

STATE OF ALABAMA )  
COUNTY OF SHELBY )

**CONSENT AND WAIVER OF RIGHT OF FIRST REFUSAL**

The undersigned, Jerry Busby of Alabaster, Alabama, as the landlord under that certain Lease with Enjoyment Unlimited, Inc., of Alabaster, Alabama, dated June 8, 1988 and recorded in Book 209, Page 629 in the Office of the Judge of Probate of Shelby County, Alabama, as amended by Agreement dated as of July 1, 1998 (the "Lease"), does hereby:

(A) Consent to the sale and conveyance by F. Richard Fogle and Enjoyment Unlimited, Inc. of all of their respective right, title, and interest in and to the Lease and the real property which is more particularly described on Exhibit A attached hereto (the "Land") to AIG Baker Development, L.L.C., a Delaware limited liability company (or its assignee), whose address is 1701 Lee Branch Lane, Birmingham, Alabama 35242; and

(B) Waive the right of first refusal which the undersigned was granted in that certain Agreement dated as of July 1, 1998 between F. Richard Fogle and Jerry Busby, or any other right of first refusal which the undersigned may have, with respect to the sale described in paragraph (A) above or any future sale of the Land.

4<sup>th</sup> IN WITNESS WHEREOF, the undersigned has executed this Consent and Waiver as of the day of February, 2003.

Jerry W. Busby (SEAL)  
Jerry Busby

STATE OF ALABAMA )  
COUNTY OF SHELBY ) SS:

I, the undersigned, a Notary Public in for and said County in said State, hereby certify that **Jerry Busby**, whose name 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 executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 4<sup>th</sup> day of February, 2003.

(NOTARY SEAL)

Anne P. Marshall  
Notary Public  
My commission expires: 3-13-2003

This Instrument was prepared by: Gail Livingston Mills, Esq., Burr & Forman LLP, 420 North 20th Street, Suite 3100, Birmingham, AL 35203

**EXHIBIT A**

**LEGAL DESCRIPTION OF THE LAND**

State of Alabama       )  
Shelby County         )

A parcel of land containing 11.9 acres more or less in the Northwest  $\frac{1}{4}$  of Section 24, Township 20 South, Range 3 West, Shelby County, Alabama; described as follows:

Commence at the Northwest corner of said Section 24, thence run east along the north section line 2114.99 feet to the point of beginning, said point being on the Easterly right-of-way of Shelby County Highway 33. Thence run South 18 deg. 33 min. West along said right-of-way a distance of 95.20 feet. Thence run South 16 deg. 58 min. West along said right-of-way a distance of 307.00 feet. Thence run South 12 deg. 43 min. West along said right-of-way a distance of 213.60. Thence run South 14 deg. 34 min. West along said right-of-way a distance of 137.66 feet. Thence run South 69 deg. 55.5 min. East a distance of 613.01 feet to a point in Coats Branch. Thence run northerly along said Branch the following courses: thence run North 32 deg. 43 min. East a distance of 202.00 feet, thence run North 03 deg. 51 min. West a distance of 52.80 feet; thence run North 13 deg. 47 min. West a distance of 55.40 feet; thence run North 26 deg. 01 min. East a distance of 60.60 feet; thence run North 65 deg. 38 min. East a distance of 18.95 feet to a point on the east line of the northwest  $\frac{1}{4}$  of said section 24; thence run North 01 deg. 41 min. East a distance of 576.87 feet along the east  $\frac{1}{4}$  line to the northeast corner of said Northwest  $\frac{1}{4}$ ; thence run 87 deg. 46 min. West a distance of 527.87 feet along the North  $\frac{1}{4}$ - $\frac{1}{4}$  line to the Point of Beginning.