

STATE OF ALABAMA)
COUNTIES OF SHELBY AND MADISON)

ASSIGNMENT OF LESSOR'S INTEREST IN CONTRACT RIGHTS

THIS ASSIGNMENT made this the 1st day of April, 2003, by **LARRY C. MARTIN and DAN J. SHADDAY**, (hereinafter referred to as "Assignor") to **COLONIAL BANK**, (hereinafter referred to as "Assignee");

WITNESSETH:

WHEREAS, Assignor is the owner of the fee simple estate in and to the real properties situated in Shelby County, Alabama and Madison County, Alabama, more particularly described on Exhibit "A" attached hereto and made a part hereof by reference; and,

WHEREAS, the above described real property and has been or will become demised under certain lease agreements on the property more particularly described on Exhibit "A" as attached hereto; any leases which have heretofore been entered into by Assignor are attached hereto by Assignor are attached hereto as Exhibit "B" and made a part hereof by reference for all purposes; and

WHEREAS, Assignor is indebted to Assignee in the principal sum of **TWO MILLION FOUR HUNDRED THOUSAND AND NO/100 (\$2,400,000.00) DOLLARS**, and has executed and delivered their promissory note (the "Note") of even date herewith to evidence such debt to Assignee, the Note being secured by a mortgage, deed of trust or other security instrument of even date herewith encumbering the above described property (the "Mortgage"); and

WHEREAS, Assignee has required, as a condition to the making of the loan hereinbefore described, the following assignment of the Assignor's interest in the leases hereinbefore described; and

WHEREAS, Assignor desires to satisfy Assignee's loan condition and to more fully secure to the Assignee the payment of the Note by making the following assignment of their interest in the leases and rents hereinbefore described, which assignment is given as additional security for the loan secured by the mortgage of even date herewith recorded in Book * , Page , Probate Records of Shelby County, Alabama, and in Mortgage Book , Page , Probate Records of Madison County, Alabama.

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES, and the sum of TEN (\$10.00) DOLLARS, cash in hand paid, the receipt of which is hereby acknowledged by the Assignor, Assignor does hereby assign, transfer and set over unto the Assignee all of the Assignor's interest in and to the above described leases and rents and any other leases and rents which now exist or which may hereafter come into existence in and upon the above described premises, such assignment to be made upon the terms and conditions hereinafter set forth.

* 20030423000250250

1. DESCRIPTION OF LEASES: The leases to which this Assignment shall apply shall include all of the leases which have been hereinbefore specifically described, any additional leases which may be in existence in and upon the above described premises at the time of the execution of this Assignment, any new leases in and upon the real property described hereinbefore which shall be entered into from and after the date of the execution of this Assignment and all renewals, extensions, amendments, supplemental agreements or substitute leases which may be entered into after the date of this Assignment which shall affect in any way the leases herein described.

2. ASSIGNMENT OF RENTS AND PROFITS: As a part of this Assignment, the Assignor does further assign, transfer and set over to the Assignee all of the rents, issues, profits, assessments and other charges which are to be collected from the leases and rentals hereinbefore described. In addition, the Assignor hereby specifically authorizes the Assignee, at the Assignee's option and election, to enter upon the demised premises set out in each such lease for the purpose of collecting rents, operating and maintaining said demised premises and performing all other acts necessary for the operation and maintenance of said demised premises. It is the intent of the Assignor hereunder to authorize the performance by the Assignee of all acts with respect to the demised premises under the leases which the Assignor shall be entitled to perform under each of said lease agreements.

3. APPLICATION OF LEASE PROCEEDS BY ASSIGNEE: The Assignee shall, after payment of all reasonable and proper charges and expenses, credit the net amount of income which it may receive by virtue of this Assignment to any amounts due the Assignee from the Assignor under the terms and provisions of the Note and the Mortgage. The manner of the application of such net income and the item to which such net income shall be credited shall be within the sole discretion of the Assignee and the Assignee shall apply such net income to any one or more of the following items in any order in its absolute discretion:

- (a) To current principal installments or to the unpaid principal balance of the Note;
- (b) To interest as it accrues on the indebtedness;
- (c) To taxes or special assessments which constitute a lien against the Assignee's security;
- (d) To ground rentals, if any;
- (e) To any obligation of the lessor under the terms of any of the leases hereinbefore described or any obligation of the Lessor under the terms of its license agreement;
- (f) To cure any default under the terms of the Note or the Mortgage or the license agreement; or,
- (f) To any costs or expenses of executing the Mortgage and any advances secured thereby.

4. ASSIGNOR TO ACT AS AGENT OF ASSIGNEE: To facilitate the collection of rents and profits due under the said leases and the performance of Lessor's covenants required to be performed under such

leases, the Assignee hereby makes, constitutes and appoints the Assignor as its true and lawful attorney and evidences its consent and ratification of the appointment by its recording of this document. Assignee hereby authorizes Assignor, on behalf of Assignee, to ask, demand, collect and receive from all leases under such leases all rentals as they accrue under the terms and provisions of said leases and to perform on behalf of Assignee all of the other lease covenants required to be performed by the Lessor under such leases. The Assignee further authorizes the Assignor to receive such rentals and to give appropriate receipts therefor, to apply or expend such rentals in payment of any of the expenses of operation of the above described premises (including the mortgage indebtedness thereon) and to apply or expend the balance of any such rentals in whatever manner such Assignor shall elect, and Assignee hereby ratifies and confirms all that the said Assignor shall lawfully do pursuant to the exercise of the authority herein granted.

In the event of a default in any of the terms, provisions or conditions of either this Assignment, the Note or the Mortgage, the Assignee shall have the right to revoke such power of attorney, and Assignee hereby reserves such right of revocation of this power of attorney. The Assignee may revoke such power of attorney in the event of such default by giving notice thereof to the Assignor, such revocation to be effective at such time as notice is given, whether such notice be communicated orally or in writing to Assignor. Any such revocation shall be effective with respect to the lessees under all such leases at such time as the Assignee shall give written notice of such revocation to such lessees at their respective demised premises. The Assignor agrees that a written demand on any lessee in or upon the demised premises by Assignee for the payment of future rents directly to the Assignee shall be prima facie evidence that a revocation of the aforesaid power of attorney has occurred and shall be sufficient notice to said lessee to make future rental payments to the Assignee without the necessity of any consent by the Assignor. Any such lessee shall be entitled to rely upon such written demand, and any rent so paid by such lessees to the Assignee shall not be further recoverable by the Assignor from any such lessee.

5. LEASE WARRANTIES AND COVENANTS BY ASSIGNOR:

With respect to each of the leases herein assigned, Assignor hereby covenants and warrants the following:

- (a) That Assignor is the owner of the fee simple estate in the above described property and has full right and power to enter into such lease agreements;
- (b) That the above described leases have been properly executed by the proper parties;
- (c) That all of the terms, provisions and conditions of each of the lease agreements hereinbefore specifically described are presently in full force and effect and that there are no present defaults in the performance of any of such terms and conditions;
- (d) That the Assignor has not executed a prior assignment of said leases or rentals due thereunder which remains in full force and effect;

- (e) That the Assignor has not performed any acts or executed any instruments which might prevent the Assignee from operating any of the terms or conditions of this Assignment and agreement or which would limit the Assignee in such operation;
- (f) That the Assignor has not executed or granted any modification or amendment of any of the leases hereinbefore specifically set out except as specifically enumerated herein;
- (g) That all of the said leases hereinbefore specifically enumerated are in full force and effect according to their original terms;
- (h) That the Assignor has not collected or anticipated any rentals from any of the lessees under said leases for a period of time in excess of one month prior to the accrual of such rental;
- (i) That the Assignor will, at the Assignor's sole cost and expense, appear in and defend any action growing out of or in any manner connected with any of the assigned leases or the obligations or liabilities of the lessor, lessee or guarantor thereunder;
- (j) That the Assignor will fulfill or perform each and every lease covenant which is required to be fulfilled or performed by the lessor thereunder;
- (k) That the Assignor will give prompt notice to the Assignee of any notice of default given by any lessee under any of the assigned leases to the Assignor as lessor under such lease, such notice to include a complete copy of any such lessee's notice which shall have been given;
- (l) That the Assignor will enforce at Assignor's sole cost and expense, short of termination of the lease, the performance or observance of each and every covenant and condition required under the assigned leases to be performed or observed by the lessees thereunder;
- (m) That the Assignor will not modify nor in any way alter the terms of any of the assigned leases;
- (n) That the Assignor will not terminate the term of any assigned lease nor accept a surrender thereof unless required to do so by the terms of the lease;
- (o) That the Assignor will not anticipate the rents or other amounts payable under such assigned leases for a period of time greater than thirty (30) days prior to accrual;
- (p) That the Assignor will not waive or release any of the lessees under the assigned leases from any obligation or conditions required to be performed by such lessees under the leases; and
- (q) That the Assignor will not consent to an assignment of the lessee's interest in any of the said leases or to a subletting under any such lease.

It is expressly understood and agreed, however, that the Assignor may violate any of the preceding covenants or warranties without such violation constituting a default hereunder, if such Assignor shall first obtain the prior approval or consent of the Assignee in writing.

6. DEBTS SECURED; TERMINATION OF ASSIGNMENT: This Assignment is made for the purpose of securing the following:

- (a) The payment of the indebtedness evidenced by the Note, the Note if not sooner paid, becoming finally due and payable as to principal and interest on the 1st day of April, 2008; and any extensions, modifications and renewals thereof.
- (b) The payment of all other sums, with interest thereon, becoming due and payable under the provisions of the Note or under the provisions of the Mortgage; and
- (c) The performance and discharge of each and every obligation, covenant and agreement of Assignor contained in this Assignment and in the Note or the Mortgage.

Upon the payment in full of all indebtedness secured hereby, this Assignment shall be void and of no further effect, and the release of the Mortgage shall constitute a release of this Assignment. For purposes of determining the remaining unpaid portion of such debt or debts, the Assignor agrees that the affidavit, certificate, letter or statement of any officer or authorized agent of the Assignee showing any part of said indebtedness to remain unpaid shall be and constitute conclusive evidence of the validity, effectiveness and continuing force of this Assignment, and any person may and is hereby authorized to rely thereon.

7. ASSIGNEE'S PERFORMANCE OF LESSOR'S OBLIGATIONS: The Assignor agrees that the Assignee may at any time, at its option (but without obligation to do so and without requirement of notice to or demand of the Assignor and without releasing the Assignor of any obligation herein or under the assigned leases), make, perform or do any act which is required herein to be performed by the Assignor, including specifically but without limitation the right to appear in and defend any action purporting to affect the security hereof or the rights or powers of the Assignee and the right to perform any obligations of the lessor contained in any of the assigned leases; and the Assignor further agrees that the Assignee in exercising any such powers, may pay all necessary costs and expenses, may employ counsel, and may pay therefor reasonable attorney's fees, for all of which the Assignor will immediately upon demand reimburse all such sums expended by the Assignee pursuant to such authority, such reimbursement to Assignee to include the full sum expended together with interest thereon at the rate of seventeen (17%) percent per annum. Any such reimbursement shall be added to the indebtedness secured by this Assignment and shall be secured hereby and by the Mortgage.

8. ACCELERATION OF MATURITY: The Assignor understands and agrees that in the event it shall fail to perform any of the covenants herein agreed to be performed, or in the event any of the warranties herein made are false or incorrect, or in the event Assignor otherwise defaults in any of the terms or provisions of this Assignment, the Assignee as the holder of the note may, at its option, accelerate the maturity of the Note and declare the entire principal balance of the Note, together with all accrued interest and other amounts owing pursuant to this Assignment or the Mortgage, immediately due and payable.

9. DEFAULT: The Assignor agrees that, in the event it defaults in the payment of said indebtedness or in the performance of any of its obligations or covenants contained herein or in the Note or the Mortgage, the Assignee may, at its option, without notice (and irrespective of whether declaration of default under any Mortgage has been delivered to the Mortgagee thereunder) and without regard to the adequacy of the security for the indebtedness hereby secured, either in person or by agent with or without bringing any action or proceeding, or by a receiver to be appointed by a Court, take any of the following actions:

- (a) Enter upon, take possession of, and operate the premises;
- (b) Make, enforce, modify and accept the surrender of leases;

- (c) Obtain and evict tenants;
- (d) Fix or modify rents;
- (e) Perform any acts which the Assignee deems proper to protect the security hereof until all indebtedness secured hereby is paid in full; and
- (f) Sue for or otherwise collect and receive in its own name all rents, issues and profits, including those past due and unpaid and apply the same less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby in such order as the Assignee may determine.

Any income received from the premises by the Assignee in excess of the amount necessary to meet all obligations of the Assignor secured hereby, including any accelerated indebtedness, and of the amount estimated by the Assignee to be necessary to meet such obligations for the subsequent six (6) months' period shall be paid over by the Assignee to the Assignor promptly after the expiration of each six (6) months' period following the date of such entry. The entering upon and taking possession of said property, the collection of such rents, issues and profits and the applications thereof as aforesaid shall not be deemed to cure or waive any default or to waive, modify or affect any notice of default given under the Note or the Mortgage or to invalidate any act done pursuant to any such notice.

10. COORDINATION WITH OTHER LOAN DOCUMENTS: Nothing herein contained and no act done or omitted by Assignee pursuant to the powers and acts granted herein shall be deemed to be a waiver by Assignee of any of its rights and remedies under the Note or the Mortgage, and this assignment is made and accepted without prejudice to any of the rights and remedies possessed by the Assignee under the terms hereof. The right of the Assignee to collect said indebtedness and to enforce any other security therefor owned or held by it may be exercised by the Assignee either prior to, simultaneously with, or subsequent to any action taken hereunder. The remedies provided by this instrument shall be cumulative of and in addition to those provided in the Note and Mortgage, and Assignee shall have the right to elect and enforce any remedy under this Assignment, whether or not it is proceeding simultaneously under any other remedy provided for under the Note, the Mortgage, or any other collateral loan document securing the Note.

11. NONLIABILITY OF ASSIGNEE: The Assignee shall not be obligated to perform or discharge any obligation under the lease, or under or by reason of this Assignment, and the Assignor hereby agrees to indemnify the Assignee against and hold it harmless from any and all liability, loss or damage which it may or might incur under the lease or under or by reason of this Assignment and of and from any and all claims, and demands whatsoever which may be asserted against it by reason of any alleged obligation or undertaking on its part to perform or discharge any of the terms of the lease; should the Assignee incur any such liability, loss or damage under the lease or under or by reason of this Assignment, or in defense against any such claims or

demands, the amount thereof, including costs, expenses and reasonable attorney's fees, together with interest thereon at seventeen (17%) percent per annum, shall be secured hereby and by the Mortgage, and the Assignor shall reimburse the Assignee therefor immediately upon demand. Nothing herein contained shall be construed as making Assignee, or its successors and assigns, a mortgagee in possession or a joint venturer, nor shall it or its successors or assigns be liable because of laches or for failure to collect any of the rents, issues, profits, revenues, rights and benefits, it being expressly understood and agreed by the Assignor that the Assignee shall only be required to account for such sums as are actually collected by Assignee.

12. SUCCESSORS AND ASSIGNS: This Assignment shall inure to the benefit of the successors and assigns of the Assignee and shall bind the Assignor's heirs, successors and assigns.

13. NOTICES: The parties agree that all notices, demands or documents which are required or permitted to be given or served hereunder shall be in writing and shall be deemed given when sent by registered or certified mail addressed to the Assignor and to the Assignee at the addresses furnished below:

ASSIGNOR: Mr. Larry C. Martin
2004 Dean Street
Rome, GA 30165

Mr. Dan J. Shadday
15 Rockridge Road
Rome, GA 30165

ASSIGNEE: Colonial Bank
305 Church Street
Huntsville, AL 35801
Attn: Mr. Jack Manning

Such addresses may be changed from time to time by either party by serving notice as above provided.

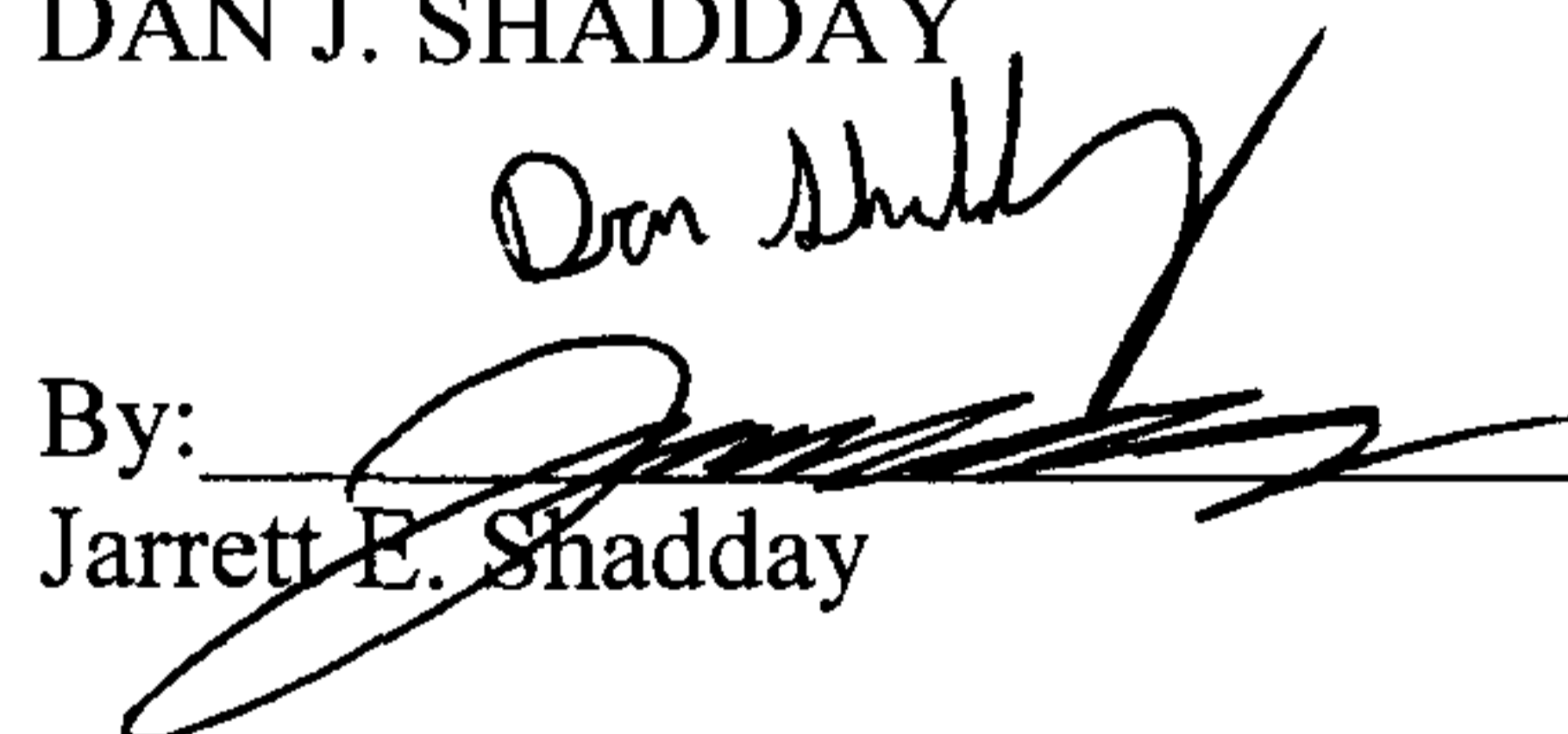
IN WITNESS WHEREOF, the Assignor has duly executed this Assignment the day and year first above written.

ASSIGNOR:



Larry C. Martin

DAN J. SHADDAY

By: 

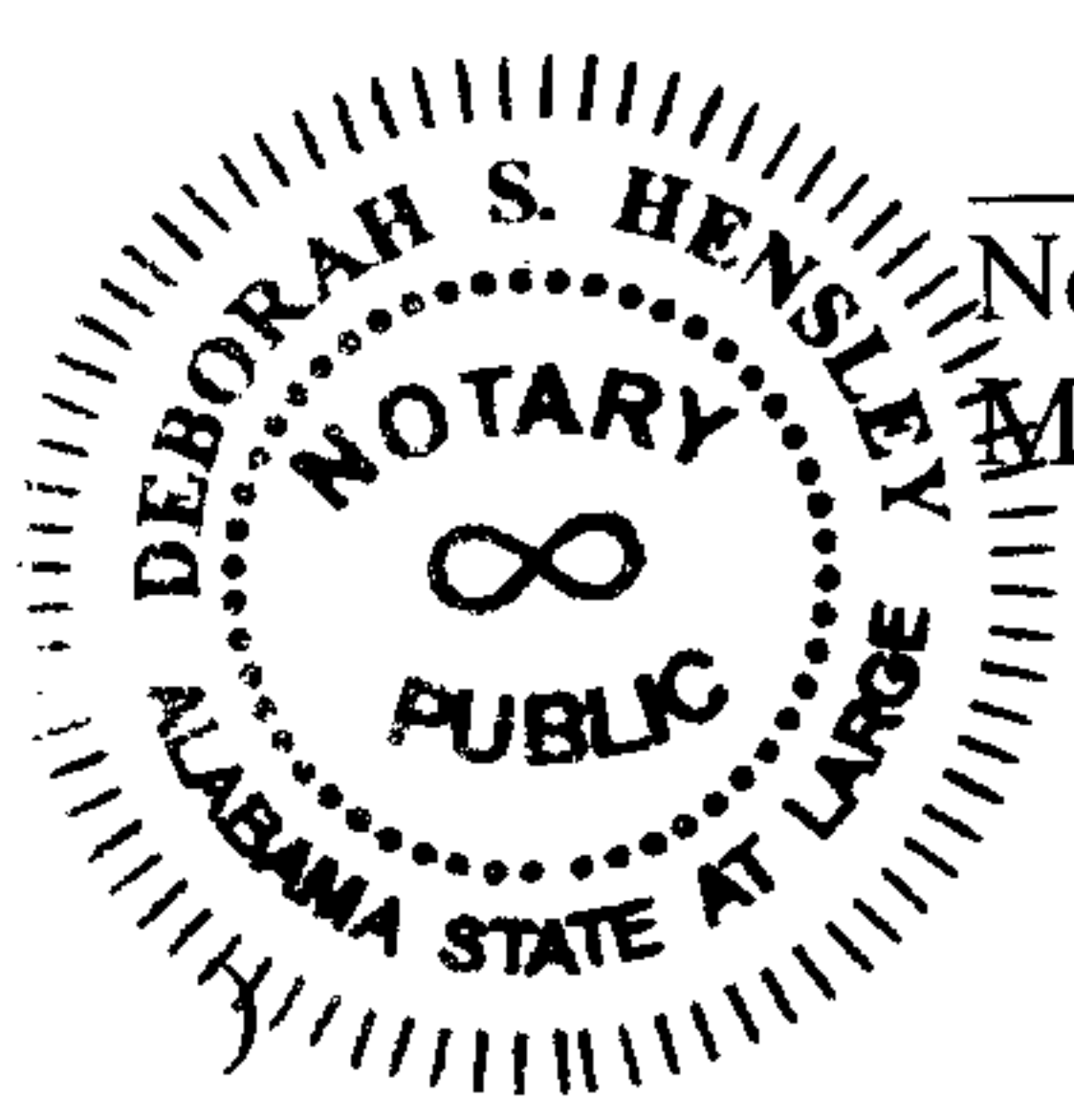
Jarrett E. Shadday

STATE OF ALABAMA)

COUNTY OF MADISON)

I, the undersigned, a Notary Public, in and for said county in said state, hereby certify that LARRY C. MARTIN, 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 seal this 1st day of April, 2003.

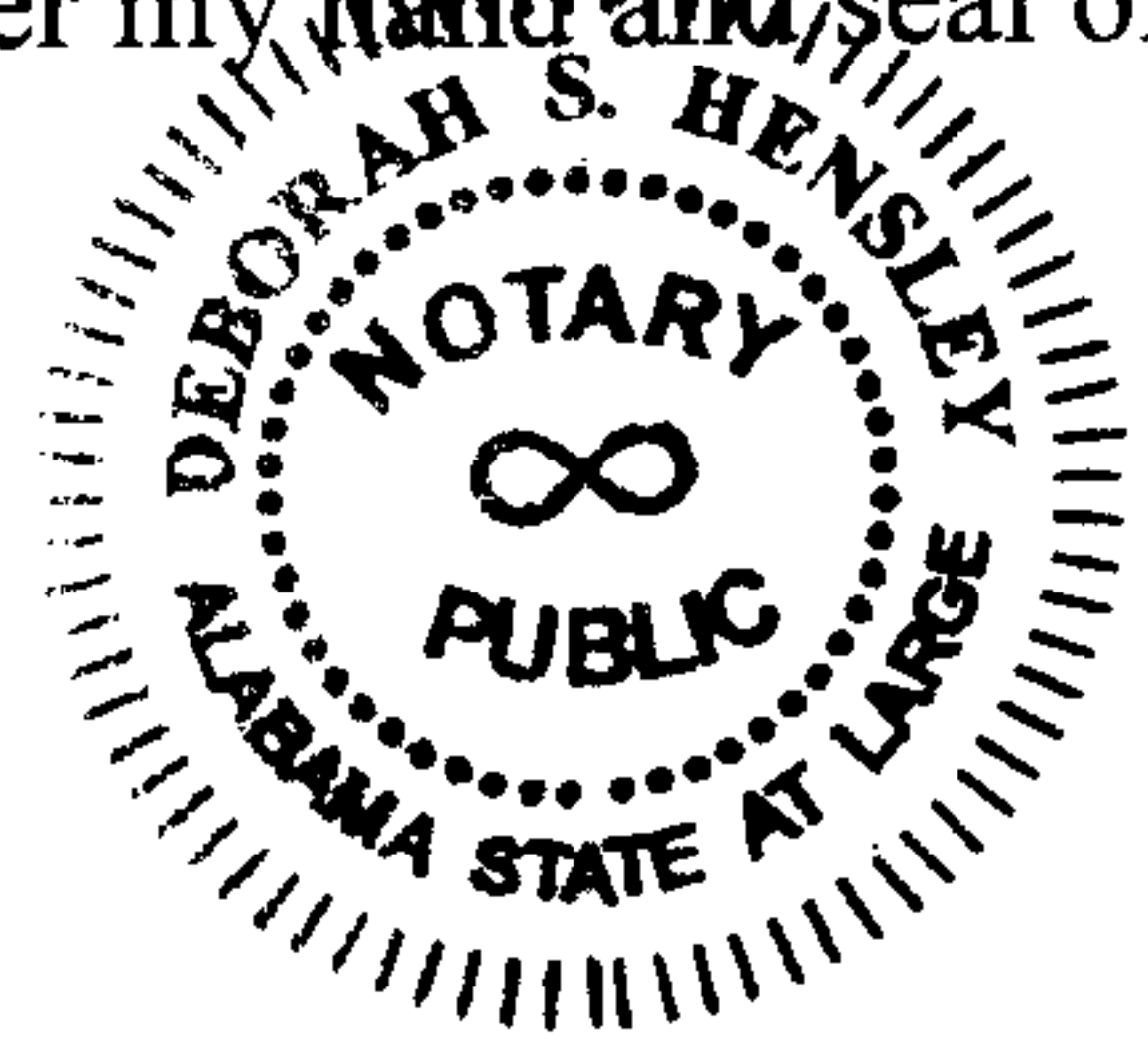


Deborah Hensley
Notary Public
My Commission Expires: 4-26-06

STATE OF ALABAMA
COUNTY OF MADISON)

I, the undersigned, a Notary Public in and for said county and in said state, hereby certify that, JARRETT E. SHADDAY, whose name as Attorney-in-Fact for DAN J. SHADDAY, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that being informed of the contents of the conveyance, he, in his capacity as such Attorney-in-Fact and with full authority executed the same voluntarily on the day the same bears date.

Given under my ~~hand and~~ seal of office this 1st day of April, 2003.



Deborah Hensley
Notary Public
My Commission Expires: 4-26-06

THIS INSTRUMENT PREPARED BY:
JAMES G. HARRISON
STEPHENS, MILLIRONS, HARRISON & GAMMONS, P.C.
2430 L & N Drive
Huntsville, Alabama 35801

EXHIBIT "A"


TRACT ONE:

Commence at the Southwest corner of the NE ¼ of the SE ¼, Section 31, T-19-S, R-2-W and run North 00 degrees 04 minutes 56 seconds East along the West line of the NE ¼ of the SE ¼ a distance of 541.25 feet; thence run North 55 degrees 42 minutes 20 seconds East a distance of 600.66 feet, more or less, to an existing capped iron marked SURVCONN9049 and the Point of Beginning, said point being on the Northwesterly right-of-way line of Alabama Highway #119 and the paved service road along said highway. From said Point of Beginning continue North 55 degrees 42 minutes 20 seconds East along said right-of-way line a distance of 130.65 feet to an iron pin set (1/2" rebar with cap stamped JBW&T INC. CA0046LS) on the Westerly right-of-way line of I-65 and the paved service road along side said I-65; thence run North 05 degrees 49 minutes 19 seconds East along said right-of-way line a distance of 350.00 feet to an existing PK nail in asphalt on the southeasterly right-of-way line of Cahaba Valley Parkway East; thence run South 66 degrees 06 minutes 04 seconds West along said right-of-way line a distance of 424.84 feet to an existing capped iron marked CA0010, said point being North 59 degrees 47 minutes 18 seconds East, a distance of 269.18 feet from the most Northerly corner of Lot C-2 of the Cahaba Valley Park North as recorded in Map Book 13, Page 140, Shelby County Probate Office; thence run South 44 degrees 27 minutes 33 seconds East a distance of 349.80 feet to the Point of Beginning.

Said parcel of land being a portion of the NE ¼ of the SE ¼, Section 31, T-19-S, R-2W and being the same property as described in Deed Book 2001-49861, Shelby County Probate Office, lying and being in the City of Pelham, Shelby County, Alabama, and containing 2.00 acres, more or less.

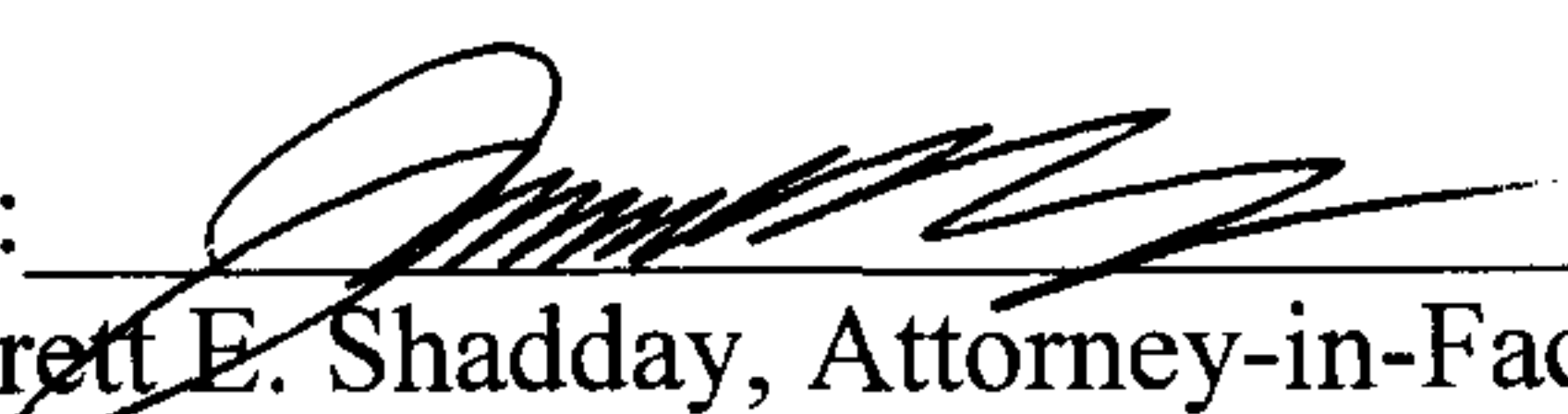
TRACT TWO:

All that part of the Northeast Quarter of Section 12, Township 3 South, Range 1 West, Madison County, Alabama, being more particularly described as follows: BEGINNING at a point on the East margin of U.S. Highway 231, said point of beginning is further described as being due North 345.00 feet, and South 89 degrees 56 minutes West 1399.30 feet, and South 16 degrees 48 minutes West 115.00 feet from the center of the East boundary of said Section 12; Thence North 89 degrees 54 minutes 07 seconds East 132.59 feet; Thence South 01 degree 01 minutes West 195.00 feet to a point on the North margin of Winchester Road; Thence along the North margin of said Winchester Road, South 89 degrees 56 minutes West 137.99 feet and North 55 degrees 15 minutes 32 seconds West 52.29 feet to a point on the East margin of said U.S. Highway 231; Thence along the East margin of said U.S. Highway 231, North 16 degrees 48 minutes East 173.65 feet to the TRUE POINT OF BEGINNING, and containing 0.70 acres, more or less.



Larry C. Martin

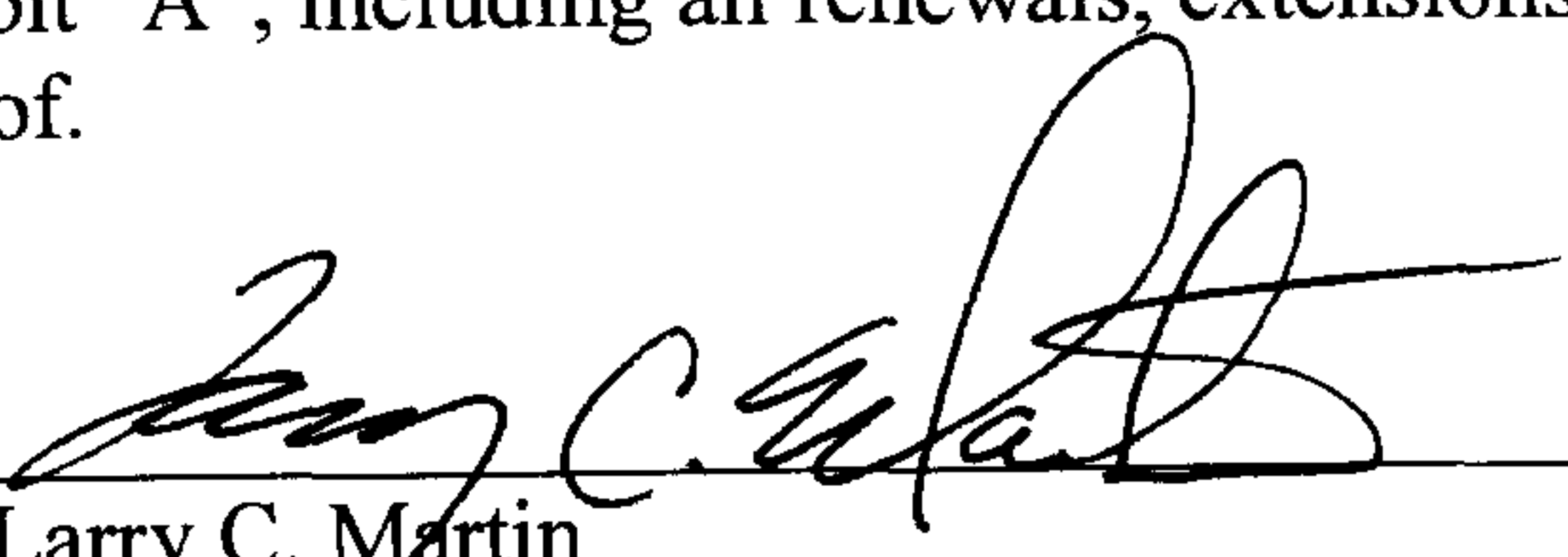
DAN J. SHADDAY

By: 

Jarrett E. Shadday, Attorney-in-Fact

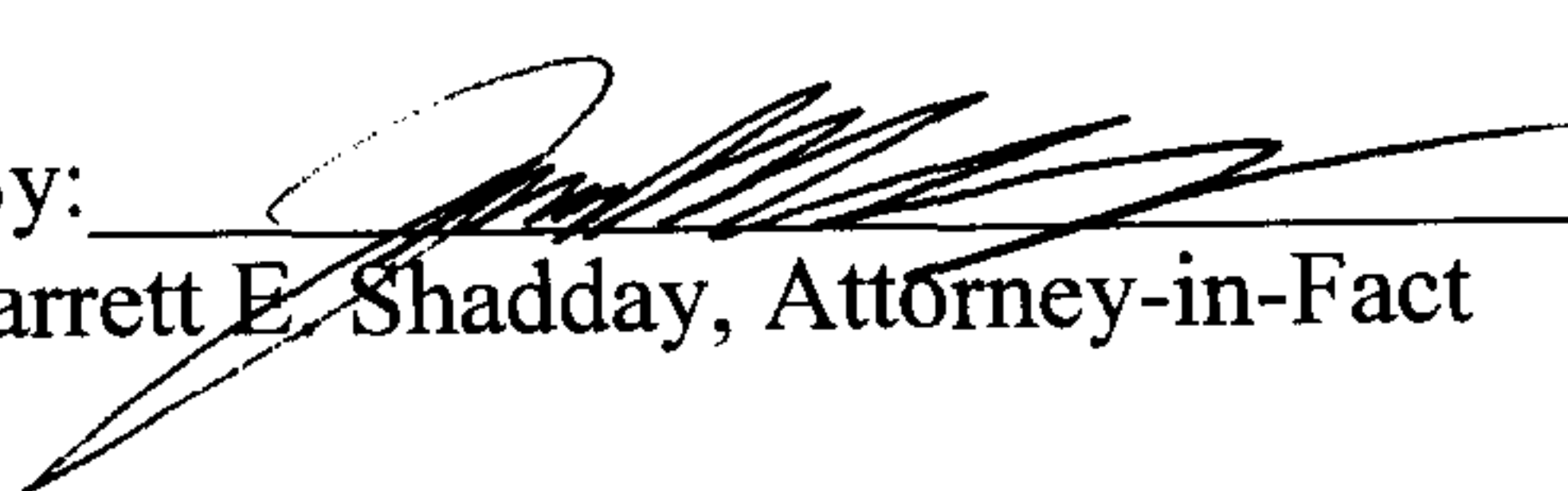
EXHIBIT "B"

All leases pertaining to the property more particularly described on Exhibit "A" attached hereto and made a part hereof by reference, together with any other such agreements concerning the use and occupancy by third parties of any part of the property described on Exhibit "A", including all renewals, extensions, amendments, supplement agreements or substitutions thereof.



Larry C. Martin

DAN J. SHADDAY

By: 

Jarrett E. Shadday, Attorney-in-Fact