

STATE OF ALABAMA)

Shelby COUNTY)

THIS IS A FUTURE ADVANCE MORTGAGE

**REAL PROPERTY MORTGAGE,
SECURITY AGREEMENT AND FIXTURE FILING**
(Butler, Shelby and Tuscaloosa Counties, Alabama)

THIS REAL PROPERTY MORTGAGE, SECURITY AGREEMENT AND FIXTURE FILING ("**Mortgage**"), made as of February 26, 2003, is made and executed by WICKES INC., a Delaware corporation ("**Mortgagor**"), having its principal offices at 706 North Deerpath Drive, Vernon Hills, Illinois 60061, in favor of MERRILL LYNCH CAPITAL, a division of Merrill Lynch Business Financial Services Inc. (in its individual capacity, "**Merrill**"), having an office at 222 North LaSalle Street, 17th Floor, Chicago, Illinois 60601, as Agent (Merrill in its capacity as agent being hereinafter referred to as "**Agent**") for Lenders (as "**Lenders**" is defined in the Credit Agreement referred to below).

RECITALS

I. Pursuant to the terms of a certain Credit Agreement of even date herewith (said Credit Agreement, together with all amendments, supplements, modifications and replacements thereof, being hereinafter referred to as the "**Credit Agreement**") by and among Merrill as a Lender and as Agent, Collateral Agent, Book Manager and Lead Arranger, Lenders and Mortgagor, Agent and Lenders have agreed to make loans to Mortgagor and extend other financial accommodations to Mortgagor in an aggregate principal amount not to exceed \$125,000,000 (collectively, the "**Loans**"). The Loans consist of (i) revolving loans in a maximum aggregate principal amount of \$100,000,000 (the "**Revolving Loans**"), which revolving loans are evidenced by one or more notes in the aggregate principal amount of \$100,000,000 (said notes, together with all amendments, supplements, modifications and full or partial replacements thereof, being hereinafter referred to as the "**Revolving Notes**"), having a maturity date of February 26, 2007; and (ii) a term loan in the original principal amount of \$25,000,000 (the "**Term Loan**"), which term loan is evidenced by one or more notes in the aggregate principal amount of \$25,000,000 (said notes, together with all amendments, supplements, modifications and full or partial replacements thereof, being hereinafter referred to as the "**Term Notes**"), having a maturity date of February 26, 2007. The Revolving Notes and the Term Notes are hereinafter collectively referred to as the "**Notes**." The terms and provisions of the Notes and the Credit Agreement are hereby incorporated by reference in this Mortgage. The rate or rates of interest payable under the Credit Agreement may vary from time to time.

2. 3160 LEE STREET, PELHAM, SHELBY
COUNTY, ALABAMA

First American

II. This is a FUTURE ADVANCE MORTGAGE. The indebtedness secured hereby consists of (a) a revolving line of credit to be made available by Agent and/or Lenders to Mortgagor, pursuant to which advances may be made, prepaid and reborrowed from time to time, and (b) all other indebtedness, obligations and liabilities of Mortgagor to Agent and/or Lenders due or to become due and now existing or hereafter incurred, contracted or arising.

GRANTING CLAUSES

To secure the payment of the indebtedness evidenced by the Notes and the payment of all amounts due under and the performance and observance of all covenants and conditions contained in this Mortgage, the Notes, the Credit Agreement and any other documents and instruments now or hereafter executed by Mortgagor or any party related thereto or affiliated therewith to evidence, secure or guarantee the payment of all or any portion of the indebtedness under the Notes, the Credit Agreement and any and all renewals, extensions, amendments and replacements of this Mortgage, the Notes, the Credit Agreement and any such other documents and instruments (the Notes, the Credit Agreement, this Mortgage, such other documents and instruments now or hereafter executed and delivered in connection with the Loans, and any and all amendments, renewals, extensions and replacements hereof and thereof, being sometimes referred to collectively as the "**Loan Instruments**") (all indebtedness and liabilities secured hereby being hereinafter sometimes referred to as "**Borrower's Liabilities**"), Mortgagor does hereby grant, bargain, sell, assign and convey unto Agent and grant to Agent a security interest in the following described property subject to the terms and conditions herein:

(A) The land located in the state and counties set forth on the first page of this Mortgage, legally described in attached **Exhibit A ("Land")**;

(B) All the buildings, structures, improvements and fixtures of every kind or nature now or hereafter situated on the Land and all machinery, appliances, equipment, furniture and all goods and other personal property of every kind or nature which now or hereafter constitute fixtures with respect to the Land, together with all extensions, additions, improvements, substitutions and replacements of the foregoing ("**Improvements**");

(C) All easements, tenements, rights-of-way, vaults, gores of land, streets, ways, alleys, passages, sewer rights, water courses, water rights and powers and appurtenances in any way belonging, relating or appertaining to any of the Land or Improvements, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired ("**Appurtenances**");

(D)(i) All judgments, insurance proceeds, awards of damages and settlements which may result from any damage to all or any portion of the Land, Improvements or Appurtenances or any part thereof or to any rights appurtenant thereto;

(ii) All compensation, awards, damages, claims, rights of action and proceeds of or on account of (a) any damage or taking, pursuant to the power of eminent domain, of the Land, Improvements or Appurtenances or any part thereof, (b) damage to all or any portion of the Land, Improvements or Appurtenances by reason of the taking, pursuant to the power of eminent domain, of all or any portion of the Land, Improvements, Appurtenances or of other property, or (c) the alteration of the grade of any street or highway on or about the Land, Improvements, Appurtenances or any part thereof; and, except as otherwise provided herein, Agent is hereby authorized to collect and receive said awards and proceeds and to give proper receipts and acquittances therefor and, except as otherwise provided herein, to apply the same toward the payment of the indebtedness and other sums secured hereby; and

(iii) All proceeds, products, replacements, additions, substitutions, renewals and accessions of and to the Land, Improvements or Appurtenances;

(E) All rents, issues, profits, income and other benefits now or hereafter arising from or in respect of the Land, Improvements or Appurtenances (the "**Rents**"); it being intended that this Granting Clause shall constitute an absolute and present assignment of the Rents, subject, however, to the revocable license given to Mortgagor to collect and use the Rents as provided in this Mortgage;

(F) Any and all leases, licenses and other occupancy agreements now or hereafter affecting the Land, Improvements or Appurtenances, together with all security therefor and guaranties thereof and all monies payable thereunder, and all books and records owned by Mortgagor which contain evidence of payments made under the leases and all security given therefor (collectively, the "**Leases**"), subject, however, to the revocable license given in this Mortgage to Mortgagor to collect the Rents arising under the Leases as provided in this Mortgage;

(G) Any and all after-acquired right, title or interest of Mortgagor in and to any of the property described in the preceding Granting Clauses; and

(H) The proceeds from the sale, transfer, pledge or other disposition of any or all of the property described in the preceding Granting Clauses;

All of the mortgaged property described in the Granting Clauses is hereinafter referred to as the "**Mortgaged Property.**"

TO HAVE AND TO HOLD the Mortgaged Property, together with all the rights, privileges and appurtenances thereunto belonging, unto Agent, its successors and assigns, forever.

ARTICLE ONE COVENANTS OF MORTGAGOR

Mortgagor covenants and agrees with Agent as follows:

1.1. **Performance under Credit Agreement, Notes, Mortgage and Other Loan Instruments.** Mortgagor shall perform, observe and comply with or cause to be performed, observed and complied with in a complete and timely manner all provisions hereof, of the Credit Agreement and of the Notes, every other Loan Instrument and every instrument evidencing or securing Borrower's Liabilities.

1.2. **General Covenants and Representations.** Mortgagor covenants, represents and warrants that as of the date hereof and at all times thereafter during the term hereof: (a) Mortgagor is seized of an indefeasible estate in fee simple in that portion of the Mortgaged Property which is real property, and has good and absolute title to it and the balance of the Mortgaged Property free and clear of all liens, security interests, charges and encumbrances whatsoever, except (i) the Permitted Liens (as defined in the Credit Agreement); (ii) a mortgage or deed of trust securing the Subordinated Debt (as defined in the Credit Agreement, such mortgage or deed of trust being hereinafter referred to as the "**Junior Mortgage**"); and (iii) those liens and encumbrances set forth on Schedule B of the loan policy of title insurance accepted by Agent insuring the lien of this Mortgage (all such liens, security interests, charges and encumbrances being hereinafter referred to as the "**Permitted Encumbrances**"); and (b) Mortgagor will maintain and preserve the lien of this Mortgage as a first and paramount lien on the Mortgaged Property, until Borrower's Liabilities have been paid in full and all obligations of Agent and Lenders under the Credit Agreement have been terminated, subject only to the Permitted Encumbrances, except that this Mortgage shall be superior to the Junior Mortgage.

1.3. **Compliance with Laws and Other Restrictions.** Mortgagor covenants and represents that the Land and the Improvements and the use thereof presently comply with, and will continue to comply with, all applicable restrictive covenants, zoning and subdivision ordinances and building codes, licenses, health and environmental laws and regulations and all other applicable laws, ordinances, rules and regulations, except for those the non-compliance with which could not reasonably be expected to have a Material Adverse Effect (as defined in the Credit Agreement).

1.4. **Taxes and Other Charges.** Mortgagor shall pay promptly when due all taxes, assessments, rates, dues, charges, fees, levies, fines, impositions, liabilities, obligations, liens and encumbrances of every kind and nature whatsoever now or hereafter imposed, levied or assessed upon or against the Mortgaged Property or any part thereof, or upon or against this Mortgage or Borrower's Liabilities; provided, however, that Mortgagor may in good faith contest the validity, applicability or amount of any tax, assessment or other charge, in accordance with the terms of the Credit Agreement.

1.5. **Mechanic's and Other Liens.** Except as otherwise may be provided by the Credit Agreement, Mortgagor shall not permit or suffer any mechanic's, laborer's, materialman's, statutory or other lien or encumbrance (other than any lien for taxes and assessments not yet due) to be created upon or against the Mortgaged Property; provided, however, that Mortgagor may in good faith, by appropriate proceedings, contest the validity, applicability or amount of any asserted lien, in accordance with the terms of the Credit Agreement.

1.6. **Insurance and Condemnation.**

1.6.1. **Insurance Policies.** Mortgagor shall, at its sole expense, obtain for, deliver to, assign to and maintain for the benefit of Agent, until Borrower's Liabilities are paid in full, such policies of insurance as are required by the Credit Agreement.

1.6.2. **Adjustment of Loss; Application of Proceeds.** Except as otherwise may be provided by the Credit Agreement, Agent is hereby authorized and empowered, at its option, to adjust or compromise any loss under any insurance policies covering the Mortgaged Property and to collect and receive the proceeds from any such policy or policies. The entire amount of such proceeds, awards or compensation shall be applied as provided in the Credit Agreement.

1.6.3. **Condemnation Awards.** Except as otherwise may be provided by the Credit Agreement, Agent shall be entitled to all compensation, awards, damages, claims, rights of action and proceeds of, or on account of, (i) any damage or taking, pursuant to the power of eminent domain, of the Mortgaged Property or any part thereof, (ii) damage to the Mortgaged Property by reason of the taking, pursuant to the power of eminent domain, of other property, or (iii) the alteration of the grade of any street or highway on or about the Mortgaged Property. Agent is hereby authorized, at its option, to commence, appear in and prosecute in its own or Mortgagor's name any action or proceeding relating to any such compensation, awards, damages, claims, rights of action and proceeds and to settle or compromise any claim in connection therewith. Mortgagor hereby irrevocably appoints Agent as its attorney-in-fact for the purposes set forth in the preceding sentence. In the event that Mortgagor acquires any real estate to replace all or any portion of the Mortgaged Property which became subject to any such action or proceeding, Mortgagor shall execute and deliver to Agent a mortgage of such replacement property, which mortgage shall be in substantially the same form as this Mortgage, and Mortgagor shall deliver to Agent a title insurance policy and such other items in connection with such replacement property as Agent may reasonably require, all in form and substance satisfactory to Agent.

1.6.4. **Obligation to Repair.** If all or any part of the Mortgaged Property shall be damaged or destroyed by fire or other casualty or shall be damaged or taken through the exercise of the power of eminent domain or other cause described in Section 1.6.3, Mortgagor shall promptly and with all due diligence restore and repair the Mortgaged Property to the extent that the proceeds, award or other compensation, or proceeds of the Loans, are made available to Mortgagor.

1.7. **Agent May Pay; Default Rate.** Upon Mortgagor's failure to pay any amount required to be paid by Mortgagor under any provision of this Mortgage, Agent may pay the same. Mortgagor shall pay to Agent on demand the amount so paid by Agent together with interest at a rate equal to the highest rate payable under the Credit Agreement after the occurrence of an "Event of Default" as such term is defined in the Credit Agreement (the "**Default Rate**") and the amount so paid by Agent, together with interest, shall be added to Borrower's Liabilities.

1.8. **Care of the Mortgaged Property.** Mortgagor shall preserve and maintain the Mortgaged Property in good working order and condition, ordinary wear and tear excepted.

1.9. **Transfer or Encumbrance of the Mortgaged Property.** Except as permitted by the Credit Agreement, Mortgagor shall not permit or suffer to occur any sale, assignment, conveyance, transfer, mortgage, lease or encumbrance of the Mortgaged Property, any part thereof, or any interest therein, without the prior written consent of Agent having been obtained.

1.10. **Further Assurances.** At any time and from time to time, upon Agent's request, Mortgagor shall make, execute and deliver, or cause to be made, executed and delivered, to Agent, and where appropriate shall cause to be recorded, registered or filed, and from time to time thereafter to be re-recorded, re-registered and refiled at such time and in such offices and places as shall be deemed desirable by Agent, any and all such further mortgages, security agreements, financing statements, instruments of further assurance, certificates and other documents as Agent may consider reasonably necessary in order to effectuate or perfect, or to continue and preserve the obligations under, this Mortgage.

1.11. **Assignment of Rents.** The assignment of rents, income and other benefits contained in Section (E) of the Granting Clauses of this Mortgage shall be fully operative without any further action on the part of either party, and, specifically, Agent shall be entitled, at its option, upon the occurrence of an Event of Default hereunder, to all rents, income and other benefits from the Mortgaged Property, whether or not Agent takes possession of such property. Such assignment and grant shall continue in effect until Borrower's Liabilities are paid in full and all obligations of Agent and Lenders under the Credit Agreement have been terminated, the execution of this Mortgage constituting and evidencing the irrevocable consent of Mortgagor to the entry upon and taking possession of the Mortgaged Property by Agent pursuant to such grant, whether or not foreclosure proceedings have been instituted. Notwithstanding the foregoing, so long as no Event of Default has occurred, Mortgagor shall have a revocable license to continue to collect the rents, income and other benefits from the Mortgaged Property as they become due and payable but not more than thirty (30) days prior to the due date thereof.

1.12. **After-Acquired Property.** To the extent permitted by, and subject to, applicable law, the lien of this Mortgage shall automatically attach, without further act, to all property hereafter acquired by Mortgagor located in or on, or attached to, or used or intended

to be used in connection with, or with the operation of, the Mortgaged Property or any part thereof.

1.13. **Leases Affecting Mortgaged Property.** Mortgagor shall comply with and perform in a complete and timely manner all of its obligations as landlord under all leases affecting the Mortgaged Property or any part thereof. The assignment contained in Sections (E) and (F) of the Granting Clauses shall not be deemed to impose upon Agent any of the obligations or duties of the landlord or Mortgagor provided in any lease.

1.14. **Execution of Leases.** Except as permitted by the Credit Agreement, Mortgagor shall not permit any leases to be made of the Mortgaged Property, or to be modified, terminated, extended or renewed, without the prior written consent of Agent.

1.15. **Fixture Filing.** Mortgagor and Agent agree that this Mortgage shall be effective from the date of its recording as a fixture filing with respect to all goods and other personal property constituting part of the Mortgaged Property which are or are to become fixtures related to the real estate described herein. For this purpose, the following information is set forth:

(a) Name and Address of Debtor:

Wickes Inc.
706 North Deerpath Drive
Vernon Hills, Illinois 60061

(b) Name and Address of Secured Party:

Merrill Lynch Capital, as Agent
222 North LaSalle Street, 17th Floor
Chicago, Illinois 60601

(c) This document covers goods and personal property which are or are to become fixtures.

(d) The name of the record owner is "Wickes Inc."

(e) The real estate to which such fixtures are or are to be attached is that described in **Exhibit A** attached hereto, the record owner of which is Mortgagor.

(f) The organizational ID number of Mortgagor is 2145868.

1.16. **Condominium Units.** With respect to that portion of the Mortgaged Property which is condominium units, Mortgagor shall comply with the declaration of condominium governing such units and, without limitation of the foregoing, will pay all

assessments when due. Notwithstanding any provision of said declaration or this Mortgage, Mortgagor shall cause all proceeds of casualty insurance to be paid to Agent, to the extent required by the Credit Agreement or this Mortgage.

ARTICLE TWO DEFEASANCE AND DEFAULTS

2.1. **Defeasance.** This Mortgage is made upon the condition that if (i) all of Borrower's Liabilities (as defined in the Granting Clause, including but not limited to, all future advances and other future indebtednesses, obligations and liabilities included therein) are paid in full, and (ii) Mortgagor reimburses Agent and Lenders for any amounts they have paid in respect of liens, impositions, prior mortgages, insurance premiums, repairing or maintaining the Mortgaged Property, performing the Mortgagor's obligations under any lease related to the Land or Improvements, performing Mortgagor's obligations with respect to environmental matters, and any other advancements hereunder, and interest thereof, and (iii) Mortgagor fulfills all of the Mortgagor's other obligations under this Mortgage, and (iv) all obligations of Agent and Lenders under the Credit Agreement have been terminated and there is in existence no contingent liability of Mortgagor that is secured by this Mortgage, and (v) any other conditions set forth in Section 4.10 are fulfilled, this conveyance shall be null and void upon the filing by Agent of the written instrument of termination described in Section 4.10.

2.2. **Event of Default.** The term "**Event of Default**," wherever used in this Mortgage, shall mean any one or more of the following events:

(a) The failure by Mortgagor to keep, perform, or observe any covenant, condition or agreement on the part of Mortgagor in this Mortgage, which failure is not cured within any applicable grace or cure period provided in the Credit Agreement.

(b) The occurrence of an "Event of Default" under and as defined in the Credit Agreement or any of the other Loan Instruments. An excerpt from the Credit Agreement disclosing "Events of Default" thereunder is attached hereto as **Schedule 1**.

ARTICLE THREE REMEDIES

3.1. **Acceleration of Maturity.** If an Event of Default shall have occurred, Agent may declare Borrower's Liabilities to be immediately due and payable, and upon such declaration Borrower's Liabilities shall immediately become and be due and payable without further demand or notice.

3.2. Possession and Operation of Mortgaged Property. If an Event of Default exists, in addition to all other rights herein conferred on Agent, Agent (or any person designated by Agent) may, but will not be obligated to, (a) enter upon the Mortgaged Property and take possession of any or all of the Mortgaged Property without being guilty of trespass or conversion, exclude Mortgagor therefrom, and hold, use, administer, manage and operate the same to the extent that Mortgagor could do so, without any liability to Mortgagor resulting therefrom; (b) collect, receive and receipt for all proceeds accruing from the operation and management of the Mortgaged Property; (c) make repairs and purchase needed additional property; (d) insure or reinsure the Mortgaged Property; (e) maintain and restore the Mortgaged Property; (f) prepare the Mortgaged Property for resale, lease or other disposition; (g) have furnished to the Mortgaged Property utilities and other materials and services used on or in connection with the Mortgaged Property; and (h) exercise every power, right and privilege of Mortgagor with respect to the Mortgaged Property.

3.3. Judicial Proceedings; Right to Receiver. If an Event of Default exists, Agent, in lieu of or in addition to exercising the power of sale hereinafter given, may proceed by suit to foreclose its lien on the Mortgaged Property, to sue Mortgagor for damages on account of said default, for specific performance of any provision contained herein, or to enforce any other appropriate legal or equitable right or remedy. Agent shall be entitled, as a matter of right (upon bill filed or other proper legal proceedings being commenced for the foreclosure of this Mortgage, to the extent required by law), to the appointment by any competent court or tribunal, without notice to Mortgagor or any other party, of a receiver of the rents, issues, profits and revenues of the Mortgaged Property, with power to lease and control the Mortgaged Property and with such other powers as may be deemed necessary.

3.4. Power of Sale. If an Event of Default exists, this Mortgage shall be subject to foreclosure and may be foreclosed as now provided by law in case of past-due mortgages, and Agent shall be authorized, at its option, whether or not possession of the Mortgaged Property is taken, to sell the Mortgaged Property (or such part or parts thereof as Agent may from time to time elect to sell) under the power of sale which is hereby given to Agent, at public outcry, to the highest bidder for cash, at the front or main door of the courthouse of the county in which the Land to be sold, or a substantial and material part thereof, is located, after first giving notice by publication once a week for three successive weeks of the time, place and terms of such sale, together with a description of the Mortgaged Property to be sold, by publication in some newspaper published in the county or counties in which the Land to be sold is located. If there is Land to be sold in more than one county, publication shall be made in all counties where the Land to be sold is located, but if no newspaper is published in any such county, the notice shall be published in a newspaper published in an adjoining county for three successive weeks. The sale shall be held between the hours of 11:00 a.m. and 4:00 p.m. on the day designated for the exercise of the power of sale hereunder. Agent may bid at any sale held under this Mortgage and may purchase the Mortgaged Property, or any part thereof, if the highest bidder therefor. The purchaser at any such sale shall be under no obligation to see to the proper application of the purchase money.

At any sale all or any part of the Mortgaged Property, real, personal or mixed, may be offered for sale in parcels or en masse for one total price, and the proceeds of any such sale en masse shall be accounted for in one account without distinction between the items included therein and without assigning to them any proportion of such proceeds, Mortgagor hereby waiving the application of any doctrine of marshalling or like proceeding. In case Agent, in the exercise of the power of sale herein given, elects to sell the Mortgaged Property in parts or parcels, sales thereof may be held from time to time, and the power of sale granted herein shall not be fully exercised until all of the Mortgaged Property not previously sold shall have been sold or all Borrower's Liabilities shall have been paid in full, all obligations of Agent to disburse the Loans have been terminated and this Mortgage shall have been terminated as provided herein.

3.5. Personal Mortgaged Property and Fixtures. If an Event of Default exists, Agent shall have, with respect to all personal property and fixtures included in the Mortgaged Property, all rights and remedies of a secured party under the Alabama Uniform Commercial Code, including the right to sell it at public or private sale or otherwise dispose of, lease or use it, without regard to preservation of the Mortgaged Property or its value and without the necessity of a court order. At the Agent's request, the Mortgagor shall assemble the personal property portion of the Mortgaged Property and make it available to the Agent at any place designated by the Agent. To the extent permitted by law, the Mortgagor expressly waives notice and any other formalities prescribed by law with respect to any sale or other disposition of such personal property portion of the Mortgaged Property or exercise of any other right or remedy upon default. Mortgagor agrees that the Agent may sell or dispose of both the real property and the personal property portions of the Mortgaged Property in accordance with the rights and remedies granted under this Mortgage with respect to the Land.

3.6. Rents and Leases. If an Event of Default exists, Agent, at its option, shall have the right, power and authority to terminate the license granted to Mortgagor in Section 1.11 to collect the rents, profits, issues and revenues of the Mortgaged Property, whether paid or accruing before or after the filing of any petition by or against Mortgagor under the federal Bankruptcy Code, and, without taking possession, in Agent's own name to demand, collect, receive, sue for, attach and levy all of such rents, profits, issues and revenues, to give proper receipts, releases and acquittances therefor, and to apply the proceeds thereof as set forth in said Section 1.11.

3.7. Foreclosure Deeds. To the extent permitted by applicable law, Mortgagor hereby authorizes and empowers Agent or the auctioneer at any foreclosure sale had hereunder, for and in the name of Mortgagor, to execute and deliver to the purchaser or purchasers of any of the Mortgaged Property sold at foreclosure good and sufficient deeds of conveyance or bills of sale thereto.

3.8. Order of Application of Proceeds. All payments received by Agent as proceeds of any of the Mortgaged Property, as well as any and all amounts realized by

Agent in connection with the enforcement of any right or remedy under this Mortgage, shall be applied by Agent as follows: (1) to the payment of all expenses incident to the exercise of any remedies under this Mortgage, including attorneys' fees and disbursements, appraisal fees, environmental site assessment fees, title search fees and foreclosure notice costs, (2) to the payment in full of any of Borrower's Liabilities that are then due and payable (including principal, accrued interest and all other sums secured hereby) in such order as Agent may elect in its sole discretion, (3) to a cash collateral reserve fund to be held by Agent in an amount equal to, and as security for, any of Borrower's Liabilities that are not then due and payable, and (4) the remainder, if any, shall be paid to Mortgagor or such other persons as may be entitled thereto by law, after deducting therefrom the cost of ascertaining their identity.

3.9. Multiple Sales. If an Event of Default exists, Agent shall have the option to proceed with foreclosure, either through the courts or by power of sale as provided for in this Mortgage, but without declaring the whole of Borrower's Liabilities due. Any such sale may be made subject to the unmatured part of Borrower's Liabilities, and such sale, if so made, shall not affect the unmatured part of Borrower's Liabilities, but as to such unmatured part of Borrower's Liabilities this Mortgage shall remain in full force and effect as though no sale had been made under this Section 3.9. Several sales may be made hereunder without exhausting the right of sale for any remaining part of Borrower's Liabilities, whether then matured or unmatured, the purpose hereof being to provide for a foreclosure and sale of the Mortgaged Property for any matured part of Borrower's Liabilities without exhausting the power of foreclosure and the power to sell the Mortgaged Property for any other part of Borrower's Liabilities, whether matured at the time or subsequently maturing.

3.10. Waiver of Certain Laws. Mortgagor waives, to the fullest extent permitted by law, the benefit of all laws now existing or hereafter enacted providing for (1) any appraisalment before sale of any portion of the Mortgaged Property (commonly known as appraisalment laws), or (2) any extension of time for the enforcement of the collection of Borrower's Liabilities or any creation or extension of a period of redemption from any sale made in collecting Borrower's Liabilities (commonly known as stay laws and redemption laws). Mortgagor also waives any and all rights Mortgagor may have to a hearing before any governmental authority prior to the exercise by Agent of any of its rights or remedies under any of the Loan Instruments and under applicable law.

3.11. Prerequisites of Sales. In case of any sale of the Mortgaged Property as authorized by this Article III, all prerequisites to the sale shall be presumed to have been performed, and in any conveyance given hereunder all statements of facts, or other recitals therein made, as to the nonpayment of any of Borrower's Liabilities or as to the advertisement of sale, or the time, place and manner of sale, or as to any other fact or thing, shall be taken in all courts of law or equity as rebuttably presumptive evidence that the facts so stated or recited are true.

3.12. **Remedies Cumulative.** No right, power or remedy conferred upon or reserved to Agent or Lenders by the Notes, the Credit Agreement, this Mortgage or any other Loan Instrument or any instrument evidencing or securing Borrower's Liabilities is exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or under the Notes, the Credit Agreement or any other Loan Instrument or any instrument evidencing or securing Borrower's Liabilities, or now or hereafter existing at law, in equity or by statute.

ARTICLE FOUR MISCELLANEOUS PROVISIONS

4.1. **Heirs, Successors and Assigns Included in Parties.** Whenever Mortgagor, Agent or Lenders are named or referred to herein, heirs and successors and assigns of such person or entity shall be included, and all covenants and agreements contained in this Mortgage shall bind the successors and assigns of Mortgagor, including any subsequent owner of all or any part of the Mortgaged Property and inure to the benefit of the successors and assigns of Agent and Lenders.

4.2. **Notices.** All notices, requests, reports, demands or other instruments required or contemplated to be given or furnished under this Mortgage to Mortgagor or Agent shall be directed to Mortgagor or Agent, as the case may be, in the manner and at the addresses for notice set forth in the Credit Agreement.

4.3. **Headings.** The headings of the articles, sections, paragraphs and subdivisions of this Mortgage are for convenience only, are not to be considered a part hereof, and shall not limit, expand or otherwise affect any of the terms hereof.

4.4. **Invalid Provisions.** In the event that any of the covenants, agreements, terms or provisions contained in this Mortgage shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein (or the application of the covenant, agreement, term held to be invalid, illegal or unenforceable, to persons or circumstances other than those in respect of which it is invalid, illegal or unenforceable) shall be in no way affected, prejudiced or disturbed thereby.

4.5. **Changes.** Neither this Mortgage nor any term hereof may be released, changed, waived, discharged or terminated orally, or by any action or inaction, but only by an instrument in writing signed by the party against which enforcement of the release, change, waiver, discharge or termination is sought.

4.6. **Governing Law.** Except with respect to the creation, perfection, priority and enforcement of the lien and security interest created hereunder, all of which shall be construed, interpreted, enforced and governed by the laws of the State of Alabama, the

validity and interpretation of this Mortgage shall be governed by and in accordance with the internal laws of the State of Illinois, without regard to conflicts of law principles.

4.7. **Limitation of Interest.** The provisions of the Credit Agreement regarding the payment of lawful interest are hereby incorporated herein by reference.

4.8. **Future Advances.** This is a FUTURE ADVANCE MORTGAGE. The indebtedness secured hereby includes (a) a revolving line of credit to be made available by Agent and Lenders to Mortgagor under the Credit Agreement, pursuant to which advances may be made, prepaid and reborrowed from time to time, and (b) all other indebtedness, obligations and liabilities of Mortgagor to Agent and Lenders due or to become due and now existing or hereafter incurred, contracted or arising.

4.9. **Last Dollar.** The lien of this Mortgage shall remain in effect until the last dollar of Borrower's Liabilities is paid in full and all obligations of Agent and Lenders under the Credit Agreement have been terminated.

4.10. **Release.** This Mortgage and Agent's liens under this Mortgage in the Mortgaged Property will not be terminated until a written mortgage satisfaction instrument executed by one of Agent's officers is filed for record in the county in which the Land is located.

4.11. **Time of the Essence.** Time is of the essence with respect to this Mortgage and all the provisions hereof.



4.12. **Credit Agreement.** The Loans are governed by terms and provisions set forth in the Credit Agreement and in the event of any conflict between the terms of this Mortgage and the terms of the Credit Agreement, the terms of the Credit Agreement shall control.

4.13. **Replacement of Notes.** Any one or more of the financial institutions which are or become a party to the Credit Agreement as Lenders may from time to time be replaced and, accordingly, one or more of the Notes may from time to time be replaced, provided that the terms of the Notes following such replacement, including the principal amount evidenced thereby, shall remain the same. As the indebtedness secured by this Mortgage shall remain the same, such replacement of the Notes shall not be construed as a novation and shall not affect, diminish or abrogate Mortgagor's liability under this Mortgage or the priority of this Mortgage.

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IN WITNESS WHEREOF, Mortgagor has caused this instrument to be executed by its duly authorized officer as of the day and year first above written, although actually executed on the date set forth in the acknowledgment below.

WICKES INC.,
a Delaware corporation

By 
Its 

THIS INSTRUMENT WAS PREPARED BY:

Carole K. Towne, Esq.
GOLDBERG, KOHN, BELL, BLACK,
ROSENBLOOM & MORITZ, LTD.
55 East Monroe Street
Suite 3700
Chicago, Illinois 60603
(312) 201-4000

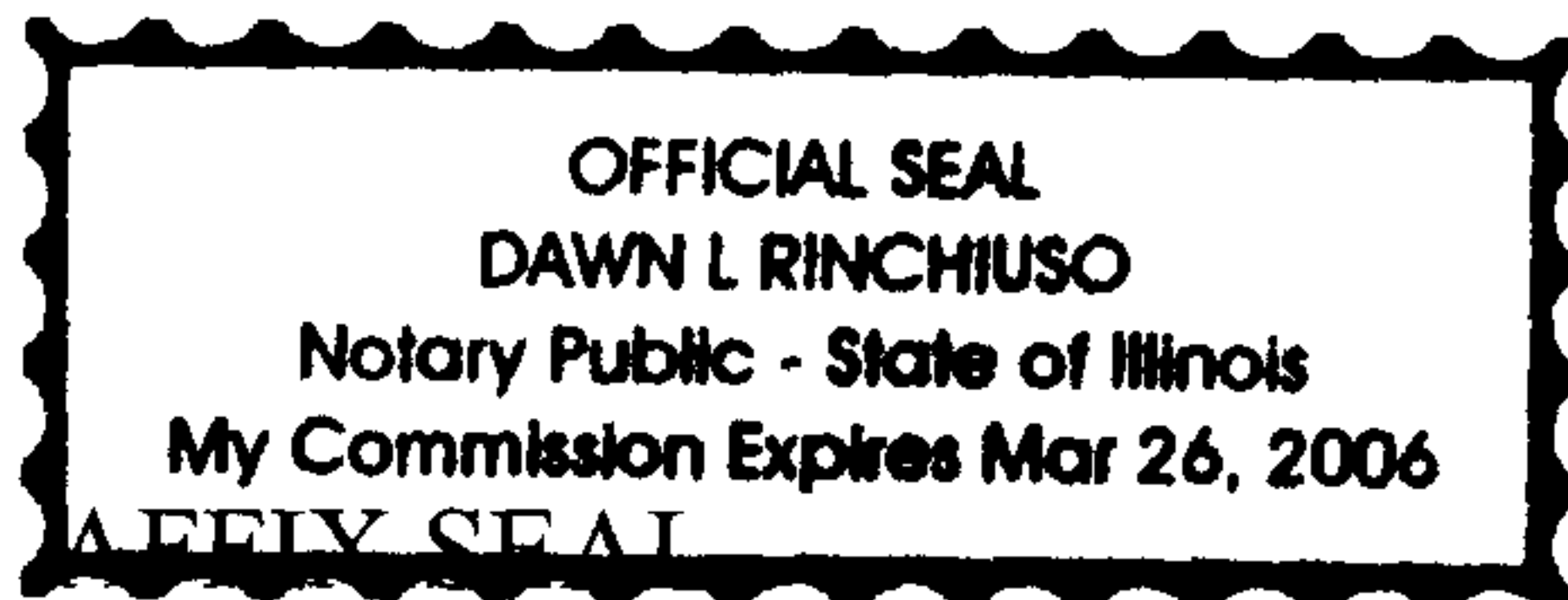
AFTER RECORDING RETURN TO THE ABOVE ADDRESS

ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned authority, a Notary Public in and for said County in said State, HEREBY CERTIFY THAT James A. Hopwood, whose name as SVP CFO of WICKES INC., a Delaware corporation, 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 said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

GIVEN under my hand and official seal this 25th day of February, 2003.



Dawn L. Rinchiuso
Notary Public

My Commission Expires: 3/26/06

EXHIBIT A

Legal Description

Unit A:

Unit A of The Homecrafters Warehouse Building, a Condominium according to the Declaration of Condominium as recorded in Book 003 page 860 in the Office of the Judge of Probate of Shelby County, Alabama, together with an undivided fractional interest in the common elements as set out in the said Declaration of Condominium; being situated in Shelby County, Alabama.

Unit B:

Unit B of The Homecrafters Warehouse Building, a condominium, according to the Declaration of Condominium as recorded in Book 003 page 860 in the Office of the Judge of Probate of Shelby County, Alabama, together with an undivided fractional interest in the common elements as set out in the said Declaration of Condominium; being situated in Shelby County, Alabama.

EXHIBIT A

Legal Description

PARCEL I:

Commence at the Northwest corner of the Southwest Quarter of the Northwest Quarter of Section 11, Township 21 South, Range 10 West Huntsville Meridian, Tuscaloosa County, Alabama; thence in southerly direction, along and with the West line of said Quarter-Quarter section 484.15 feet to the Point of Beginning; thence with a deflection of 86°31'44" left, 370.00 feet to a point; thence with a deflection of 86°35'45" right 359.47 feet to the northerly right-of-way margin of U.S. Highway 82 By-Pass; thence with a deflection of 94°20'59" right, and along and with said right-of-way margin, 370.00 feet to a point; thence with a deflection of 85°35'00" right, leaving said right-of-way margin, 353.38 feet to the Point of Beginning.

PARCEL II:

Commence at the Northwest corner of the Southwest Quarter of the Northwest Quarter of Section 11, Township 21 South, Range 10 West Huntsville Meridian, Tuscaloosa County, Alabama; thence in a southerly direction, along and with the West line of said Quarter-Quarter section 484.15 feet to a point; thence with a deflection of 86°31'44" left, 370.00 feet to the Point of Beginning; thence with a deflection of 86°35'45" right, 359.47 feet to the northerly right-of-way margin of U.S. Highway 82 By-Pass; thence with a deflection of 85°39'01" left, along and with said right-of-way margin 82.00 feet to a point; thence with a deflection of 94°16'18" left, leaving said right-of-way margin, 360.80 feet to a point; thence with a left deflection of 86°40'26" 82.40 feet to the Point of Beginning.

EXHIBIT A

Legal Description

Lot 7 of Block 41, and Lots 9 and 10 of Block 42, according to the survey of W. P. DeJarnette of the City of Greenville, Alabama.

Less and Except the following:

- 1. That portion of Lot 9 sold to Southside Baptist Church, which deed is recorded in the Butler County Probate Office in Deed Book 183, at Page 194.**
- 2. All that part of Lot 7 of Block 41, according to the W. P. DeJarnette survey of the City of Greenville, Alabama, which lies North and West of King Street.**

SCHEDULE 1

Events of Default

ARTICLE 9 EVENTS OF DEFAULT

Section 9.1 *Events of Default.*

For purposes of the Financing Documents, the occurrence of any of the following conditions and/or events, whether voluntary or involuntary, by operation of law or otherwise, shall constitute an "**Event of Default**":

(a) Borrower shall fail to pay when due any principal, interest, premium or fee under any Financing Document or any other amount payable under any Financing Document;

(b) Borrower shall fail to observe or perform any covenant contained in Section 4.1, Section 4.4, Section 4.7, Section 4.9, Article 5, Article 6 or Article 7;

(c) any Credit Party defaults in the performance of or compliance with any term contained in this Agreement, in any other Financing Document or in any document, agreement or instrument entered into in connection with Ancillary Services (other than occurrences described in other provisions of this Section 9.1 for which a different grace or cure period is specified or which constitute immediate Events of Default) and such default is not remedied or waived within twenty (20) days after the earlier of (1) receipt by Borrower of notice from Agent or Required Lenders of such default or (2) actual knowledge of Borrower or any other Credit Party of such default;

(d) any representation, warranty, certification or statement made by any Credit Party or any other Person in any Financing Document or in any certificate, financial statement or other document delivered pursuant to any Financing Document is incorrect in any respect (or in any material respect if such representation, warranty, certification or statement is not by its terms already qualified as to materiality) when made (or deemed made);

(e) failure of any Credit Party to pay when due or within any applicable grace period any principal, interest or other amount on Debt (other than the Loans), or the occurrence of any breach, default, condition or event with respect to any Debt (other than the Loans), if the effect of such failure or occurrence is to cause or to permit the holder or holders thereof to cause, Debt (including without limitation the Subordinated Debt and the Swap Debt) having an individual principal amount in excess of \$250,000 or having an aggregate principal amount in excess of \$500,000 to become or be declared due prior to its stated maturity;

(f) any Credit Party shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of or

taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action to authorize any of the foregoing;

(g) an involuntary case or other proceeding shall be commenced against any Credit Party seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of sixty (60) days; or an order for relief shall be entered against any Credit Party under the federal bankruptcy laws as now or hereafter in effect;

(h) (1) institution of any steps by any Person to terminate a Pension Plan if as a result of such termination any Credit Party or any member of the Controlled Group could be required to make a contribution to such Pension Plan, or could incur a liability or obligation to such Pension Plan, in excess of \$250,000, (2) a contribution failure occurs with respect to any Pension Plan sufficient to give rise to a Lien under Section 302(f) of ERISA, or (3) there shall occur any withdrawal or partial withdrawal from a Multiemployer Pension Plan and the withdrawal liability (without unaccrued interest) to Multiemployer Pension Plans as a result of such withdrawal (including any outstanding withdrawal liability that any Credit Party or any member of the Controlled Group have incurred on the date of such withdrawal) exceeds \$250,000;

(i) one or more judgments or orders for the payment of money aggregating in excess of \$500,000 shall be rendered against any or all Credit Parties and such judgments or orders shall continue unsatisfied and unstayed for a period of ten (10) days;

(j) (1) Investor and Riverside shall cease between them to, directly or indirectly, own beneficially and of record and control at least 25% of the outstanding voting equity interests of Borrower, (2) any Person other than Investor shall, directly or indirectly, own or control a greater percentage of the outstanding voting equity interests of Borrower than Investor, (3) Continuing Directors shall cease to constitute at least a majority of the board of directors (or similar governing body) of Borrower, (4) Borrower shall cease to, directly or indirectly, own and control one hundred percent (100%) of each class of the outstanding equity interests of each Subsidiary, unless such Subsidiary is dissolved and liquidated or (5) any "Change of Control", "Change in Control", or terms of similar import occurs under any Subordinated Debt Document or Swap Debt Document;

(k) the accountant's report or reports on the audited statements delivered pursuant to Section 4.1(b) shall include any material qualification (including with respect to the scope of audit) or exception;

(l) any Lien created by any of the Security Documents shall at any time fail to constitute a valid and perfected Lien on all of the Collateral purported to be secured

thereby, subject to no prior or equal Lien except Permitted Liens, or any Credit Party shall so assert in writing;

(m) any Credit Party shall be prohibited or otherwise materially restrained from conducting the business theretofore conducted by it by virtue of any casualty, any labor strike, any determination, ruling, decision, decree or order of any court or regulatory authority of competent jurisdiction or any other event and such casualty, labor strike, determination, ruling, decision, decree, order or other event remains unstayed and in effect for any period of ten (10) days;

(n) any of the Operative Documents shall for any reason fail to constitute the valid and binding agreement of any Credit Party thereto, or any such Credit Party shall so assert in writing; or

(o) any portion of the Swap Debt remains outstanding on or after April 29, 2005.

Section 9.2 *Acceleration and Suspension or Termination of Revolving Loan Commitment.*

Upon the occurrence and during the continuance of an Event of Default, Agent may, and shall if requested by Required Lenders, (i) by notice to Borrower suspend or terminate the Revolving Loan Commitment, in whole or in part (and, if in part, such reduction shall be pro rata among the Lenders having a Revolving Loan Commitment Percentage) and/or (ii) by notice to Borrower declare the Obligations to be, and the Obligations shall thereupon become, immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by Borrower and Borrower will pay the same; *provided* that in the case of any of the Events of Default specified in Section 9.1(f) or 9.1(g) above, without any notice to Borrower or any other act by Agent or the Lenders, the Revolving Loan Commitment shall thereupon terminate and all of the Obligations shall become immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by Borrower and Borrower will pay the same.

Section 9.3 *Cash Collateral.*

If (i) any Event of Default specified in Section 9.1(f) or 9.1(g) shall occur, (ii) the Obligations shall have otherwise been accelerated pursuant to Section 9.2 or (iii) the Revolving Loan Commitment shall have been terminated pursuant to Section 9.2, then without any request or the taking of any other action by Agent or the Lenders, Borrower shall immediately comply with the provisions of Section 2.5(e) with respect to the deposit of cash collateral to secure the existing Letter of Credit Liability and future payment of related fees.

Section 9.4 *Default Rate of Interest and Suspension of LIBOR Rate Options.*

At the election of Agent or Required Lenders, after the occurrence of an Event of Default and for so long as it continues, the Loans and other Obligations shall bear interest at rates that are two percent (2.0%) in excess of the rates otherwise payable under this Agreement. Furthermore, at the election of Agent or Required Lenders during any period in which any Event of Default is continuing (x) as the Interest Periods for LIBOR Loans then in effect expire, such Loans shall be converted into Prime Rate Loans and (y) the LIBOR election will not be available to Borrower.

Section 9.5 *Setoff Rights.*

During the continuance of any Event of Default, each Lender is hereby authorized by Borrower at any time or from time to time, with reasonably prompt subsequent notice to Borrower (any prior or contemporaneous notice being hereby expressly waived) to set off and to appropriate and to apply any and all (A) balances held by such Lender at any of its offices for the account of Borrower or any of its Subsidiaries (regardless of whether such balances are then due to Borrower or its Subsidiaries), and (B) other property at any time held or owing by such Lender to or for the credit or for the account of Borrower or any of its Subsidiaries, against and on account of any of the Obligations; except that no Lender shall exercise any such right without the prior written consent of Agent. Any Lender exercising a right to set off shall purchase for cash (and the other Lenders shall sell) interests in each of such other Lender's Pro Rata Share of the Obligations as would be necessary to cause all Lenders to share the amount so set off with each other Lender in accordance with their respective Pro Rata Share of the Obligations. Borrower agrees, to the fullest extent permitted by law, that any Lender may exercise its right to set off with respect to the Obligations as provided in this Section 9.5.

Section 9.6 *Application of Proceeds.*

Notwithstanding anything to the contrary contained in this Agreement, upon the occurrence and during the continuance of an Event of Default, (a) Borrower irrevocably waives the right to direct the application of any and all payments at any time or times thereafter received by Agent from or on behalf of Borrower or any guarantor of all or any part of the Obligations, and Lenders shall have the continuing and exclusive right to apply and to reapply any and all payments received at any time or times after the occurrence and during the continuance of an Event of Default against the Obligations in such manner as Lenders may deem advisable notwithstanding any previous application by Agent or Lenders and (b) in the absence of a specific determination by Lenders with respect thereto, the proceeds of any sale of, or other realization upon, all or any part of the Collateral shall be applied: first, to all fees, costs, indemnities and expenses incurred by or owing to Agent, with respect to this Agreement, the other Financing Documents or the Collateral; second, to all fees, costs, indemnities and expenses incurred by or owing to any Lender with respect to this Agreement, the other Financing Documents, or the Collateral; third, to accrued and unpaid interest on the Obligations (including any interest which but for the provisions of the

U.S. Bankruptcy Code, would have accrued on such amounts); fourth, to the principal amount of the Obligations outstanding; and fifth to any other indebtedness or obligations of Borrower owing to Agent, any Lender or any Designated Lender Affiliate under the Financing Documents or with respect to Ancillary Services, including without limitation fees, costs, indemnities and expenses thereunder. Any balance remaining shall be delivered to Borrower or to whomever may be lawfully entitled to receive such balance or as a court of competent jurisdiction may direct.

ARTICLE 10 EXPENSES, INDEMNITY, TAXES AND RIGHT TO PERFORM

Section 10.1 *Expenses.*

Borrower hereby agrees to promptly pay (i) all reasonable costs and expenses of Agent (including without limitation the fees, costs and expenses of counsel to, and independent appraisers and consultants retained by Agent) in connection with the examination, review, due diligence investigation, documentation, negotiation, closing and syndication of the transactions contemplated by the Financing Documents, in connection with the performance by Agent of its rights and remedies under the Financing Documents and in connection with the continued administration of the Financing Documents including any amendments, modifications, consents and waivers to and/or under any and all Financing Documents, (ii) without limitation of the preceding clause (i), all reasonable costs and expenses of Agent in connection with the creation, perfection and maintenance of Liens pursuant to the Financing Documents, including title investigations, (iii) without limitation of the preceding clause (i), expenses of Agent in connection with protecting, storing, insuring, handling, maintaining or selling any Collateral and in connection with any workout, collection, bankruptcy, insolvency and other enforcement proceedings under any and all of the Financing Documents, and (iv) all costs and expenses incurred by Lenders in connection with any workout, collection, bankruptcy, insolvency and other enforcement proceedings under any and all Financing Documents, *provided*, that to the extent that the costs and expenses referred to in this clause (iv) consist of fees, costs and expenses of counsel, Borrower shall be obligated to pay such fees, costs and expenses for only one counsel acting for all Lenders (other than Agent).

Section 10.2 *Indemnity.*

Borrower hereby agrees to indemnify, pay and hold harmless Agent and Lenders and the officers, directors, employees and counsel of Agent and Lenders (collectively called the "**Indemnitees**") from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (including the fees and disbursements of counsel for such Indemnatee) in connection with any investigative, administrative or judicial proceeding, whether or not such Indemnatee shall be designated a party thereto and including any such proceeding initiated by or on behalf of a Credit Party, and the reasonable expenses of investigation by engineers, environmental consultants and similar technical personnel and any commission, fee or compensation claimed by any broker (other than any broker retained