further security for the Indebtedness secured hereby, to the same extent they would have been preserved and would have been passed to and held by Mortgagee, had they been duly and legally assigned, transferred, set over and delivered unto Mortgagee by assignment, notwithstanding the fact that any instrument providing public notice of the same may be satisfied and canceled of record.

1.11 Performance by Mortgagee of Defaults by Mortgagor. If Mortgagor shall default in the payment of any tax, lien, assessment or charge levied or assessed against the Premises; in the payment of any utility charge, whether public or private; in the payment of any insurance premium, in the procurement of insurance coverage and the delivery of the insurance policies required hereunder; in the performance of any material covenant, term or condition of any leases affecting all or any material part of the Premises; or in the performance or observance of any other covenant, condition or term of this Mortgage and Security Agreement or in the performance or observance of any covenant, term or condition of any leases affecting all or any material part of the Premises or of any of the Obligations, then Mortgagee, at its option, after giving Mortgagor no less than thirty (30) days' notice for such failure (or, in the event of an emergency, such shorter time as may be reasonable under the circumstances or as may be reasonably necessary to preserve the Premises or Mortgagee's security interest therein), may (but shall not be obligated to) perform or observe the same, and all payments made or costs incurred by Mortgagee in connection therewith, shall be secured hereby and shall be, without demand, immediately repaid by Mortgagor to Mortgagee and, simultaneously therewith and in addition thereto, a default charge on such unpaid amount at the rate of four (4%) percent per annum in excess of the rate of interest otherwise payable under the Note from the date of default through the date of cure thereof, such default charge being due and payable together with and in the same manner as interest as in the Note provided; provided that any such

charge which has accrued shall be paid at the time of and as a condition precedent to the curing of any default. Mortgagee shall be the sole judge of the legality, validity and priority of any such tax, lien, assessment, charge, claim, premium and obligation, of the necessity for any such actions and of the amount necessary to be paid in satisfaction thereof. Mortgagee is hereby empowered to enter and to authorize others to enter upon the Premises or any part thereof for the purpose of performing or observing any such defaulted covenant, condition or term, without thereby becoming liable to Mortgagor or any other person in possession holding under Mortgagor or any other person in possession holding under Mortgagor. Mortgagor shall indemnify Mortgagee for all losses, expenses, damages, claims and causes of action, including reasonable attorneys' fees, incurred or accruing by reason of any acts performed by Mortgagee pursuant to the provisions of this Paragraph 1.11 or by reason of any other provision in the Loan Documents.

1.12 Condemnation. If all or any material portion of the Premises (for the purposes of this Paragraph 1.12, a "material" portion of the Premises shall mean any portion of the Premises such that the condemnation thereof will in the reasonable discretion of Mortgagee substantially adversely affect the adequacy of the collateral securing the Indebtedness or permit the cancellation or termination of any lease affecting the Premises) shall be damaged or taken through condemnation (which term when used in this Mortgage and Security Agreement shall include any damage or taking by any governmental authority, quasi-governmental authority, or any party having the power of condemnation and any transfer by private sale in lieu thereof), either temporarily or permanently, then the entire Indebtedness secured hereby shall, at the option of Mortgagee, become immediately due and payable. Mortgagor, immediately upon obtaining knowledge of the institution, or the proposed, contemplated or threatened institution, of any action or proceeding for the taking through condemnation of the Premises or any part thereof will notify Mortgagee, and Mortgagee is hereby authorized, at its option, to commence, appear in and prosecute, through counsel selected by Mortgagee and reasonably acceptable to Mortgagor, in its own or in Mortgagor's name, any action or proceeding relating to any condemnation, and to settle or compromise any claim in connection therewith. All such compensation, awards, damages, claims, rights of action and proceeds and the right thereto are hereby assigned by Mortgagor to Mortgagee, and Mortgagee 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. Subject to the terms and conditions of Section 4.15 hereinbelow, after deducting from said condemnation proceeds all of its reasonable expenses incurred in the collection and administration of such sums, including reasonable attorneys' fees, Mortgagee may apply the net proceeds or any part thereof, at its option, (i) to the payment of the Indebtedness secured hereby, whether or not due and in whatever order Mortgagee elects, (ii) to the repair and/or restoration of the Premises and/or (iii) for any other purposes or objects for which Mortgagee is entitled to advance funds under this Mortgage and Security Agreement, all without affecting the lien of this Mortgage and Security Agreement; and any balance of such moneys then remaining shall be paid to Mortgagor or any other person or entity lawfully entitled thereto. Mortgagor agrees to execute such further assignment of any compensation, awards, damages, claims, rights of action and proceeds as Mortgagee may reasonably require. If, prior to the receipt by Mortgagee of such award or proceeds, the Premises shall have been sold on foreclosure of this Mortgage and Security Agreement, or under the power of sale herein granted, Mortgagee shall have the right to receive such award or proceeds to

the extent of any unpaid Indebtedness secured hereby following such sale, with legal interest thereon, whether or not a deficiency judgment on this Mortgage and Security Agreement or the Note shall have been sought or recovered, and to the extent of reasonable attorneys' fees, costs and disbursements incurred by Mortgagee in connection with the collection of such award or proceeds.

1.13 Books, Records, Accounts and Reports. Mortgagor shall keep and maintain or shall cause to be kept and maintained, at Mortgagor's cost and expense and in accordance with accrual basis accounting practices, proper and accurate books, records and accounts reflecting all items of income and expense in connection with the operation of the Premises or in connection with any services, equipment or furnishings provided in connection with the operation of the Premises. Mortgagee, by Mortgagee's agents, accountants and attorneys, employed at Mortgagee's expense, shall have the right from time to time upon reasonable advance notice during normal business hours to examine such books, records and accounts at the office of Mortgagor or such other person or entity maintaining such books, records and accounts and to make copies or extracts thereof as Mortgagee shall desire and to discuss Mortgagor's affairs, finances and accounts with Mortgagee and with the officers and principals of Mortgagor, upon advance notice at such reasonable times as may be requested by Mortgagee.

1.14 Security Agreement.

(a) With respect to the machinery, apparatus, equipment, fittings, fixtures, building supplies and materials, articles of personal property, chattels, chattel paper, documents, inventory, accounts, farm products, consumer goods and general intangibles of Mortgagor referred to or described in this Mortgage and Security Agreement, or in any way connected with the use and enjoyment of the Premises and owned by Mortgagor, this Mortgage and Security Agreement is hereby made and declared to be a security agreement encumbering each and every item of such property included herein as a part of the Premises, in compliance with the provisions of the Uniform Commercial Code as enacted in the State of Alabama. Upon request by Mortgagee, at any time and from time to time, a financing statement or statements reciting this Mortgage and Security Agreement to be a security agreement affecting all of such property shall be executed by Mortgagor and Mortgagee and appropriately filed. The remedies for any violation of the covenants, terms and conditions of the security agreement contained in this Mortgage and Security Agreement 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 Mortgagee's sole election. Mortgagor and Mortgagee agree that the filing of any such financing statement or statements in the records normally having to do with personal property shall not in any way affect the agreement of Mortgagor and Mortgagee 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 and Security Agreement (excluding therefrom only removable personal property of Mortgagor and removable trade fixtures or personal property owned by tenants on the Premises), 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 (i) any such item is physically attached to the improvements, (ii) serial numbers are used for the better identification of certain items

capable of being thus identified in an exhibit to this Mortgage and Security Agreement, or (iii) any such item is referred to or reflected in any such financing statement or statements so filed at any time. Similarly, the mention in any such financing statement or statements 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 a taking or for loss of value, or (iii) Mortgagor'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 Mortgagee as determined by this Mortgage and Security Agreement or affect the priority of Mortgagee's security interest granted hereby or by any other recorded document, it being understood and agreed that such mention in such financing statement or statements is solely for the protection of Mortgagee in the event any court shall at any time hold with respect to the foregoing clauses (i), (ii) or (iii) of this sentence, that notice of Mortgagee's priority of interest, to be effective against a particular class of persons, must be filed in the Uniform Commercial Code records.

(b) Mortgagor warrants that (i) Mortgagor's (that is, "Debtor's") name, identity or corporate structure, State of formation, organizational number, tax identification number and principal place of business are as set forth in subparagraph 1.14(c) hereof; (ii) Mortgagor (that is, "Debtor") has been using or operating under said name, identity or corporate structure without change for the time period set forth in subparagraph 1.14(c) hereof; and (iii) the location of the collateral is upon the Premises. Mortgagor covenants and agrees that Mortgagor will furnish Mortgagee with notice of any change in the matters addressed by clauses (i) or (iii) of this subparagraph 1.14(b) within thirty (30) days of the effective date of any such change and Mortgagor will promptly execute any financing statements or other instruments deemed necessary by Mortgagee to prevent any filed financing statement from becoming misleading or losing its perfected status.

(c) The information contained in this subparagraph 1.14(c) is provided in order that this Mortgage and Security Agreement shall comply with the requirements of the Uniform Commercial Code, as enacted in the State of Alabama, for instruments to be filed as financing statements. The names of the "Debtor" and the "Secured Party", the identity or corporate structure and residence or principal place of business of "Debtor" are as set forth in Exhibit "C" attached hereto and by this reference made a part hereof; the mailing address of the "Secured Party" from which information concerning the security interest may be obtained, and the mailing address of "Debtor", are as set forth in Exhibit "C"; and a statement indicating the types, or describing the items, of collateral is hereinabove set forth.

1.15 Construction Materials. In addition to the interests in and to the Premises granted, bargained, sold, and conveyed by the Mortgagor to the Mortgagee as set forth hereinabove, the Mortgagor has also granted, bargained, sold, and mortgaged, and by these presents does grant, bargain, sell, and convey unto the Mortgagee as security for the Indebtedness and the Obligations all building materials, equipment and appliances, including without limiting the generality of the foregoing, bricks, mortar, lumber, and other items and equipment, which are acquired by the Mortgagor to be placed upon or used in connection with the Premises, whether or not such materials

are located upon or attached to the Premises, and all guaranties and warranties of workmanship or quality relating to said building materials, equipment, and appliances, or other personal property and improvements and the construction and installation thereof, and all contract rights, business names, and other intangibles of the Mortgagor relating to the construction, equipment and operation of the Premises; and all of the items and types of items identified in this Paragraph 1.15 shall also be included within the meaning of the term "Premises" as used in this instrument.

1.16 Conveyance of the Premises. Mortgagor hereby acknowledges and confirms that the identity of Mortgagor is a material factor upon which Mortgagee has relied in connection with, and which constitute valuable consideration to Mortgagee for, Mortgagee's making the loan which forms a part of the Indebtedness secured hereby. Accordingly:

(a) Mortgagor shall not, without the prior written consent of Mortgagee, which consent may be withheld for any reason or for no reason, voluntarily or by operation of law, sell, transfer, lease, convey or assign all or any part of the legal or equitable title to the Premises, or any part of, or interest in, the Premises.

(b) Mortgagor shall not, without the prior written consent of Mortgagee, which consent may be withheld for any reason or for no reason, voluntarily or by operation of law, mortgage, encumber, transfer, convey or assign the Premises, or any part of, or interest in, the Premises, or any part, as security for an indebtedness.

For purposes hereof, the admission of any new member to Mortgagor, or the change or transfer or encumbrance of any of the legal or equitable ownership in any membership interest of the Mortgagor or of any interest in any member of Mortgagor which is a corporation, partnership, limited liability or other entity, which results (or could result, in the case of transfers for security purposes) in a change in "control" of the Mortgagor, or result in the removal of either James P. Knell or Donald E. Lippman as "manager" of Mortgagor or results in a material curtailment of either of their rights as manager, shall constitute a transfer of the Premises. For purposes hereof, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of management and policies, whether through the ownership of partnership interest, limited liability company interest, voting securities, by contract or otherwise. Notwithstanding anything provided to the contrary in Paragraph 2.01 hereinbelow, in the event the Mortgagor breaches any term of this Paragraph 1.16, such breach shall entitle the Lender immediately to exercise all rights and remedies provided herein, and the Mortgagor shall not be entitled to any cure period in connection therewith.

1.17 Hazardous Materials.

(a) Mortgagor shall comply strictly and in all respects with the requirements of all Hazardous Materials Laws, as hereinbelow defined, and shall notify Mortgagee immediately in the event of any discharge of any Hazardous Material, as hereinbelow defined, in amounts that require remedial action at, upon, under or within the Premises. Mortgagor shall promptly forward to Mortgagee copies of all orders, notices, permits, applications, or other communications and reports in connection with any discharge or the

presence of any Hazardous Material or any other matters relating to Hazardous Materials Laws as they may affect the Premises. For purposes hereof "Hazardous Materials Laws" shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sec. 9601 et seq., the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. Sec. 6901 et seq., the Toxic Substances Control Act, 15 U.S.C. Sec. 2601 et seq., and any other federal, state or local statute, law, ordinance, code, rule, regulation, order, decree or other requirement of any governmental authority having jurisdiction over the Premises which regulates or imposes liability or standards of conduct concerning any hazardous, toxic, or dangerous waste, substance or material, as now or at any time hereafter in effect.

(b) Mortgagor shall not engage in any activity, or permit any tenant or occupant of the Premises to engage in any activity that could impose environmental liability under any Hazardous Material Laws upon such tenant or upon Mortgagee or result in the creation of a lien on the Premises under any Hazardous Materials Laws, except for activities involving chemicals, substances, and materials routinely used in the day-to-day operations of properties such as the Premises, provided that all times Mortgagor shall cause any such chemicals, substances and materials to be used, stored, handled and disposed of in compliance with all Hazardous Materials Laws.

(c) Promptly upon the written request of Mortgagee from time to time at any time Mortgagee reasonably suspects the presence of any Hazardous Materials at, on, under or within the Premises, Mortgagor shall provide Mortgagee, at Mortgagor's expense, with an environmental site assessment or environmental audit report prepared by an environmental engineering firm acceptable to Mortgagee, to assess with a reasonable degree of certainty the presence or absence of any Hazardous Materials at, upon, under or within the Premises and the potential costs in connection with abatement, cleanup or removal of any Hazardous Materials found on, under, at or within the Premises.

(d) Mortgagor shall at all times indemnify and hold harmless Mortgagee against and from any and all claims, suits, actions, debts, damages, costs, losses, obligations, judgments, charges, and expenses, of any nature whatsoever suffered or incurred by Mortgagee, whether as Mortgagee of this Mortgage and Security Agreement, as mortgagee in possession, or as successor-in-interest to Mortgagor by foreclosure deed or deed in lieu of foreclosure, under or on account of the following:

(i) The presence of any Hazardous Materials at any time on, in, under, or affecting all or any portion of the Premises, regardless of whether or not caused or within the control of Mortgagor;

(ii) The application of any Hazardous Materials Laws, including the assertion of any lien thereunder, with respect to any discharge of Hazardous Materials or the threat of a discharge of any Hazardous Materials affecting the Premises, whether or not the same originates or emanates from the Premises or any

contiguous real estate, including any loss of value of the Premises as a result of any of the foregoing;

(iii) The cost of removal or remedial action with respect to any and all Hazardous Materials located upon the Premises and any costs relating to damages from injury to, destruction of, or loss of natural resources, including reasonable costs of assessing such injury, destruction or loss incurred pursuant to the Hazardous Materials Laws;

(iv) The violation of any Hazardous Materials Laws applicable to the Premises, whether or not caused by or within the control of Mortgagor;

(v) The breach by Mortgagor of any covenant made by Mortgagor under this Paragraph 1.17.

Notwithstanding the foregoing, Mortgagor shall have no liability to Mortgagee with respect to any expense, damage or loss suffered by Mortgagee arising from acts or circumstances first occurring after the date Mortgagee acquires title to the Premises as a result of the sole acts of Mortgagee in the event Mortgagee becomes the successor-in-interest to Mortgagor with respect to the Premises.

(e) In the event of any discharge of Hazardous Materials or the threat of a discharge of any Hazardous Materials affecting the Premises, whether or not the same originates or emanates from the Premises or any contiguous real estate, or if Mortgagor shall fail to comply with any of the requirements of the Hazardous Materials Laws, Mortgagee may at its election after providing Mortgagor with thirty (30) days prior written notice and opportunity to remedy such discharge or threat of discharge or failure of compliance (provided that if such remedy cannot be effected during such thirty day period due to the nature thereof, Mortgagor shall have a reasonable time thereafter in which to effect such remedy so long as Mortgagor commences such remedy during such thirty day period and diligently and in good faith pursues such remedy thereafter), but without the obligation so to do, give such notices and/or cause such work to be performed at the Premises and/or take any and all other actions as Mortgagee shall deem necessary or advisable in order to abate the discharge of any Hazardous Material, remove the Hazardous Material, or cure Mortgagee's noncompliance, and any amounts paid as a result thereof, together with interest thereon at the rate of interest set forth in Paragraph 1.11 hereof from the date of payment by Mortgagee, shall be immediately due and payable by Mortgagor to Mortgagee and until paid shall be added to and become a part of the Indebtedness secured hereby and shall have the benefit of the security interest hereby created as a part thereof.

(f) The liability of Mortgagor to Mortgagee pursuant to this Paragraph 1.17 shall survive the exercise of the power of sale or any foreclosure or transfer by deed in lieu, the repayment of the Note and/or the release of the Premises from this Mortgage and Security

Agreement and shall benefit Mortgagee and its successors in interest as holders of this Mortgage and Security Agreement.

(g) For purposes of this Mortgage and Security Agreement, "Hazardous Materials" shall mean:

(i) any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976, as amended from time to time, and regulations promulgated thereunder;

(ii) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, and regulations promulgated thereunder;

(iii) any asbestos or asbestos containing material or other form of building material or substance which may, if not properly handled, pose a threat to the health of building users and occupants;

(iv) any oil or petroleum products and their by-products;

(v) any urea formaldehyde foam insulation;

(vi) any polychlorinated biphenyls in amounts that exceed acceptable standard levels under the Hazardous Materials Laws; and

(vii) any other substance or material which, under federal, state or local law, statute, ordinance or regulation, court or administrative order or decree, or private agreement, require special handling in collection, storage, treatment, or disposal because of toxic, flammable, explosive, corrosive, reactive, or radioactive properties or because of properties that may be hazardous or harmful to the environment or human health.

1.18 Acquisition of Collateral. Mortgagor shall not acquire any portion of the personal property covered by this Mortgage and Security Agreement subject to any security interest, conditional sales contract, title retention arrangement or other charge or lien taking precedence over the security title and lien of this Mortgage and Security Agreement.

1.19 Litigation. Mortgagor shall promptly give written notice to Mortgagee of any material litigation commenced or threatened affecting the Premises.

1.20 Removal or Replacement of Personalty. Mortgagor shall not permit any of the fixtures or personalty comprising a part of the Premises to be removed at any time from the Premises without the prior written consent of Mortgagee, unless such fixtures or personalty are actually

replaced by articles of equal suitability and value owned by Mortgagor free and clear of any lien or security interest, except such as may be approved in writing by Mortgagee.

1.21 Prior Security Mortgage Status. The Mortgagor shall protect the first priority status of this Mortgage and Security Agreement and the other Loan Documents and except as provided in Section 1.03 and Subsection 1.16(b) above, shall not place, or permit to be placed, or otherwise convey, mortgage, hypothecate or encumber the Premises with, any other lien or Mortgage or interest of any nature whatsoever, regardless of whether same is allegedly or expressly inferior to the title created by this Mortgage and Security Agreement, except as permitted under Section 1.16 above. If any such claim, lien or security interest is asserted against the Premises, the Mortgagor shall promptly, and at its own cost and expense, (a) give the Mortgagee verbal notice thereof immediately, together with written notice within five (5) days from the date such claim, lien or security interest is asserted; and (b) take such action so as to cause same to be released or bonded to the Mortgagee's satisfaction. Such notice shall specify who is asserting such claim, lien or security interest and shall detail the origin and nature of the underlying facts giving rise to such asserted claim, lien or security interest.

ARTICLE II

2.01 Events of Default. The occurrence of any one or more of the following events shall constitute an event of default ("Event of Default") by Mortgagor hereunder:

(a) The Mortgagor shall fail to pay in full as and when due and payable any installment of principal, interest, late charges, escrow deposits or any other amounts as required by the Note, this Mortgage and Security Agreement or any of the other Loan Documents, or otherwise when due, and such failure continues for five (5) days after the Mortgagor's receipt of written notice from the Mortgagee (except no such notice shall be required if payment of the Indebtedness is not made on the Maturity Date, as defined in the Note); or

(b) Mortgagor shall fail duly to observe any other covenant, condition or agreement of this Mortgage and Security Agreement or of any other instrument evidencing, securing or executed in connection with the Indebtedness secured hereby (hereinafter this Mortgage and Security Agreement and said other instruments are sometimes collectively called the "Loan Documents") and such failure continues for thirty (30) days after Mortgagor's receipt of written notice from Mortgagee, unless a different period of time is specified herein or in the other Loan Documents (or such longer period of time as reasonably necessary to complete such cure, provided that such cure, by its nature, cannot be completed within such thirty (30) day period and Mortgagor promptly commences such cure within such thirty (30) day period and diligently prosecutes it thereafter); or

(c) Any warranties or representations made or agreed to be made in any of the Loan Documents shall be breached by Mortgagor or shall prove to be false or misleading in any material respect and such warranty or representation is not made true within thirty (30)

days of written notice from Mortgagee, unless any required action by its nature requires a longer period of time, and Mortgagor promptly commences such action and diligently prosecuted it thereafter, in which case, Mortgagor shall have an additional thirty (30) days to complete such corrective action; or

(d) Any lien for labor or material or otherwise shall be filed against the Premises and not be removed or bonded in a manner approved by Mortgagee or funds shall not be escrowed with Mortgagee in an amount sufficient to cause the removal of such lien within thirty (30) days after the date of filing thereof ; or

(e) A levy shall be made under any process on, or a receiver be appointed for, the Premises or any other property of Mortgagor; or

(f) Mortgagor shall fail to furnish or maintain the insurance policies required by Section 1.04 hereof; or

(g) Mortgagor, or any present or future guarantor of the Indebtedness including, without limitation, James P. Knell, Theresa Knell, Donald E. Lippman and SIMA Corporation (a "Guarantor"), shall file a voluntary petition in bankruptcy, or any other petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation or similar relief for the Mortgagor or a Guarantor under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other similar relief for debtors; or

(h) (i) There shall be filed a petition against the Mortgagor or any Guarantor seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal, state or other law or regulation relating to bankruptcy, insolvency or other relief for debtors not dismissed within sixty (60) days, or (ii) there shall be filed a petition seeking the appointment of any trustee, receiver or liquidator of the Mortgagor or of any Guarantor, or of all or any substantial part of the Premises, or of any or all of the income, rents, issues, profits or revenues thereof not dismissed within sixty (60) days; or

(i) The Mortgagor or any Guarantor shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of the Mortgagor, any Guarantor or of all or any part of the Premises or of any or all of the rents, revenues, issues, earnings, profits or income thereof; or

(j) The Mortgagor or any Guarantor shall make any general assignment for the benefit of creditors; or

(k) The Mortgagor, commences the process of dissolution, liquidation, or both dissolution and liquidation; or

(l) Except as permitted pursuant to Section 1.16 hereinabove, there shall occur, without the prior written consent of the Mortgagee, voluntarily or by operation of law, the sale, transfer, conveyance or assignment of all or any part of the legal or equitable title to the Premises, or any interest therein; or

(m) The Mortgagor shall, without the prior written consent of the Mortgagee, voluntarily or by operation of law, transfer, convey or assign the Property, or any part of, or interest in, the Property as security for an indebtedness other than for the indebtedness secured hereby except as permitted in Section 1.16 hereinabove; or

(n) Any other Default or Event of Default (after the expiration of any applicable grace, notice and opportunity to cure period) shall occur under the Note or any of the other Loan Documents.

Any periods of grace, cure or notice provided for the benefit of Mortgagor in this Mortgage and Security Agreement and in the other Loan Documents shall run concurrently and not consecutively.

2.02 Acceleration of Maturity. If an Event of Default shall have occurred hereunder, then the whole unpaid principal sum of the Indebtedness secured hereby with interest accrued thereon shall, at the option of Mortgagee, become due and payable without notice or demand (except as provided hereinabove), time being of the essence of this Mortgage and Security Agreement and of the Note secured hereby; and no omission on the part of Mortgagee to exercise such option when entitled so to do shall be considered as a waiver of such right.

2.03 Right of Mortgagee to Enter and Take Possession.

(a) If any Event of Default shall have occurred and be continuing, Mortgagor, upon demand of Mortgagee, shall forthwith surrender to Mortgagee the actual possession of the Premises and if, and to the extent, permitted by law, Mortgagee may enter and take possession of the Premises and may exclude Mortgagor and Mortgagor's agents and employees wholly therefrom.

(b) If Mortgagor shall for any reason fail to surrender or deliver the Premises or any part thereof after such demand by Mortgagee, Mortgagee may obtain a judgment or decree conferring upon Mortgagee the right to immediate possession or requiring Mortgagor to deliver immediate possession of the Premises to Mortgagee, and Mortgagor hereby covenants and agrees not to oppose, contest or otherwise hinder or delay Mortgagee in any action or proceeding by Mortgagee to obtain such judgment or decree and hereby specifically consents to the entry of such judgment or decree. Mortgagor shall pay to Mortgagee, upon demand, all expenses of obtaining such judgment or decree, including compensation to Mortgagee, its attorneys and agents, and all such expenses and compensation shall, until paid, become part of the Indebtedness and shall be secured by this Mortgage and Security Agreement.

(c) Upon every such entering and taking of possession, Mortgagee may hold, store, use, operate, manage, control, and maintain the Premises and conduct the business thereof, and, from time to time, (i) make all necessary and proper 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 the rights and powers of Mortgagor, in its name or otherwise, 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 Mortgagee; all as Mortgagee may from time to time determine to be to its best interest; and Mortgagee may collect and receive all of the income, rents, profits, issues and revenues of 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 charges as Mortgagee may determine to pay, (ee) other proper charges upon the Premises or any part thereof and (ff) the reasonable compensation and expenses of attorneys and agents of Mortgagee, shall apply the remainder of the money so received by Mortgagee, first to the payment of accrued interest and late charges; then to the payment of escrow deposits required in Paragraph 1.02 and finally to the payment of overdue installments of principal. Anything in this Mortgage and Security Agreement to the contrary notwithstanding, Mortgagee shall not be obligated to discharge or perform the duties of the landlord to any tenant or incur any liability as the result of any exercise by Mortgagee of its rights under this Mortgage and Security Agreement, and Mortgagee shall be liable to account only for the rents, income, profits, issues and revenues actually received by Mortgagee.

(d) Neither the entering upon and taking possession of the Premises, nor the collection of any income, rents, profits, issues and revenues and the application thereof as aforesaid, shall cure or waive any Event of Default theretofore or thereafter occurring, or affect any notice of an Event of Default hereunder or invalidate any act done pursuant to any such notice. Mortgagee shall not be liable to Mortgagor, anyone claiming under or through Mortgagor, or anyone having an interest in the Premises by reason of anything done or left undone by Mortgagee hereunder. Nothing contained in this Paragraph 2.03(d) shall require Mortgagee to incur any expense or do any act. If the income, rents, profits, issues and revenues are not sufficient to meet the costs of taking control of and managing the Premises and/or collecting the income, rents, profits, issues and revenues, any funds expended by Mortgagee for such purposes shall become Indebtedness of Mortgagor to Mortgagee secured by this Mortgage and Security Agreement. Such amounts, together with interest at the Default Rate under the Note and attorneys' fees, if applicable, shall be immediately due and payable. Notwithstanding Mortgagee's continuance in possession or receipt and application of income, rents, profits, issues and revenues, Mortgagee shall be entitled to exercise every right provided for in this Mortgage and Security Agreement or by law upon or after the occurrence of an Event of Default. Any of the actions referred to in this Paragraph 2.03(d)

may be taken by Mortgagee at such time as Mortgagee is so entitled, without regard to the adequacy of any security for the Indebtedness hereby secured.

(e) For the purpose of carrying out the provisions of this Paragraph 2.03, Mortgagor hereby constitutes and appoints Mortgagee the true and lawful attorney-in-fact of Mortgagor to do and perform, from time to time, any and all actions necessary and incidental to such purpose and does, by these presents, ratify and confirm any and all actions of said attorney-in-fact in the Premises.

(f) Whenever all such defaults have been cured and satisfied, Mortgagee shall surrender possession of the Premises to Mortgagor, provided that the right of Mortgagee to take possession, from time to time, pursuant to Paragraph 2.03(a) shall exist if any subsequent default shall occur and be continuing.

2.04 Appointment of a Receiver.

(a) If an Event of Default shall have occurred hereunder and be continuing, then Mortgagee, upon application to a court of competent jurisdiction, shall be entitled, as a matter of strict right, without notice and without regard to the adequacy or value of any security for the Indebtedness hereby secured 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 the rents, profits, issues and revenues thereof. The receiver shall have all of the rights and powers permitted under the laws of the State of Alabama.

(b) Mortgagor will pay to Mortgagee upon demand all expenses, including receiver's fees, attorney's fees, costs and agent's compensation, incurred pursuant to the provisions contained in this Paragraph 2.04; and all such expenses shall be added to the Indebtedness and secured by this Mortgage and Security Agreement.

2.05 Power of Sale.

(a) If an Event of Default shall have occurred hereunder, Mortgagee shall have the right to sell the Premises at public outcry to the highest bidder for cash in front of the main entrance of the county courthouse of the county where the Premises 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 a newspaper in said county, and upon payment of the purchase money, Mortgagee or any person conducting the sale for Mortgagee is authorized to execute to the purchaser at said sale a deed to the Premises so purchased. Mortgagee may bid at said sale and purchase said Premises, or any part thereof, if the highest bidder thereof. 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 matter Mortgagee may elect.

(b) If an Event of Default shall have occurred, the Mortgagee may, in addition to and not in abrogation of the rights covered under this Section 2.05, either with or without entry or taking possession as herein provided or otherwise, proceed by a suit or suits in law or in equity or by any other appropriate proceeding or remedy (i) to enforce payment of the Note or the performance of any term, covenant, condition or agreement of this Mortgage and Security Agreement or the other Loan Documents or any other right, and (ii) to pursue any other remedy available to it, all as the Mortgagee shall determine most effectual for such purposes. The Mortgagee shall also have the right from time to time to take action to recover any sum or sums which constitute a part of the Indebtedness as the same become due, without regard to whether or not the balance of the Indebtedness shall be due, and without prejudice to the right of the Mortgagee thereafter to bring an action to exercise the power of sale contained herein, or any other action, for a default or defaults by the Mortgagor existing at the time such earlier action was commenced.

2.06 WAIVER OF JUDICIAL HEARING. MORTGAGOR HEREBY WAIVES ANY RIGHT IT MAY HAVE UNDER THE CONSTITUTION OF THE STATE OF ALABAMA OR THE CONSTITUTION OF THE UNITED STATES OF AMERICA TO NOTICE OR TO A JUDICIAL HEARING PRIOR TO THE EXERCISE OF ANY RIGHT OR REMEDY PROVIDED BY THIS MORTGAGE AND SECURITY AGREEMENT, AND MORTGAGOR WAIVES ITS RIGHTS, IF ANY, TO SET ASIDE OR INVALIDATE ANY SALE DULY CONSUMMATED IN ACCORDANCE WITH THE PROVISIONS OF THIS MORTGAGE ON THE GROUND (IF SUCH BE THE CASE) THAT THE SALE WAS CONSUMMATED WITH A PRIOR JUDICIAL HEARING. ALL WAIVERS BY MORTGAGOR IN THIS PARAGRAPH HAVE BEEN MADE VOLUNTARILY, KNOWINGLY, AND AFTER MORTGAGOR HAS BEEN FIRST INFORMED BY COUNSEL OF ITS OWN CHOOSING AS TO POSSIBLE ALTERNATIVE RIGHTS.

2.07 Application of the Proceeds of Sale. Upon any such public sale pursuant to the aforementioned power of sale and agency, the proceeds of said sale shall be applied first to payment of the expenses of such sale and all proceedings in connection therewith, including attorneys' fees, insurance premiums, liens, assessments, taxes and charges including utility charges advanced by Mortgagee, to all other advances made by Mortgagee pursuant hereto, with accrued interest thereon, then second to accrued interest and late charges on the Indebtedness secured hereby, then third to the principal balance of the Indebtedness secured hereby, and finally, the remainder, if any, shall be paid to Mortgagor or to the person or entity lawfully entitled thereto.

2.08 Purchase by Mortgagee. Upon any foreclosure sale or sale of all or any portion of the Premises under the power herein granted, Mortgagee may bid for and purchase the Premises and shall be entitled to apply all or any part of the Indebtedness secured hereby as a credit to the purchase price.

2.09 Mortgagor as Tenant Holding Over. In the event of any such public sale pursuant to the aforesaid power of sale and agency, Mortgagor shall be deemed a tenant holding over and shall forthwith deliver possession of the Premises to the purchaser or purchasers at such sale or be summarily dispossessed according to provisions of law applicable to tenants holding over.

2.10 Discontinuance of Proceedings and Restoration of the Parties. In case Mortgagee shall have proceeded to enforce any right, power or remedy under this Mortgage and Security Agreement by foreclosure, entry or otherwise, or in the event Mortgagee commences advertising of the intended exercise of the sale under power provided hereunder and such proceeding or advertisement shall have been withdrawn, discontinued or abandoned for any reason, or shall have been determined adversely to Mortgagee, then in every such case (a) Mortgagor and Mortgagee shall be restored to their former positions and rights, (b) all rights, powers and remedies of Mortgagee shall continue as if no such proceeding had been taken, (c) each and every Event of Default declared or occurring prior or subsequent to such withdrawal, discontinuance or abandonment shall be and shall be deemed to be a continuing Event of Default and (d) neither this Mortgage and Security Agreement, nor the Note, nor the Indebtedness, nor any other Loan Document, shall be or shall be deemed to have been reinstated or otherwise affected by such withdrawal, discontinuance or abandonment; and Mortgagor hereby expressly waives the benefit of any statute or rule of law now provided, or which may hereafter be provided, which would produce a result contrary to or in conflict with the above.

2.11 Remedies Cumulative. Mortgagee shall have all rights, remedies and recourses granted in the Loan Documents and available at law or equity (including specifically those granted by the Uniform Commercial Code in effect and applicable to the Premises or any portion thereof); and same (a) shall be cumulative and concurrent, (b) may be pursued separately, successively or concurrently against Mortgagor, any guarantor, obligor or others obligated under the Note, or against the Premises, or against any one or more of them, at the sole discretion of Mortgagee, (c) may be exercised as often as occasion therefor shall arise, it being agreed by Mortgagor that the exercise or failure to exercise any of same shall in no event be construed as a waiver or release thereof or of any other right, remedy or recourse, and (d) are intended to be, and shall be, nonexclusive.

2.12 Waiver of Appraisement, Valuation Stay, Extension and Redemption Laws. Mortgagor agrees to the full extent permitted by law, that in case of a default on the part of Mortgagor hereunder, 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, extension, homestead, exemption or redemption laws nor or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this of this Mortgage and Security Agreement, or the absolute sale of the Premises, or the final and absolute putting into possession thereof, immediately after such sale, of the purchasers 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 comprised in the security intended to be created hereby marshaled upon any foreclosure of the lien hereof.

2.13 Leases. Mortgagee, at its option, is authorized to foreclose this Mortgage and Security Agreement 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 Mortgagor a defense to any proceedings instituted by Mortgagee to collect the sums secured hereby.

2.14 Waiver.

(a) No delay or omission of Mortgagee or of any holder of the Note 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 and Security Agreement to Mortgagee may be exercised from time to time and as often as may be deemed expedient by Mortgagee. Failure on the part of Mortgagee to complain of any act or failure to act or to declare default hereunder, irrespective of how long such failure continues, shall not constitute a waiver by Mortgagee of its rights hereunder or impair any rights, powers or remedies consequent on any breach or default by Mortgagor.

(b) If the Mortgagee (i) grants forbearance or an extension of time for the payment of any sums secured hereby; (ii) takes other or additional security for the payment of any sums secured hereby; (iii) waives or does not exercise any right granted herein or in the Note; (iv) releases any part of the Premises from the lien of this Mortgage and Security Agreement or otherwise changes any of the terms, covenants, conditions or agreements of the Note or this Mortgage and Security Agreement; (v) consents to the filing of any map, plat or replat affecting the Premises; (vi) consents to the granting of any easement or other right affecting the Premises; or (vii) makes or consents to any agreement subordinating the lien hereof, any such act or omission shall not release, discharge, modify, change or affect the original liability under the Note, this Mortgage and Security Agreement or any other obligation of the Mortgagor or any subsequent purchaser of the Premises or any part thereof, or any maker, co-signer, endorser, surety or guarantor; nor shall any such act or omission impair or affect the lien or priority of this Mortgage and Security Agreement or other Loan Documents, or improve the position of any subordinate lienholder with respect thereto, nor shall any such act or omission preclude the Mortgagee from exercising any right, power or privilege herein granted or intended to be granted in the event of any default then made or of any subsequent default; nor, except as otherwise expressly provided in an instrument or instruments executed by the Mortgagee, shall the lien of this Mortgage and Security Agreement be altered thereby. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Premises, the Mortgagee, without notice, is hereby authorized and empowered to deal with any such vendee or transferee with reference to the Premises or the Indebtedness secured hereby, 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.

2.15 Suits to Protect the Premises. Mortgagee shall have power (a) to institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Premises by any acts which may be unlawful or any violation of this Mortgage and Security Agreement, (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 impair the security hereunder or be prejudicial to the interest of Mortgagee.

2.16 Mortgagee May File Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Mortgagor, its credits or its property, Mortgagee, 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 Mortgagee allowed in such proceedings for the entire amount due and payable by Mortgagor under this Mortgage and Security Agreement at the date of the institution of such proceedings and for any additional amount which may become due and payable by Mortgagor hereunder after such date.

2.17 Other Remedies. Upon the occurrence of any Event of Default, in addition to the foregoing remedies, Mortgagee shall have the right to exercise any and all other rights, remedies and recourses granted under the Loan Documents or now or hereafter existing in equity, at law, by virtue of statute or otherwise.

2.18 Separate Sales. The Premises may be sold in one or more parcels and in such manner and order as Mortgagee, in its sole discretion, may elect, it being expressly understood and agreed that the right of sale arising out of any Event of Default shall not be exhausted by any one or more sales.

2.19 No Conditions Precedent to Exercise of Remedies. Neither Mortgagor, any Guarantor nor any other person hereafter obligated for payment of all or any part of the Indebtedness, or fulfillment of all or any of the Obligations, shall be relieved of such obligation by reason of (a) the failure of Mortgagee to comply with any request of Mortgagor, Guarantor, or of any other person so obligated, to foreclose this Mortgage and Security Agreement or to enforce any provisions of the other Loan Documents, (b) the release, regardless of consideration, of the Premises or the addition of any other property to the Premises, (c) any agreement or stipulation between any subsequent owner of the Premises and Mortgagee extending, renewing, rearranging or in any other way modifying the terms of the Loan Documents without first having obtained the consent of, given notice to or paid any consideration to Mortgagor, any Guarantor or such other person, and in such event, Mortgagor, Guarantor and all such other persons shall continue to be liable to make payment according to the terms of any such extension or modification agreement unless expressly released and discharged, in writing, by Mortgagee, or (d) by any other act or occurrence, save and except the complete payment of the Indebtedness and the complete fulfillment of all of the Obligations.

2.20 Release of and Resort to Collateral. Mortgagee may release, regardless of consideration, any part of the Premises without, as to the remainder, in any way impairing, affecting, subordinating or releasing the conveyance, lien, encumbrance or security interests created in or evidenced by the Loan Documents or their stature as a first and prior security deed, lien, encumbrance or security interest in and to the Premises. For payment of the Indebtedness, Mortgagee may resort to any security therefor held by Mortgagee in such order and manner as Mortgagee may elect.

2.21 Completion of Improvements. The Mortgagee shall have the right in the Event of a Default to enter upon the Premises for the purpose of completing the improvements, if any, being constructed with the proceeds of the loan evidenced hereby, to continue any and all outstanding contracts for the erection and completion of such improvements and to make and enter into any further contracts which may be necessary, either in their or its own name or in the name of the Mortgagor. The expenses of completing the improvements in excess of the amount of the Note, if any, shall be deemed to be a part of the Indebtedness secured hereby.

2.22 Application of Deposits. If any Event of Default shall have occurred and be continuing, to the extent permissible under applicable law, the Mortgagee may apply any sums then deposited with it hereunder or under any of the other Loan Documents first to payment of the expenses of such proceedings in connection therewith, and to all other advances made by the Mortgagee pursuant hereto, with accrued interest thereon, then second to accrued interest and late charges on the Indebtedness secured hereby, then third to the principal balance of the Indebtedness secured hereby, and finally, the remainder, if any, shall be paid to the Mortgagor or to the person or entity lawfully entitled thereto.

ARTICLE III

3.01 Successors and Assigns Included in Parties. Whenever in this Mortgage and Security Agreement one of the parties hereto is named or referred to, the heirs, executors, legal representatives, successors and permitted assigns of such parties shall be included and all covenants and agreements contained in this indenture by or on behalf of Mortgagor and by or on behalf of Mortgagee shall bind and inure to the benefit of their respective heirs, executors, legal representatives, successors and permitted assigns, whether so expressed or not. All Obligations contained in the Loan Documents are intended by the parties to be, and shall be construed as, covenants running with the Premises.

3.02 Headings. The headings of the sections, paragraphs and subdivisions of this Mortgage and Security Agreement are for the convenience of reference only, are not to be considered a part hereof and shall not limit or otherwise affect any of the terms hereof.

3.03 Invalid Provisions to Affect No Others. If fulfillment of any provision hereof or any transaction related hereto or to the Note, at the time performance of such provisions shall be due, shall involve transcending the limit of validity prescribed by law, then ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity; in no event and under no circumstances whatsoever shall Mortgagor be charged more than the highest lawful rate of interest permitted under applicable law; if any clause or provision herein contained operates or would prospectively operate to invalidate this Mortgage and Security Agreement in whole or in part, then such clause or provision only shall be held for naught, as though not herein contained, and the remainder of this Mortgage and Security Agreement shall remain operative and in full force and effect.

3.04 Number and Gender. Whenever the singular or plural number, masculine or feminine or neuter gender is used herein, it shall equally include the other.

3.05 Notice. Any and all notices, elections, demands, requests and responses thereto permitted or required to be given under this Mortgage and Security Agreement shall be in writing, signed by or on behalf of the party giving the same, and shall be deemed to have been properly given or served and shall be effective three (3) calendar days following the date of deposit in the United States Mail, postage prepaid, certified mail, return receipt requested, to the other party at the address of such other party set forth below or at such other address as such other party may designate by notice specifically designated as a notice of change of address and given in accordance herewith. The time period in which a response to any such notice, election, demand or request must be given shall commence on the third calendar day following the date of deposit of same in the United States Mail, postage prepaid, certified mail, return receipt requested. Personal delivery to a party or to any officer, partner, agent or employee of such party at said address shall constitute receipt. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice has been received shall also constitute receipt. Any such notice, demand, or request shall be addressed as follows:

If to Mortgagor:

Crow Wood Springs, LLC
c/o Del Development Corporation
1049 Powers Ferry Road
Marietta, Georgia 30067
Attention: Donald E. Lippman
Facsimile: (770) 952-2884

With a copy to:

Roberts, Erck & Schklar
945 East Paces Ferry Road
Suite 2220, Resurgens Plaza
Atlanta, Georgia 30326-1125
Attention: Victor Roberts
Facsimile: (404) 240-9407

If to Mortgagee:

Regions Bank
Atlanta Real Estate Division
400 Embassy Row, Suite 210
6600 Peachtree Dunwoody Road, N.E.
Atlanta, Georgia 30328
Attention: Michael F. Flanagan
Facsimile: (770) 673-5863

With a copy to:

David A. Weissmann, Esq.
Weissmann & Zucker, P.C.
3490 Piedmont Road
Suite 650
Atlanta, GA 30305
Facsimile: (404) 364-2320

3.06 Entire Agreement and Modification. This Mortgage and Security Agreement and the other Loan Documents contain the entire agreements between the parties relating to the subject matter hereof and thereof, and all prior agreements relative thereto which are not contained herein or therein are terminated. The Loan Documents may not be amended, revised, waived, discharged, released or terminated orally, but only by a written instrument or instruments executed by the party against which enforcement of the amendment, revision, waiver, discharge, release or termination is asserted. Any alleged amendment, revision, waiver, discharge, release or termination which is not so documented shall not be effective as to any party.

3.07 Performance at Mortgagor's Expense. Mortgagor shall pay to Mortgagee immediately upon demand all reasonable costs and expenses incurred by Mortgagee in connection with: (1) the preparation of this Mortgage and Security Agreement and any and all other Loan Documents contemplated hereby (including any amendments hereto or thereto or consents, releases or waivers hereunder or thereunder), and the closing of the loan evidenced by the Note and secured hereby; (2) the administration of this Mortgage and Security Agreement and the other Loan Documents for the term of the Note; and (3) the enforcement or satisfaction by Mortgagee of any of Mortgagor's Obligations under this Mortgage and Security Agreement or under the Loan Documents. For all purposes of this Mortgage and Security Agreement, Mortgagee's reasonable costs and expenses shall include, without limitation, all appraisal and re-appraisal fees, legal fees (including, without limitation, fees for trial, appeal or other proceedings), accounting fees, environmental consultant fees (if any), auditor fees, and the cost to Mortgagee of any documentary taxes, recording fees, brokerage fees, title search fees, title insurance premiums and title surveys (including any such title related fees and premiums incurred in connection with title updates). Except to the extent that certain of these costs and expenses are included within the definition of Indebtedness, the payment by Mortgagor of any of these costs and expenses shall not be credited, in any way or to any extent, against any portion of the Indebtedness.

3.08 No Waiver. Any failure by Mortgagee to insist, or any election by Mortgagee not to insist, upon strict performance by Mortgagor of any of the terms, provisions or conditions of the Loan Documents shall not be deemed to be a waiver of same or of any other term, provision or condition thereof, and Mortgagee shall have the right at any time or times thereafter to insist upon strict performance by Mortgagor of any and all such terms, provisions and conditions. No delay or omission by Mortgagee, or by any holder of the Note, to exercise any right, power or remedy accruing upon any breach or Event of Default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such breach or Event of Default, or acquiescence therein, and every right, power and remedy given by this Mortgage and Security Agreement to

Mortgagee may be exercised from time to time and as often as may be deemed expedient by Mortgagee. No consent or waiver, expressed or implied, by Mortgagee to or of any breach or Event of Default by Mortgagor in the performance of the Obligations of Mortgagor hereunder or to any other Event of Default shall be deemed or construed to be a consent or waiver to or of any other breach or Event of Default in the performance of the same or any other Obligations of Mortgagor hereunder. Failure on the part of Mortgagee to complain of any act or failure to act or to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by Mortgagee of its rights hereunder or impair any rights, powers, or remedies of Mortgagee hereunder.

No act or omission by Mortgagee shall release, discharge, modify, change or otherwise affect the original liability under the Note, this Mortgage and Security Agreement or any other Obligations of Mortgagor or any subsequent purchaser of the Premises or any part thereof, or any maker, cosigner, endorser, surety or Guarantor, or preclude Mortgagee from exercising any right, power or privilege herein granted or intended to be granted in the event of any Event of Default then made or by any subsequent Event of Default, or alter the security title, security interest or lien of this Mortgage and Security Agreement, except as expressly provided in an instrument or instruments executed by Mortgagee. Without limiting the generality of the foregoing, Mortgagee may:

- (a) grant forbearance or an extension of time for the payment of all or any portion of the Indebtedness;
- (b) take other or additional security for the payment of the Indebtedness;
- (c) waive or fail to exercise any right granted hereunder or in the Note;
- (d) change any of the terms, covenants, conditions or agreements of the Note or this Mortgage and Security Agreement;
- (e) consent to the filing of any map, plat or replat affecting the Premises;
- (f) consent to the granting of any easement or other right affecting the Premises;
- (g) make or consent to any agreement subordinating the security title, security interest or lien hereof; or
- (h) take or omit to take any action whatsoever with respect to the Note, this Mortgage and Security Agreement, the Premises or any document or instrument evidencing, securing or in any way relating to the Indebtedness;

all without releasing, discharging, modifying, changing or affecting any such liability, or precluding Mortgagee from exercising any such right, power or privilege, or affecting the security title, security interest or lien of this Mortgage and Security Agreement. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Premises, Mortgagee, without notice, is hereby authorized and empowered to deal with any such vendee or transferee with reference to the Premises

or the Indebtedness, 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.

ARTICLE IV

4.01 Notices to Mortgagee. Mortgagor further covenants and agrees with Mortgagee that Mortgagor will furnish Mortgagee at the address of Mortgagee set forth in Paragraph 3.05 hereinabove with notice of (i) any change in ownership of the Premises (subsequent to Mortgagee's consent thereto), (ii) any change in Mortgagor's name or identity, (iii) any change in ownership of Mortgagor or (iv) the establishment by Mortgagor of any place of business other than Cobb County, Georgia or Shelby County, Alabama. Any such notice shall be delivered to Mortgagee within thirty (30) days of the effective date of any such change or within thirty (30) days of the establishment of such place of business. Further, Mortgagor will promptly execute any and all additional Financing Statements, Security Agreements or other instruments deemed necessary by Mortgagee in order to prevent any filed Financing Statement from becoming misleading or losing its perfected status.

4.02 Governing Law. Mortgagor and Mortgagee hereby acknowledge and agree that this Mortgage and Security Agreement and the obligations created hereunder are made and intended as a contract under the laws of the State of Alabama and are to be governed by and interpreted in accordance with the laws of the State of Alabama.

4.03 Time of Essence. Time is of the essence in the performance of all obligations hereunder.

4.04 Assignment. This Mortgage and Security Agreement is assignable by Mortgagee and any assignment hereof by Mortgagee shall operate to vest in the assignee all rights and powers herein conferred upon and granted to Mortgagee. Mortgagor acknowledges that Mortgagee may, and shall have the right to sell participation interests in the Note to a subsidiary or affiliate of Mortgagee or to a Federal Reserve Bank or to another reputable financial institution and to transfer the Note (subject, however, to the terms of the Loan Documents) to any of such persons or entities. In the event Mortgagee's assignee requires any estoppel letter from Mortgagor, Mortgagor shall, upon demand, execute an estoppel letter setting forth (i) the unpaid principal of, and accrued but unpaid interest on the Note; (ii) whether or not any offsets or defenses exist with respect to the payment of same; and (iii) any other matters reasonably requested by Mortgagee or such assignee.

4.05 Replacement Note; Corrective Documents. Upon receipt of evidence reasonably satisfactory to Mortgagor of the loss, theft, destruction or mutilation of the Note, and in the case of any such loss, theft or destruction, upon delivery on an indemnity agreement reasonably satisfactory to Mortgagor or, in the case of mutilation, upon surrender of such note, Mortgagor shall sign in lieu thereof a new note, dated the date to which interest has been paid on the lost, stolen, destroyed or mutilated note and otherwise of like tenor, with appropriate variations. In the event that this Mortgage and Security Agreement, the Note or any of the other Loan Documents contains any

erroneous, mistaken or typographical information, Mortgagor shall promptly upon request execute and deliver any and all documents or instruments required by Mortgagee to correct such matters.

4.06 Waiver of Jury Trial. Mortgagor hereby knowingly, voluntarily and intentionally waives the right to a trial by jury in respect of any litigation based hereon, or arising out of, under, or in connection with this Mortgage and Security Agreement and any of the other Loan Documents, or any course of conduct, course of dealing, statements (whether verbal or written) or actions of any person. This Section is a material inducement for Mortgagee to accept this Mortgage and Security Agreement and make advances under the Note.

4.07 Attorneys' Fees. Whenever herein Mortgagor is obligated to pay the legal fees of Mortgagee's, such obligation shall be limited to the reasonable fees of Mortgagee's counsel which are actually incurred.

4.08 Amendments. Neither this Mortgage and Security Agreement nor any provision hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

4.09 Rights. No right, power or remedy conferred upon or reserved by Mortgagee by this Mortgage and Security Agreement is intended to be exclusive of any other right, power or remedy, but each and every 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 or in equity or by statute.

4.10 Marshalling of Assets. Mortgagor, on its own behalf and on behalf of its successors and assigns, hereby expressly waives all rights to require a marshalling of assets by Mortgagee or to require Mortgagee, upon a foreclosure, to first resort to the sale of any portion of the Premises which might have been retained by Mortgagor before foreclosing upon and selling any other portion of the Premises as may be conveyed by Mortgagor subject to this Mortgage and Security Agreement.

4.11 No Partnership or Joint Venture. Mortgagor and Mortgagee acknowledge and agree that nothing contained in this Agreement or in any Loan Documents or other instrument or document by and between Mortgagor and Mortgagee relating to the Indebtedness or the Premises, is intended or shall be construed to establish Mortgagor and Mortgagee as joint venturers or partners.

4.12 Financial Statements. Mortgagor shall furnish Mortgagee annually (i) within one hundred fifty (150) days after the close of each fiscal year of Mortgagor during the term of the Loan updated financial statements of Mortgagor, prepared in accordance with sound and acceptable accounting practices, itemizing all material information with respect to Mortgagor and each Guarantor, including, without limitation, a balance sheet and a statement of profit and loss for the calendar year just ended, certified to be true and correct by the chief financial officer of Mortgagor or such Guarantor, as the case may be, and of any other guarantor or endorser of the Note, including each Guarantor (hereinafter, an "Obligor") prepared in accordance with accounting practices required

for Federal income tax reporting purposes, itemizing all material financial information with respect to Mortgagor, any Obligor and the Premises, including, without limitation, a balance sheet and a statement of profit and loss for the calendar year just ended, certified to be true and correct by the chief financial officer of Mortgagor or such Guarantor, as the case may be, (ii) within thirty (30) days after the filing thereof, evidence of the filing of Mortgagor's tax return for each year during the term hereof, which evidence shall include the first several pages of such tax returns, (iii) within sixty (60) days of the close of each calendar year operating statements (in a format acceptable to Mortgagee) regarding the operation of the Premises, certified by the chief financial officer of Mortgagor and itemizing all material financial information with respect to the operation of the Premises, including, but not limited to, sources of income and expenses, and a rent roll of the Premises in a format acceptable to Mortgagee; and (iv) such other reports and information, and at such intervals, regarding the operation of the Premises and the financial condition of Mortgagor or the Guarantors as Mortgagee may from time to time reasonably request.

4.13 Multiple Counterparts. This Mortgage and Security Agreement may be executed in multiple counterparts, each of which shall constitute an original, and all of which when taken together shall constitute one and the same instrument.

4.14 Correction of Documents. In the event that this Mortgage and Security Agreement, the Note or any of the other Loan Documents contains any errors, inaccuracies, typographical mistakes or other inconsistencies, Mortgagor hereby covenants and agrees to execute any corrective or other documents or instruments Mortgagee reasonably requires to correct or clarify such documents or instruments.

ARTICLE V

5.01 Rents and Profits.

(a) Mortgagor hereby (i) assigns to Mortgagee all income, rents (and payments in lieu of rents), issues and profits, including tenant security deposits (whether held by Mortgagor or others or in a trust account), from the Premises and (ii) collaterally assigns, grants and transfers to Mortgagee all of Mortgagor's remaining interest as landlord or lessor under those certain lease agreements, tenant contracts and rental agreements now or hereafter executed by or on behalf of Mortgagor as landlord or lessor therein and others as tenant or lessee therein, conveying or demising all or any portion of Premises (hereinafter, the "Leases"), all as additional security for the payment of the indebtedness secured hereby and full performance of the undertakings of Mortgagor hereunder. This assignment of rents, income and profits arising from the Premises as hereinabove provided is intended by Mortgagor and Mortgagee to create, and shall be construed to create, an absolute assignment to Mortgagee, subject only to the terms and provisions hereof, and not as an assignment as security for the indebtedness secured hereby and Obligations. This assignment is effective immediately. Mortgagor hereby appoints Mortgagee as its attorney to collect such rents and profits with or without suit and apply the same (less expenses of collection) to the indebtedness secured hereby and the performance of said undertakings in such manner as Mortgagee may desire. However,

until the occurrence of an Event of Default hereunder or under the Note, Mortgagor may continue to collect and enjoy such rents and profits without accountability to Mortgagee. This assignment is irrevocable and shall be in addition to other remedies herein provided for in the event of a default a may be put into effect by Mortgagee independently or concurrently with any of said remedies. Acceptance of this assignment shall not be construed as a consent by Mortgagee to any of the Leases and, subject to the terms of this section and other provisions of this Mortgage and Security Agreement, Mortgagee shall not be obligated to perform or discharge any obligation of Mortgagor under any of the Leases, and Mortgagor agrees to, and does hereby indemnify and hold Mortgagee harmless against any and all liabilities, obligations, claims, damages, penalties, costs and expenses (including without limitation, reasonable attorney's fees and expenses incurred) which Mortgagee may incur under any of the Leases or under or by reason of this assignment, and from any and all claims and demands whatsoever which may be asserted against Mortgagee by reason of any act or failure to act by Mortgagee under this assignment or any alleged obligation or undertaking to be performed or discharged by Mortgagee under this assignment unless any such claim or demand is caused by the gross negligence or intentional misconduct of Mortgagee. The foregoing indemnity shall not be applicable to any such claim, liability, loss, cost, expense or damage which results from any action of Mortgagee which occurs subsequent to the completion of a foreclosure or acceptance of a deed in lieu of foreclosure with respect to the Premises.

(b) Upon the occurrence and continuance of any Event of Default, in addition to any and all other rights and remedies available to Mortgagee under the Note, and this Mortgage and Security Agreement, and not in substitution for or derogation thereof, Mortgagee shall become immediately entitled to all rents, income and profits arising from the Premises and may without notice to or demand on Mortgagor other than as may be otherwise provided herein (i) as a matter of strict right and without regard to the value or occupancy of the security, have a receiver appointed upon ex parte motion to enter upon and take possession of the Premises, collect the rents and profits therefrom and apply the same as the court may direct, such receiver to have all the rights and powers permitted under the laws of the State of Alabama, all without becoming a mortgagee-in-possession; (ii) proceed itself to enter upon, take possession of and operate the Premises, or any portion thereof, without becoming a mortgagee-in-possession; (iii) proceed to perform any and all obligations of Mortgagor under any of the Leases and exercise any and all rights of Mortgagor therein contained as fully as Mortgagor itself could, all without regard to the adequacy of security for the indebtedness hereby secured and with or without the bringing of any legal action or the causing of any receiver to be appointed by any court or other judicial authority; (iv) make, enforce, modify and accept the surrender of any of the Leases; (v) evict the tenant under any of the Leases or obtain tenants for other space within the Premises; (vi) fix or modify rent; and (vii) do all of the acts which Mortgagee may deem necessary, desirable or proper to protect the security created hereby. Mortgagor hereby acknowledges and agrees that the intent of this Assignment is to empower Mortgagee to undertake any, all or any combination of the actions hereinabove set forth in this Section without notice to Mortgagor except as specifically provided herein. If an Event of Default shall have occurred and be continuing, Mortgagor

does hereby specifically authorize Mortgagee, in the name of Mortgagor or in the name of Mortgagee, to sue for or otherwise collect and receive all rents, issues and profits from the Premises, including those past due and unpaid, and to apply such collected rents, issues and profits to the payment of (w) all expenses of managing the Premises, including, without limitation, the salaries, fees and wages of a managing agent and such other employees as Mortgagee may deem necessary or desirable, (x) all expenses of operating and maintaining the Premises, including, without limitation, all taxes, charges, claims, assessments, water rents, sewer rents, and any other liens, and premiums for all insurance which Mortgagee may deem necessary or desirable, (y) the cost of alterations, renovations, repairs, or replacements, and all expenses incident to taking and retaining possession of the Premises, and (z) the Indebtedness secured hereby, all in such order of priority as Mortgagee in its sole discretion may determine. Entry upon and taking possession of the Premises and the collection of the rents, issues and profits of the Premises and the application thereof, as aforesaid, shall not operate to waive any default or event of default, or prohibit the taking of any action by Mortgagee under the Note or hereunder or at law or in equity to enforce payment of the indebtedness secured hereby or to realize on any other security. No failure on the part of Mortgagee to exercise, and no delay in exercising, any right shall be construed or deemed to be a waiver thereof. Notwithstanding anything contained herein to the contrary, all rents, issues and profits described in this section shall be deemed cash collateral for all purposes, including without limitation for purposes of Section 363 of Title 11 of the United States Code, as the same may be amended.

[Executions on following page]

IN WITNESS WHEREOF, Mortgagor has executed this Mortgage and Security Agreement under seal as of the day and year first above written.

MORTGAGOR:

CROW WOOD SPRINGS, LLC, a Delaware limited liability company

By: [Signature] (SEAL)
James P. Knell, Manager

By: [Signature] (SEAL)
Donald E. Lippman, Manager

STATE OF CALIFORNIA
COUNTY OF Santa Barbara

I, the undersigned Notary Public in and for said County in said State, hereby certify that James P. Knell whose name as Manager of CROW WOOD SPRINGS, LLC, a Delaware limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability company.

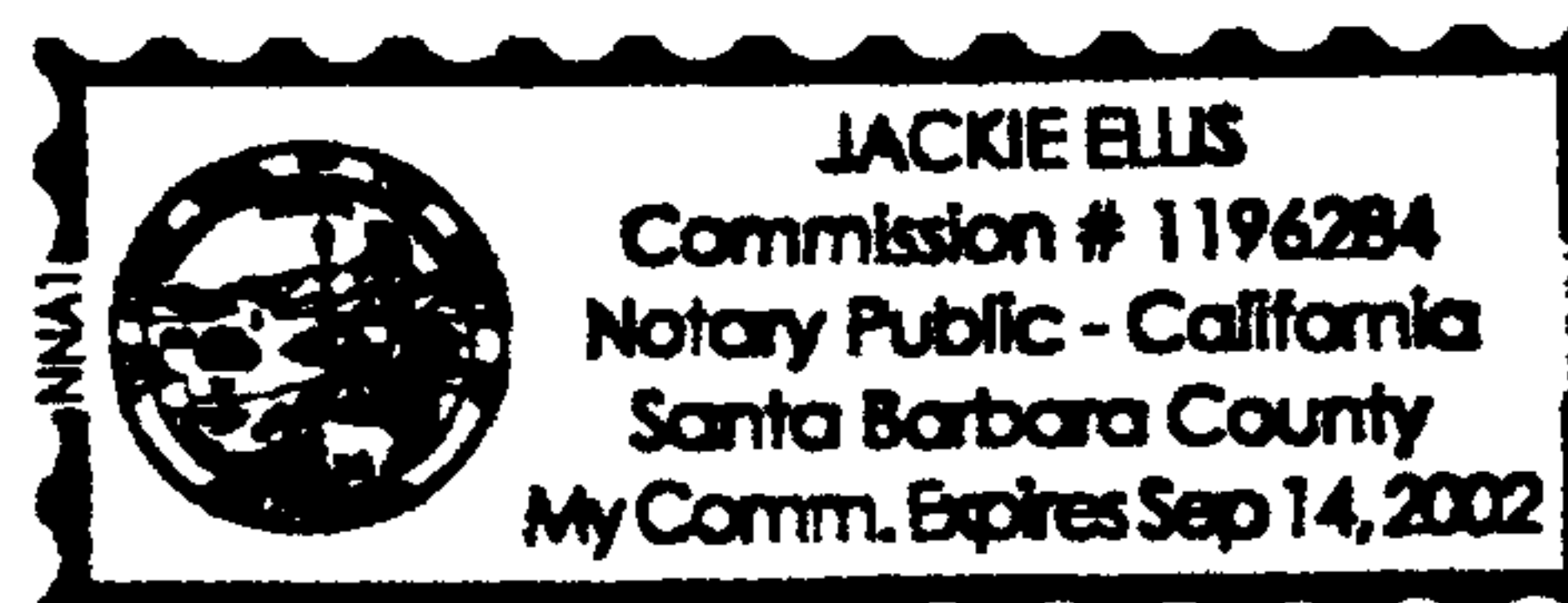
Given under my hand and official seal this 8th day of July, 2002.

[Signature]
Print Name: JACKIE ELLIS
Notary Public

My Commission Expires:

[NOTARIAL SEAL]

STATE OF GEORGIA
COUNTY OF Fulton



I, the undersigned Notary Public in and for said County in said State, hereby certify that Donald E. Lippman whose name as Manager of CROW WOOD SPRINGS, LLC, a Delaware limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this 9th day of July, 2002.

[Signature]
Print Name: Susan M. Sloan
Notary Public

My Commission Expires:

[NOTARIAL SEAL]



EXHIBIT "A"

A part of Lot 1-A Cahaba River Park First Addition as recorded in Map Book 8, page 62, in the Office of the Judge of Probate of Shelby County, Alabama, and being more particularly described as follows:

Commence at the Northwest corner of said Lot 1-A, said point being a found 3" capped pipe and also being the Northwest corner of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 35, Township 18 South, Range 2 West, Shelby County, Alabama, said point also being the Northeast corner of Lot 15 Cahaba River Lake Estates First Sector, as recorded in Map Book 67, Page 13 in the office of the Judge of Probate of Jefferson County, Alabama; thence South 0°00'00" East (assumed) along the West line of Lot 1-A, the West line of said $\frac{1}{4}$ - $\frac{1}{4}$ section and the East line of said Lot 15, the Easterly Right-of-Way line of Lake Park Circle and the Easterly line of Lot 16 of said Cahaba River Lake Estates First Sector a distance of 285.00 feet to a found W.S. capped iron, said point being the POINT OF BEGINNING of the parcel herein described; thence North 90°00'00" East a distance of 240.00 feet to a found W.S. capped iron; thence South 39°30'23" East a distance of 508.99 feet to a found rebar, said point being the P.C. (Point of Curve) of a curve to the left having a radius of 377.38 feet, a central angle of 39°05'50" and a chord bearing of South 59°03'18" East; thence in a Southeasterly direction along the arc of said curve a distance of 257.51 feet to a found rebar; said point lying on a curve to the left having a radius of 75.00 feet, a central angle of 151°28'09" and a chord bearing of South 89°47'47" East; thence in a Southeasterly, Easterly, and Northeasterly direction along the arc of said curve a distance of 198.27 feet to a found rebar; thence North 81°27'42" East a distance of 185.70 feet to a found rebar, said point being the P.C. (Point of Curve) of a curve to the right having a radius of 197.54 feet, a central angle of 37°15' and a chord bearing of South 79°54'48" East; thence in an Easterly and Southeasterly direction along the arc of said curve a distance of 128.43 feet to a found rebar being the P.T. (Point of Tangent) of said curve; thence tangent to said curve South 61°17'08" East a distance of 14.61 feet to a found rebar lying on the Northwesterly Right-of-Way line of Riverview Road, said point also lying on a curve to the right having a radius of 3779.83 feet, a central angle of 1°29'07" and a chord bearing of South 29°49'50" West; thence in a Southwesterly direction along the arc of said curve and said Northwesterly Right-of-Way line a distance of 97.98 feet to a set W.S. capped iron being the P.T. (Point of Tangent) of

said curve; thence tangent to said curve South 30°34'20" West along said Northwesterly Right-of-Way line a distance of 80.84 feet to a found rebar, being the P.C. (Point of Curve) of a curve to the right having a radius of 228.06 feet, a central angle of 53°38'30" and a chord bearing of South 57°23'35" West; thence in a Southwesterly direction along the arc of said curve and said Northwesterly Right-of-Way line a distance of 213.52 feet to a found rebar being the P.T. (Point of Tangent) of said curve; thence tangent to said curve South 84°12'50" West along said Northwesterly Right-of-Way line a distance of 95.62 feet to a found rebar, said point being the P.C. (Point of Curve) of a curve to the left having a radius of 499.28 feet, a central angle of 27°06'30" and a chord bearing of South 70°39'35" West; thence in a Southwesterly direction along the arc of said curve and along said Northwesterly Right-of-Way line a distance of 236.22 feet to a found rebar being the P.T. (Point of Tangent) of said curve; thence tangent to said curve South 57°06'20" West along said Northwesterly Right-of-Way line a distance of 565.19 feet to a found rebar, being the P.C. (Point of Curve) of a curve to the right having a radius of 256.63 feet, a central angle of 43°19'57" and a chord bearing of South 78°46'18" West; thence in a Southwesterly and Westerly direction along the arc of said curve and along the Northwesterly, Northerly and Northeasterly Right-of-Way line of said Riverview Road a distance of 194.09 feet to a found rebar, being the P.T. (Point of Tangent) of said curve; thence tangent to said curve North 79°33'43" West along said Northeasterly Right-of-Way line a distance of 7.35 feet to a found rebar lying on the West line of the NE ¼ of said Section 35; thence North 00°01'06" East along the West line of said ¼ section and along the East line of Lots 26, 25, 24, 23, 22 and 21 of Cahaba River Lake Estates Second Sector, as recorded in Map Book 70, page 43 in the office of the Judge of Probate of Jefferson County, Alabama, and along the East line of the aforementioned Lot 16 of Cahaba River Lake Estates First Sector a distance of 1219.81 feet to a found W.S. capped iron and the Point of Beginning.

Together with those rights granted in Instrument No. 1999-8619.

EXHIBIT "B"

1. Taxes for the year 2002 and subsequent years, not yet due and payable.
2. Mineral and mining rights and rights incident thereto and release of damages recorded in Deed Book 335, page 58, in the Probate office of Shelby County, Alabama.
3. Easement agreement declaration of protective covenants recorded in Instrument 1992-8619 in the Probate Office of Shelby County, Alabama.
4. Underground Utility Easement granted to Cahaba Water Renovations Systems, Inc. recorded in Real Book 108, page 209, in the Probated Office of Shelby County, Alabama.

EXHIBIT "C"

20020715000326070 Pg 42/42 884.00
Shelby Cnty Judge of Probate, AL
07/15/2002 08:00:00 FILED/CERTIFIED

Schedule 1
(Description of "Debtor" and "Secured Party")

A. Debtor:

1. Name: CROW WOOD SPRINGS, LLC, a Delaware limited liability company, and its organizational number is 0104677363438313 and FEIN is [REDACTED].
2. The principal place of business for CROW WOOD SPRINGS, LLC, is located at is located at 1049 Powers Ferry Road, Marietta, Cobb County, Georgia 30067.
3. CROW WOOD SPRINGS, LLC, does not have more than one place of business in the State of Georgia.
4. CROW WOOD SPRINGS, LLC, does not have its principal office in the State of Alabama.

B. Secured Party:

1. Regions Bank

Schedule 2

(Notice of Mailing Addresses of "Debtor" and "Secured Party")

A. The mailing address of Debtor is:

1049 Powers Ferry Road
Attn: Mr. Donald E. Lippman
Marietta, GA 30067

B. The mailing address of Secured Party is:

Regions Bank
Atlanta Real Estate Division
400 Embassy Row, Suite 210
6600 Peachtree Dunwoody Road, N.E.
Atlanta, Georgia 30328
Attention: Michael Flanagan