
GROUND LEASE

between

EASTWOOD MINI STORAGE COMPANY
(an Alabama general partnership)

as Lessor,

and

JWK, LLC
(an Alabama limited liability company)

as Lessee

THIS INSTRUMENT PREPARED BY AND UPON
RECORDING SHOULD BE RETURNED TO:

James E. Vann, Esquire
Sirote & Permutt, P.C.
2311 Highland Avenue South
Birmingham, Alabama 35205

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STATE OF ALABAMA)

SHELBY COUNTY)

THIS LEASE AGREEMENT (this "Agreement" or this "Lease") is made and entered into by and between **EASTWOOD MINI STORAGE COMPANY**, an Alabama general partnership (the "Lessor"), and **JWK, LLC**, an Alabama limited liability company (the "Lessee" or the "Tenant") as of the ____ of May, 2003.

ARTICLE I

DEFINITIONS; RULES OF CONSTRUCTION

Section 1.1 Definitions. Lessor and Lessee agree that the following defined terms shall have the meanings set forth below, and Lessor and Lessee further agree to observe and perform any covenants and obligations applicable to them which are set forth within such definitions.

"Building" means the office and warehouse facility containing approximately 14,000 square feet which the Lessee has agreed to construct pursuant to this Agreement.

"Casualty" means any damage to or destruction of the Property or any portion thereof by fire or other casualty.

"Casualty Proceeds" means all insurance proceeds payable in connection with a Casualty, together with all interest earned thereon, but less all costs and expenses incurred by Lessor or Lessee in connection with the proceedings and negotiations as to, and collection of, such awards, amounts and proceeds, including reasonable attorneys' fees and expenses, which costs and expenses shall be paid to Lessor and Lessee as hereinafter provided.

"Condemnation" means any taking of the Property or any portion thereof, in or by condemnation or other eminent domain proceedings under any laws, general or special, and any sale of the Property or any portion thereof under threat of such a taking.

"Condemnation Proceeds" means all awards and other amounts (including consideration for a sale in lieu of Condemnation) payable in connection with a Condemnation, together with all interest, but less all costs and expenses incurred by Lessor or Lessee in connection with the proceedings and negotiations as to, and collection of, such awards, amounts and proceeds, including reasonable attorneys' fees and expenses, which costs and expenses shall be paid to Lessor and Lessee as hereinafter provided.

"Governmental and Utility Charges" shall have the meaning assigned thereto in Section 3.1.

"Improvements" means the buildings, structures, fixtures, and other improvements, now or hereafter located on the Land, including, without limitation, the Building

and any personal property of Lessee used in the operation of the Building or the other improvements.

“Land” means all that certain lot, piece or parcel of land, lying and being in the County of Shelby, State of Alabama, more particularly described in Exhibit A attached hereto.

“Lease Year” means each 12-month period commencing on January 1 during the Term of this Lease; provided, however, that the first Lease Year of this Lease shall begin on the date hereof and shall end on December 31, 2003.

“Leased Premises” means the Land and the interests in real property described in Section 2.1 as being demised by Lessor to Lessee.

“Lessee’s Estate” means all the right, title and interest of Lessee in and to the Property.

“Lessor’s Estate” means all the right, title and interest of Lessor in and to the Property.

“Mortgage” means any mortgage given at any time and from time to time throughout the Term by Lessee and/or Lessor pursuant to the provision of Section 3.8 hereof encumbering and creating a lien on Lessee’s Estate and/or Lessor’s Estate or any part thereof of either such estate.

“Mortgagee” means the holder of any Mortgage.

“Permitted Encumbrances” means the matters set forth in Exhibit C.

“Property” means the Land and the Improvements, collectively.

“Rent” and **“Basic Rent”** shall each have the meanings assigned thereto in Section 2.5.

“Restoration” means, in the case of a Casualty, restoration, replacement or rebuilding of the Property following the Casualty, as nearly as possible to its value, condition and character immediately prior to such Casualty, and, in the case of a Condemnation, repairing any damage to the balance of the Property, if any, remaining after the Condemnation, as nearly as possible to its value, condition and character immediately prior to such Casualty, so as to permit such balance to be used for purposes as similar as possible to those for which it was used prior to such Condemnation.

“Restoration Cost” means the total cost of a Restoration.

“Term,” “Initial Term,” and **“Extension Term”** shall each have the meaning assigned thereto in Section 2.4.

Section 1.2 Rules of Construction. The following rules shall apply to the construction of this Lease unless the context otherwise requires:

(a) Singular words shall connote the plural as well as the singular, and vice versa, and the neuter shall connote the masculine and the feminine, and vice versa, as may be appropriate.

(b) All references herein to particular articles, sections or exhibits are references to articles, sections or exhibits of this Lease.

(c) The headings and table of contents hereof are solely for convenience of reference and shall not constitute a part of this Lease nor shall they affect its meaning, construction or effect.

(d) Each of the parties hereto has revised, or requested revisions to, this Lease, and the usual rule of construction that any ambiguities are to be resolved against the drafting party shall be inapplicable in the construction and interpretation of this Lease and any amendments or exhibits hereto.

ARTICLE II

DEMISE OF LEASED PREMISES

Section 2.1 Demise of Leased Premises; Ownership of Improvements.

(a) In consideration of the rents and covenants herein stipulated to be paid and performed, upon the terms and conditions herein specified, Lessor hereby demises and lets to Lessee, for the Term the Land.

(b) The Lessee shall own and have title to the Improvements. Title to the Improvements shall remain in the Tenant during the Term. Upon the expiration or termination of this Lease, title to all such Improvements shall vest in the Lessor, and the Lessee shall have no claim thereto or interest therein.

Section 2.2 Title and Condition.

The Leased Premises are demised and let subject to the following:

(a) The Permitted Encumbrances; and

(b) All zoning regulations, restrictions, rules, ordinances, building restrictions and other laws and regulations, now in effect or hereafter adopted by any governmental authority having jurisdiction over the Property.

Section 2.3 Use of Leased Premises; Quiet Enjoyment.

(a) Lessee may occupy and use the Leased Premises for the purpose of operating an office and warehouse facility and any other lawful purpose approved by Lessor in its sole and exclusive discretion, subject to any express limitations set forth in this Lease and any restrictive covenants applicable to the Property.

(b) If and so long as Lessee shall perform all obligations required to be performed by it hereunder, Lessor warrants that Lessee shall have, subject to the matters described in Section 2.2, peaceful and quiet occupation and enjoyment of the Leased Premises in accordance with all provisions of this Lease against any lawful claims of Lessor and every person or entity claiming under or through Lessor; provided, however, that Lessor and its agents may enter upon and inspect the Leased Premises at reasonable times for compliance with this Lease, subject to the rights of tenants of the Property. If this warranty of Lessor shall be breached, then, subject to the provisions of Section 5.7 hereof, Lessee shall retain all remedies in law and in equity with respect thereto (including, without limitation, the right to sue for specific performance of this Lease); provided, however, that upon any breach of this warranty, Lessee shall have no right to terminate this Lease.

Section 2.4 Term.

Subject to the provisions of this Lease, Lessee shall have and hold the Leased Premises for a term of twenty (20) years and seven months (the "Initial Term") commencing on June 1, 2003 and ending at midnight on December 31, 2023.

Thereafter, so long as Lessee is not in default under this Lease, Lessee shall have options, exercisable in Lessee's sole discretion, to extend the Initial Term for up to five (5) consecutive extension terms of five (5) years each (each, an "Extension Term"; collectively, the "Extension Terms"), unless and until the Term of this Lease shall be sooner terminated pursuant to the provisions of this Lease. Each such Extension Term shall commence on the day immediately succeeding the expiration date of the Initial Term or the immediately preceding Extension Term, as the case may be, and shall end at midnight on the day immediately preceding the fifth anniversary of the first day of such Extension Term. If Lessee shall elect to exercise its right to extend the term of this Lease for an Extension Term, Lessee shall do so by giving notice of such election to Lessor on or before the date that is six calendar months prior to the first day of the Extension Term to be effected. References herein to the "Term" of this Lease shall mean the Initial Term and any and all Extension Terms for which Lessee has given such notice.

Section 2.5 Rent.

(a) Lessee covenants and agrees to pay to Lessor an annual rent during the term hereof, calculated as hereinafter set forth. Basic Rent for each Lease Year shall mean annual rent in the amount of \$18,000.00, increased as hereinafter provided. The annual Basic Rent shall be payable in twelve (12) equal monthly payments payable in advance on the first day of each month.

(b) Notwithstanding the foregoing, during the first Lease Year, commencing on June 1, 2003 and ending on December 31, 2003, the Basic Rent shall mean the sum of Ten and no/100 Dollars (\$10.00), payable on or before December 31, 2003.

(c) The amount of the Basic Rent shall be increased on January 1, 2009 and January 1 of each five year period thereafter during the Term of this Lease (including, any extension or renewal) by \$100.00 per month, or \$1,200.00 per year. In other words, rent for the period January 1, 2009 through December 31, 2013 shall be \$19,200.00, January 1, 2014

through December 31, 2018 shall be \$20,400.00, and January 1, 2019 through December 31, 2023 shall be \$21,600.00.

(d) Lessee covenants to pay and discharge when the same shall become due, all other amounts, liabilities and obligations which Lessee assumes or agrees to pay or discharge pursuant to this Lease, together with every fine, penalty, interest and cost which may be added for non-payment or late payment thereof. Subject to applicable notices and cure periods, if any, required herein, if Lessee fails to pay or discharge any of the foregoing, Lessor shall have all rights, powers and remedies provided in this Lease, at law, in equity or otherwise in case of non-payment of rent. In addition, subject to Section 3.9, Lessor may make advances to perform the covenants contained in the first sentence of this subsection in Lessee's behalf, and Lessee shall repay Lessor, as additional rent to the Basic Rent, on demand, all sums so advanced on its behalf.

(e) The term "Rent" as hereinafter used shall mean all rents (basic, additional or otherwise) and all other costs, expenses, sums and other amounts payable by Lessee under this Lease.

(f) If any payment of Rent under this Lease is not paid promptly when due, interest shall accrue on the amount of that payment and be payable by Lessee to Lessor, from the date on which that payment shall be due (or demanded pursuant to Section 2.5(e)) until the date on which Lessor shall receive that payment; at an annual interest rate that shall be the lesser of (i) the maximum rate permitted by law or (ii) the greater of (a) 12% or (b) a percentage equal to the sum of the then current prime rate of First Commercial Bank plus 5%. In addition, because Lessor and Lessee recognize that it would be impracticable or extremely difficult to establish the amount of the actual damages under this Lease if any payment of Rent under this Lease is not paid within five days of the due date thereof or the making of demand for payment under Section 2.5(e), Lessee shall pay to Lessor a late charge of 5% of any delinquent Rent not so paid within such five (5) day time period.

Section 2.6 Net Lease; Non-Terminability.

This is a net lease and Rent payable hereunder by Lessee shall be paid without notice or demand, and without setoff, counterclaim, abatement, suspension, deduction or defense. Except as otherwise expressly provided herein, this Lease shall not terminate, and Lessee shall not have any right to terminate this Lease or to be entitled to any abatement or reduction of Rent for any reason (including loss of use of the Property) any present or future law to the contrary notwithstanding.

ARTICLE III

GENERAL COVENANTS

Section 3.1 Taxes and Assessments; Compliance with Law.

(a) Subject to Section 3.9, Lessee shall pay, when due, the following (collectively, Governmental and Utility Charges):

- (i) All real estate, gross receipts and other taxes and assessments (including assessments for benefit from public works or improvements, whether or not begun or completed prior to the commencement of the Term and whether or not be completed within the Term), if due and payable during the Term, levies, fees, water and sewer rents and charges (whether payable to public or private authorities), fire district dues and assessments, and all other governmental charges, general and special, ordinary and extraordinary, together with any interest and penalties which are, at any time during the Term, imposed or levied upon or assessed against the Property or any part thereof, and this Lease or the leasehold estate hereby created, or the Rents payable hereunder, or which arise in respect of the occupancy, use, operation or possession of the Property;
- (ii) All sales, use and/or rent taxes which may be levied or assessed against, or payable by, Lessor or Lessee on account of the leasing or use of the Property or any part thereof;
- (iii) All charges for water, gas, light, heat, telephone, electricity, power and other utility and communications services rendered or used on or about the Property; and
- (iv) All assessments and other charges against the Property as may be provided in any restrictive covenants applicable to the Property.

Notwithstanding the foregoing provisions of this Section, Lessee shall not be required to pay any franchise, corporate, estate, inheritance, succession, transfer, net income, profits or revenue taxes of Lessor, unless any such tax, assessment, charge or levy is impose or levied upon or assessed against Lessor in substitution for or in place of any tax assessment, charge or levy required to be paid by Lessee under this Section, and, if under the laws of the United States or the State of Alabama, or any political subdivision of either, a tax or excise on rent, or any other tax however described, is levied or assessed against Lessor on account of rentals payable to Lessor from the Property, Lessee shall pay such tax or excise. In the event that any assessment levied or assessed against the Property or any part thereof becomes due and payable during the Term and legally may be paid in installments, Lessee shall have the option to pay such assessment in installments, and, in such event, Lessee shall be liable only for those installments which become due and payable during the Term. If for any reason payment by the Lessee of any such new or additional tax assessment or levy would be unlawful, the Lessor and the Lessee shall in good faith negotiate a modification agreement to this Lease increasing the Rent due the Lessor hereunder to compensate the Lessor for its payment of such new or additional tax assessment or levy, and, if such good faith negotiations fail to result in a modification agreement, then the Lessor may, at its option declare this Lease terminated, as of the date of such imposition or assessment. Promptly upon the expiration or earlier termination of

this Lease, Lessor shall pay to Lessee that portion of all Governmental and Utility Charges as shall have been paid by Lessee under this Section and as are allocable to any period beyond the date of such expiration or earlier termination and Lessee shall pay to Lessor that portion of all such Governmental and Utility Charges as shall allocable to the period up to and including the date of such expiration or earlier termination and which shall not have been paid by Lessee. Lessee agrees to furnish, or cause to be furnished, to Lessor, promptly after written demand therefor, proof of timely payment of any Governmental and Utility Charges which are payable by Lessee as provided in this Section. Notwithstanding the foregoing provisions of this Section, Lessee shall not be required to pay any of such amounts that are in fact paid by others (including, without limitation, by tenants of all or any portion of the Improvements).

(b) Subject to Section 3.9 Lessee shall, at its expense, comply with (and shall cause the Property to comply with) (i) all governmental statutes, laws, rules, orders, regulations and ordinances affecting the Property or any part thereof or the use thereof, including those which require the making of any structural, unforeseen or extraordinary changes, whether or not any of the same which may hereafter be enacted involve a change of policy on the part of the governmental body enacting the same, and (ii) the provisions of any restrictive covenants, all contracts (including insurance policies, loan agreements, and mortgages), agreements, covenants, conditions and restrictions now or hereafter in effect affecting the Property or any part thereof or the ownership, occupancy or use thereof. If all or any part of the Improvements shall encroach upon any other property, street, or right-of-way adjoining or adjacent to the Property or shall violate any restrictive covenants, or any other agreements or conditions affecting the Property or any part thereof, or shall hinder or obstruct any easement or right-of-way to which the Property is subject, unless in each case created by Lessor without Lessee's consent, then, promptly after written request of Lessor or of any person so affected Lessee shall, at its expense, either (i) obtain valid and effective waivers or settlements of all claims, liabilities and damages resulting therefrom or (ii) if Lessor consents thereto in writing, make such changes, including alteration or removal, to the Improvements and take such other action as shall be necessary to remove or eliminate such encroachments, violations, hindrances, obstructions, or impairments.

(c) Subject to Section 3.9, Lessee shall pay before delinquency, taxes on trade fixtures and personal property owned by it and located on the Property.

Section 3.2 Indemnification.

Lessee agrees to pay, and to protect, indemnify and save harmless Lessor from and against, any and all liabilities, losses, damages, costs, expenses (including all reasonable attorneys' fees and expenses), causes of action, suits, claims, demands or judgments of any nature whatsoever arising from the following:

(a) Any injury to or death of any person or any damage to property (including loss of profits or claims for interruption of business) occurring on the Property or upon adjoining sidewalks, streets or ways or in any manner growing out of or connected with the use, non-use, construction of Improvements, condition or occupancy of the Property or any part thereof or resulting from the condition thereof or of adjoining sidewalks, streets or ways;

(b) Any violation of any restrictive covenants applicable to the Property or any term, condition, covenant or agreement of this Lease by Lessee; and

(c) Any violation by Lessee or the Property, or any part thereof, or resulting from the condition of the Property or of adjoining sidewalks, streets, or ways, of any restriction, statute, law, ordinance or regulation affecting the Property or any part thereof or the ownership, occupancy or use thereof.

Section 3.3 Maintenance and Repair.

Lessee agrees that it will, at its expense, keep and maintain the Property in good repair, condition and appearance, except for ordinary wear and tear. Lessee also shall take all actions and make all structural and non-structural, foreseen and unforeseen and ordinary and extraordinary, changes and repairs which may be required to keep all parts of the Property in good repair and condition. Lessee, at its expense, shall do or cause others to do all shoring of the Leased Premises or of the property adjoining thereto, or of foundations and walls of the Improvements, and every other act necessary or appropriate for the preservation and safety thereof by reason of or in connection with any excavation or other building operation upon the Leased Premises, whether or not Lessor shall by any legal requirement, be required to take such action or be liable for failure to do so. Notice is hereby given that Lessor shall not be liable for any labor, services or materials furnished or to be furnished to Lessee, or to anyone holding the Property or any part thereof, through or under Lessee. Lessor shall not be required to maintain, repair or rebuild, or to make any alterations, replacements or renewals of any nature or description to the Property or any part thereof, whether ordinary or extraordinary, structural or non-structural, foreseen or unforeseen, or to maintain the Lease Premises or any part thereof in any way. Lessee hereby expressly waives the right to make repairs at the expense of Lessor, which right may be provided for in any statute or law (case law or otherwise) in effect at the time of execution and delivery of this Lease or any other statute or law (case law or otherwise) that may thereafter be enacted. The rights and obligations of Lessee and Lessor under this Section are subject to provisions of Section 3.6 and Section 3.7.

Section 3.4 Insurance.

(a) Lessee shall, at its expense, keep the Improvements insured for the benefit of Lessor and Lessee as follows:

- (i) In an amount which shall be sufficient to prevent Lessor or Lessee from becoming a co-insurer of any loss and which shall be not less than 100% of the actual replacement value of the Improvements (excluding the costs of foundations, excavations and footings below the lowest basement floor) against loss or damage by fire and any of the risks covered by insurance of the type now known as "all risk coverage", with not more than \$10,000 deductible from the loss payable for any casualty and with a "Replacement Cost Endorsement" and an "Agreed Amount Endorsement";

- (ii) Against loss or damage by any steam boiler, pressure vessel or other such apparatus as Lessor may deem necessary to be covered by such insurance and in such amounts as the Lessor may from time to time reasonably require; and
- (iii) Against such other risks for which Lessor reasonably requires that insurance be maintained.

(b) Lessee, at its expense, shall maintain the following for the mutual benefit of Lessor and Lessee:

- (i) Comprehensive public liability insurance against claims for personal injury, death or property damage occurring upon, in or about the Property, affording protection to the limits of not less than those then customarily carried for buildings similar in construction, general location, use and occupancy to the Improvements, but in no event less than \$1,000,000.00 in respect to injury or death to a single person, \$1,000,000.00 in respect to any one occurrence, and \$100,000.00 in respect to property damage; and
- (i) Rent or use and occupancy insurance against loss or damage resulting from the hazards specified in subsections (i), (ii) and (iii) of this Section, in an amount equal to twelve calendar months' income or rent.

(c) All policies of insurance shall provide that (i) the proceeds thereof shall be payable to Lessee and Lessor as their respective interest may appear and (ii) the insurer may not terminate any such policy upon the foreclosure of any Mortgage or upon the change of the use of the Property to a more hazardous use. The policies described in subsection (a) of this Section may be payable also to any Mortgagee, in accordance with any Mortgage pursuant to a standard mortgagee clause. All policies of insurance shall provide that any loss shall be payable to Lessor (or any Mortgagee) notwithstanding any act or negligence of Lessee which might otherwise result in a forfeiture of such insurance, and shall further provide that the policies shall not be cancelable on less than thirty days written notice to all insureds and loss payees.

(d) All policies of insurance shall be in form, and written with companies, satisfactory to Lessor. The originals or counterparts of all such policies of insurance shall be held by Lessor (or any Mortgagee, pursuant to the terms of any Mortgage), except that if such coverage is provided under blanket insurance policies, duplicate certified copies of the original policies, together with endorsements covering the Property in the specified amounts, shall be delivered to Lessor (or any Mortgagee, pursuant to the terms of any Mortgage), and not less than thirty days prior to the expiration of each such policy, a renewal policy shall be delivered to Lessor (or any Mortgagee, pursuant to the terms of any Mortgage) evidence of such payment satisfactory to Lessor and any such Mortgagee, as the case may be.

Section 3.5 Alterations.

Subject to the following provisos, Lessee may, without expense to Lessor, make additions to and alterations of the Improvements and substitutions and replacements therefor; provided, however, that such addition, alteration, substitution or replacement (including any demolition incident thereto):

- (i) Shall not lessen the market value of the Property;
- (ii) Shall be performed in a good and workmanlike manner;
- (iii) Shall not impair the structural integrity of the Improvements and shall be expeditiously completed in compliance with all laws, ordinances, orders, rules, regulations and requirements applicable thereto; and
- (iv) Shall require the prior written consent of Lessor, which consent shall not be withheld unreasonably; provided, however, such consent shall not be required for any non-structural addition, alteration, substitution or replacement.

Subject to Section 3.9, Lessee shall promptly pay all costs of each such addition, alteration, substitution or replacement and shall take all necessary action to prevent the filing, and shall immediately discharge, all labor, material and mechanics' liens filed against the Property arising out of such work or shall provide Lessor a bond or title insurance coverage, in form and substance satisfactory to Lessor, to protect Lessor from any loss or damage arising out of such liens. Lessee shall procure and pay for all permits and licenses required in connection with any such addition, alteration, substitution or replacement.

Section 3.6 Condemnation.

(a) If all or substantially all of the Property shall be Condemned (other than a taking for temporary use) so that the portion of the Property remaining after the Condemnation would be unsuitable for the permitted use being made of the Property under this Lease as of the date title to the Property or the portion thereof being Condemned is vested in the condemning authority (the "Date of Taking"), even if Restoration was made, (1) this Lease shall terminate on the Date of Taking except with respect to obligations and liabilities of Lessee under this Lease which have arise on or prior to such Date of Taking (Existing Lessee Liabilities), and (2) Lessee shall pay the following (Termination Payments):

- (i) All Basic Rent due with respect to the period during which this Lease is in effect to and including the Date of Taking;
- (ii) All other sums due and payable by Lessee under this Lease to and including the Date of Taking; and

- (iii) All indebtedness secured by any Mortgage, to the extent and in the manner set forth in each such Mortgage;

and (1) subject to the provision of any Mortgage to which, under the provision of Section 3.8(a) hereof, the Lessor has agreed to subordinate its fee interest in the Leased Premises, Condemnation Proceeds shall be paid as follows:

- (i) If on account of the Leased Premises, to Lessor;
- (ii) If on account of the Improvements or the unexpired term of this Lease (including any Extension Terms for which Lessee otherwise would be eligible to extend the Term of this Lease), to Lessee (after deduction therefrom of the cost of restoring the Property to its condition as existed as of the date of this Lease); and
- (iii) If on account of the Property, to Lessor and Lessee in proportion to the fair market values of the Leased Premises and the Improvements (after deduction therefrom of the cost of restoring the Property to its condition as existed as of the date of this Lease), respectively, determined as of the day prior to the Date of Taking as if this Lease had not been and would not be terminated by reason thereof. If Lessor and Lessee are unable to agree upon such respective values, such values shall be determined by appraisal using the criteria used by the condemning authority in determining the amount of the Condemnation Proceeds, within a reasonable time in accordance with Section 3.11 and the fees for such appraisal shall be deducted from the Condemnation Proceeds prior to the disbursement of such Condemnation Proceeds in accordance with this (a) .

(b) If less than all or substantially all of the Property is Condemned (other than a taking for temporary use) and the portion of the Property remaining after the Condemnation is suitable for the permitted use being made of the Property under this Lease as of the Date of Taking if Restoration is made, Lessor and Lessee shall endeavor to negotiate a plan for Restoration of the Property and continuation of this Lease satisfactory to Lessor and Lessee in their respective sole discretions, each acting in good faith (a "Restoration Plan"). If the Restoration Plan is agreed to, Lessor and Lessee agree to comply with all provisions thereof, and any Condemnation Proceeds remaining after the Restoration Plan has been completed shall be paid to Lessor. If a Restoration Plan has not been agreed to in writing by Lessor and Lessee within 180 days after such Condemnation or Casualty, or if the parties earlier agree that no Restoration Plan can be effected, then the provisions of subsection (a) of this Section shall be applicable.

(c) In the event Lessor or Lessee shall receive notice of any proposed or pending Condemnation, the party receiving such notice shall promptly notify the other party of the receipt and contents thereof. Lessor and Lessee each shall have the right, at its expense, to appear and participate (whether as a party or otherwise, as it may elect) in any and all negotiations, hearings, trials, appeals, and other proceedings with respect to any Condemnation. Lessor shall not be entitled to conclude any arrangements with respect to any Condemnation without the prior written consent of Lessee.

(d) If a Condemnation occurs and this Lease is not terminated under the provisions of subsection (a) of this Section, then this Lease shall continue in full force and effect, except that after the Date of Taking with respect to any Condemnation (other than a taking for temporary use), each payment of Basic Rent otherwise payable by Lessee shall be reduced by an amount proportionate to the amount by which the fair market value of the Leased Premises as of the day prior to the Date of Taking has been reduced on account of such Condemnation using the criteria used by the condemning authority in determining the amount of the Condemnation Proceeds.

(e) In the event of a Condemnation of all or any portion of the Property for temporary use (there being a rebuttable presumption under this Lease that a Condemnation of the Property is temporary if the period of such use does not exceed one year; otherwise the other subsections of this Section shall govern), this Lease shall continue in full force and effect without reduction or abatement of Rent, and Lessee, subject to the provisions of any Mortgage to which under the provisions of Section 3.8(d) hereof, the Lessor has agreed to subordinate its fee interest in the Leased Premises, shall be entitled to make claim for, recover and retain any Condemnation Proceeds paid on account thereof, whether in the form of rents or otherwise, unless such period of temporary use or occupancy shall extend beyond the Term of this Lease. The balance of such Condemnation Proceeds remaining after deducting the Restoration Cost (which shall be paid to Lessee) shall be paid first to Lessee in an amount determined by multiplying such remaining balance of the Condemnation Proceeds by a fraction, the numerator of which is the number of days of such temporary use and the denominator of which is the number of days remaining in the Term (including all Extension Terms for which Lessee would be eligible to extend the term of this Lease) after the Date of Taking, and the balance of such Condemnation Proceeds shall be apportioned as provided in subsection (a) of this Section.

(f) Notwithstanding the foregoing, all payments to be made under this Section shall be subject to the provisions of any Mortgage to which, under the provisions of Section 3.8(d) hereof, the Lessor has agreed to subordinate its fee interest in the Leased Premises.

Section 3.7 Casualty.

(a) If any Improvements (except moveable trade fixtures, furniture and furnishings) should at any time during the Term of this Lease be damaged or destroyed by a Casualty, Lessee shall, using Casualty Proceeds to the extent thereof and then at its sole expense promptly effect a Restoration of the Improvements, and such Restoration, prosecuted with reasonable diligence, shall be completed within a period of twelve (12) months from the date on

which such Casualty occurs. In the event that Restoration cannot be completed within twelve (12) months due to inability, other than monetary, to obtain materials and labor needed therefor, strikes, acts of God or governmental restrictions that would prevent, limit or delay completion, then the time for completion shall be extended accordingly. No Casualty shall be grounds for the termination of this Lease or relieve Lessee from any obligation created or imposed by virtue of this Lease or result an abatement of rent, any laws of the State of Alabama to the contrary notwithstanding. All Casualty Proceeds payable on account of such Casualty shall be paid to Lessee in the case of any particular Casualty resulting in Casualty Proceeds not exceeding Ten Thousand Dollars (\$10,000.00) in the aggregate. In case of any particular Casualty resulting in Casualty Proceeds in excess of Ten Thousand Dollars (\$10,000.00) in the aggregate, the Casualty Proceeds shall be held by Lessor in an account bearing interest at a commercially reasonable rate (with such interest being credited to and becoming a part of the Casualty Proceeds), and shall be disbursed to Lessee, its contractor or the lessee under any sublease of the Property, from time to time as construction progresses, subject to a ten percent (10%) holdback payable upon satisfactory completion of the Restoration. In the event any surplus of Casualty Proceeds shall remain after Restoration shall have been made (and regardless of whether Casualty Proceeds shall, pursuant to the preceding provisions hereof, have been paid directly to Lessor or to Lessee), such excess shall forthwith be paid to and become the property of Lessee or any other parties entitled to receive the same pursuant to the terms of any Mortgage which may be superior or in lien to this Lease.

(b) Notwithstanding the foregoing, all payment to be made under this Section shall be subject to the provisions of any Mortgage to which, pursuant to the provisions of Section 3.8(d), the Lessor has agreed to subordinate its fee interest in the Leased Premises.

Section 3.8 Assignment, Subletting and Mortgaging.

(a) Except as provided in subsections (b)-(d) below, Lessee may not transfer, assign, convey, mortgage or pledge the whole or any part of its interest in this Lease, the Improvements or the Lessee's Estate without the prior written consent of Lessor, and those Mortgagees whose consent are required under the terms of any Mortgage. Lessee hereby covenants not to make any assignment or transfer in violation of the prohibitions specified in this Section 3.8.

(b) Lessee may, in the ordinary course of business (i) sublease any part of the Leased Premises, (ii) lease any portion of the Improvements and (iii) grant easements and licenses across the common areas of the Property, to one or more third parties.

(c) Lessee may enter into a contract by which it agrees to sell and convey the Property to one or more third parties on the date that Lessee acquires title to the Leased Premises.

(d) Subject to the provisions of any Mortgage, Lessee shall be entitled to encumber all or any portion of, or any interest of the Lessee in and to, the Property, with mortgages or other security instruments securing the payment of indebtedness of Lessee. The Lessor agrees to enter a subordination agreement in form and substance satisfactory to the Lessor in its sole discretion subordinating its fee interest in the Leased Premises to any mortgage or

other security instrument permitted by this subsection provided that, unless otherwise agreed by Lessor, such Mortgage or other security instruments:

- (i) secures indebtedness to become fully due and payable during the Initial Term or, if Lessee has exercised its right to extend the Initial Term or any Extension Term, then the applicable Extension Term,
- (ii) secures indebtedness not exceeding 100% of the fair market value of the Property (as encumbered by this Lease, any subleases of the Land, any leases of the Improvements and any Mortgages to remain after the placement of the subject Mortgage or other security instruments).
- (iii) is not cross-defaulted nor cross-collateralized with any indebtedness nor security instrument other than indebtedness and security documents applicable to the Property.

In addition, the Lessee shall pay all costs and expenses (including reasonable attorneys' fees and expenses) actually incurred by the Lessor in regard to the placing of any Mortgage or security instrument upon the Property by the Lessee. The Lessee covenants to comply with all covenants of the borrower under any Mortgage. In lieu of entering into a subordination agreement, Lender may, in its sole discretion, join in any mortgage executed by Lessee and such joinder shall be treated as a subordination agreement for purposes of this Lease.

Section 3.9 Permitted Contests.

Notwithstanding any other provision of this Lease, Lessee shall not be required to pay any Government and Utility Charges, comply with any restriction, statute, law, rule, order, regulation or ordinance, or discharge or remove any lien, encumbrance, or charge, so long as Lessee shall contest, in good faith and without expense to Lessor, the existence, amount, validity or applicability thereof, the amount of the damage caused thereby or the extent of its liability therefor, by appropriate proceedings which shall operate during the pendency thereof to prevent the sale, forfeiture or loss of the Property or any part thereof, the Rent or the payment of any portion thereof; or otherwise result in any material adverse interference with the use or occupancy of the Property or any part thereof or result in any civil or criminal liability on the part of the Lessor or Lessee. Lessee agrees that each such contest shall be promptly prosecuted to a final conclusion. Lessee shall pay or cause to be paid, and shall save Lessor harmless from and against, any and all losses, judgments, decrees, and costs (including all reasonable attorneys' fees and expenses) in connection with any such contest, and shall promptly after the final settlement or determination of such contest, fully pay and discharge the amounts which shall be levied, assessed, charged or imposed or be determined to be payable therein or in connection therewith, together with all penalties, fines, interest, costs and expenses thereof or in connection therewith and perform all acts, the performance of which shall be ordered or decreed as a result thereof.

Section 3.10 Surrender.

Upon the expiration or earlier termination of this Lease, Lessee shall peaceably leave and surrender the Leased Premises to Lessor in the same condition in which the Leased Premise were originally received from Lessor at the commencement of the Term of this Lease, except as improved, repaired, rebuilt, restored, altered or added to under any provision of this Lease, and except for ordinary wear and tear and damage by casualty or condemnation (but only to the extent allowed by Section 3.6 and Section 3.7). Upon such expiration or earlier termination of this Lease, title to the Improvements shall pass to Lessor. Lessee shall execute or cause to be executed such instruments as Lessor may require to vest title to personal property in the Lessor.

Section 3.11 Appraisals.

If, pursuant to any provision of this Lease, the fair market value of the Property or the Land is to be determined by appraisal, such appraisal shall be conducted in accordance with the following procedure to determine the fair market value of the Property or the Land in its physical condition as of the date of such appraisal.

The fair market value of the Property or the Land, as required, shall be determined by M.A.I. Real Estate Appraisers appointed as hereinafter set forth. Lessor and Lessee shall each appoint one appraiser, and each appraiser shall deliver a copy of the report of such appraiser to Lessor and Lessee. If Lessor and Lessee fail to accept either of such reports, and the values determined by the two reports, differ by no more than 5% (as computed by dividing the difference between the two appraisals by the amount of the higher appraisal), the fair market value shall be determined by adding to the lower appraisal one-half of the difference between the two appraisals. If the value determined by the two appraisals differ by more than 5% (as computed in the manner hereinabove provided), the appraiser appointed by Lessor and the appraiser appointed by Lessee shall, within ten days after request therefor by either Lessor or Lessee, jointly appoint a third M.A.I. Real Estate Appraiser who shall, within thirty days after the date of such appointment, appraise the Property or the Land, as required, and deliver copies of its report to each of Lessor and Lessee. Lessor and Lessee shall each pay one-half of the expense of such third appraisal. The fair market value shall then be determined in the following manner: the two appraisals between which there is the least difference shall be retained (the "Remaining Appraisals") and the third appraisal shall be discarded. If the Remaining Appraisals differ by no more than 5% (as computed by dividing the difference between the Remaining Appraisals by the amount of the higher of the Remaining Appraisals), the fair market value shall be determined by adding to the lower of the Remaining Appraisals an amount equal to one-half of the difference between the Remaining Appraisals. If the Remaining Appraisals differ by more than 5% (as hereinabove computed), the fair market value shall be determined by adding together the three appraisals and dividing their total by three, the resulting quotient being the fair market value.

Section 3.12 Construction of Improvements.

(a) The Lessee has submitted to the Lessor preliminary plans and specifications (the "Preliminary Plans") for the construction of an office and warehouse facility

containing approximately 14,000 square feet (the "Building"). Lessor acknowledges that Lessor has approved the Preliminary Plans. If requested by Lessor within 15 days from the date hereof, Lessee shall promptly cause to be prepared and delivered to Lessor proposed detailed plans and specifications for the construction of the Building (the proposed detailed plans and specifications are referred to as the "Proposed Final Plans and Specifications"). The Proposed Final Plans and Specifications shall be consistent with the Preliminary Plans and conform to all applicable legal requirements. Within fifteen (15) days after the Proposed Final Plans and Specifications are submitted to Lessor, Lessor shall notify Lessee whether Lessor agrees that the Proposed Final Plans and Specifications conform to the Preliminary Plans. If Lessor disagrees, Lessor shall give Lessee written notice thereof and the notice shall specify the aspects of the Proposed Final Plans and Specifications which Lessor claims are not in conformity with the requirements hereof. The Lessor's notice shall specify Lessor's reasons for Lessor's claims in reasonable detail. Within fifteen (15) days of Lessor's notice, Lessee shall revise the Proposed Final Plans and Specifications and resubmit them to Lessor for review. Within 15 days of submission of the revised Proposed Final Plans and Specifications, Lessor shall notify Lessee whether Lessor agrees that the revised Proposed Final Plans and Specifications conform to the Preliminary Plans and if Lessor disagrees shall give Lessee written notice thereof specifying the aspects of the revised Proposed Final Plans and Specifications which Lessor claims are not in conformity with the requirement hereof. Within 15 days of Lessor's notice, Lessee shall revise the Proposed Final Plans and Specifications and resubmit them to Lessor for review. Additional revisions and re-submissions, and objections thereto, shall be in accordance with the foregoing. If Lessor fails to give notice of disagreement specifying Lessor's claims and the reasons for its claims within fifteen (15) days after the Proposed Final Plans and Specifications are submitted to Lessor (or any revision of the same), Lessor shall be deemed to have agreed that the Proposed Final Plans and Specifications, as initially prepared or as revised, conform the requirements hereof.

(b) Promptly after the Proposed Final Plans and Specifications are approved, Lessee shall apply for and diligently pursue a building permit. In any event, the building permit must be obtained within 60 days from the date of this Lease.

(c) Within ten (10) days from the issuance of the building permit, Lessee shall begin construction of the Improvements in accordance with the agreed Plans and Specifications. After commencement, construction shall be prosecuted diligently by the Lessee. The construction work shall be performed in a good and workmanlike manner and in accordance with good construction practices and in accordance with all applicable legal requirements. Throughout the construction process, Lessor shall have the right to inspect the construction at all reasonable times. Lessee shall pay for the cost of all construction work. Lessee shall discharge all liens arising from the construction work, within thirty (30) days after the existence of a lien is known. All aspects of the construction process and the construction work shall be done in accordance with all construction loan agreements and mortgages securing the same. A default in any construction loan agreement or mortgage securing the same shall be a default under this Lease.

(d) At all times during construction, Lessee shall carry Builder's Risk Insurance approved by Lessor.

ARTICLE IV

DEFAULTS; REMEDIES

Section 4.1 Default Provisions. Any of the following events shall be deemed an event of default ("Event of Default") under this Lease:

(a) Failure by Lessee to make any payment when due of any Basic Rent, and such failure continues for five (5) consecutive days after notice thereof is given by Lessor to Lessee.

(b) Failure by Lessee to perform any of its other obligations under this Lease, which failure can be cured by the payment of money and such failure continues for five (5) consecutive days after notice thereof is given by Lessor to Lessee.

(c) Failure by Lessee to perform any of its other obligations under this Lease for thirty (30) consecutive days after Lessor shall have given to Lessee notice of such failure; provided, however, that in the case of any such failure that cannot with diligence be cured within such 30-day period, if Lessee shall commence promptly to cure such failure and thereafter shall prosecute the curing of such failure with diligence, then upon receipt by Lessor of a certificate from Lessee stating the reason that such failure cannot be cured within 30 days and stating the Lessee has commenced, and is proceeding with diligence, to cure such failure, the time within which such failure may be cured shall be extended for such period as may be necessary to complete the curing of the same with diligence.

(d) The entry of a decree or order by a court having jurisdiction for relief as to Lessee as debtor or bankrupt under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official for Lessee or a substantial part of its assets, if such decree or order shall continue unstayed for ninety (90) consecutive days; insolvency of Lessee as finally determined by a court proceeding; the commencement of a voluntary case by Lessee as debtor or bankrupt under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect or the consent by Lessee as debtor or bankrupt to an order for relief in an involuntary case under any such law; the filing by Lessee of a petition or application to accomplish the same or for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official for Lessee or substantial part of its assets; commencement of any proceedings relating to Lessee under any other reorganization, arrangement, insolvency, adjustment of debt or liquidation law of any jurisdiction, whether now in existence or hereafter in effect, either by such other person or by another, provided that if such proceeding is commenced by another, Lessee indicates its approval of such proceeding, consents thereto or acquiesces therein, or such proceeding is contested by Lessee and has not been finally dismissed within ninety (90) days.

Section 4.2 Remedies.

(a) If an Event of Default shall have occurred and be continuing, Lessor shall have the right, at its election, then or at any time thereafter while such Event of

Default shall continue, to exercise any or all remedies provided it under the laws of the State of Alabama or this Lease including, without limitation, the right to apply to a court of competent jurisdiction for the appointment of a receiver and/or to terminate this Lease upon 24 hours notice. Upon any termination date specified by Lessor in any notice to Lessee, this Lease and the estate hereby granted shall expire and terminate as fully and completely and with the same effect as if such date were the date hereinbefore fixed for the expiration of the Term, and all rights of Lessee hereunder shall expire and terminate, but Lessee shall remain liable as herein provided. Unless Lessor exercises its right to terminate this Lease, this Lease shall not terminate prior to the expiration of the Term, notwithstanding the occurrence of any Event of Default. Upon an Event of Default, and the expiration of the applicable cure period, if any, without such Event of Default having been cured, Lessor may, at its option, enforce all of its rights and remedies under this Lease, including (i) the right to receive Rent as it become due, (ii) the right to recover from Lessee all costs of maintenance and preservation of the Leased Premises, and all costs, including reasonable attorneys' and receiver's fees, incurred in connection with the appointment of, and performance by, a receiver to protect the Leased Premises and Lessor's interest under this Lease and (iii) all remedies provided under applicable law.

(b) Upon an Event of Default, Lessor shall have immediate right, but not the obligation, without terminating this Lease, to reenter and repossess the Property, or any part thereof, as permitted by law.

(c) Upon an Event of Default, Lessor shall have the right, at its option, without terminating this Lease, to relet the Property, or any part thereof, for the account of Lessee, in the name of Lessee or Lessor or otherwise, without notice to Lessee, for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the Term of this Lease) and on such conditions (which may include concessions or free rent) and for such uses, as Lessor, in its absolute discretion, may determine, and Lessor may collect and receive any rents payable by reason of such reletting. Lessor and Lessee agree that Lessor shall not be responsible or liable for any failure to relet the Property or any part thereof or for any failure to collect any rent due upon any such reletting.

(d) No expiration or termination of the Term of this Lease under Section 4.2(a) and no repossession of the Property or any part thereof under 4.2 (b) or otherwise, and no reletting of the Property or any part thereof pursuant to Section 4.2(c), shall relieve Lessee of its liability and obligations hereunder, all of which shall survive such expiration, termination, repossession or reletting.

(e) Upon the termination of this Lease by the Lessor due to an occurrence of an Event of Default, Lessee shall pay to Lessor the Rent (including, without limitation, any amounts due under Section 2.5) required to be paid by Lessee to and including the date of such termination; and, thereafter, Lessee shall, until the end of what would have been the Term of this Lease in the absence of such termination, and whether or not the Property or any part thereof shall have been relet, be liable to Lessor for, and shall pay to Lessor, the following as liquidated and agreed current damages:

- (i) The Rent which would have been payable under this Lease by Lessee in the absence of such expiration, termination or repossession; less
- (ii) The net proceeds, if any, of any reletting effected for the account of Lessee under (c), after deducting from such proceeds all of Lessor's reasonable expenses in connection with such reletting (including, without limitation, all repossession costs, brokerage commissions, legal expenses, attorneys' fees, alteration costs and expenses of preparation for such reletting).

(f) At any time after the termination of this Lease by reason of the occurrence of an Event of Default, whether or not Lessor shall have collected any current damages pursuant to Section 4.2(e) (to and including the date of the demand hereinafter referred to in this subsection (f)), Lessor shall be entitled to recover from Lessee, and Lessee shall pay to Lessor on demand, as and for liquidated and agreed final damages beyond the date of such demand (it being agreed that it would be impracticable or extremely difficult to establish the amount of the actual damages), an amount equal to the sum of the following:

- (i) The amount, if any, by which the Rent which would have been payable under this Lease from the date of such demand (or, if it be earlier, the date to which Lessee shall have satisfied in full its obligations under Section 4.2(e) to pay current damages) for what would be the then unexpired Term of this Lease in the absence of such termination exceeds the then fair net rental value of the Leased Premises for the same period, both discounted at the rate per annum of one percent over the then current prime rate of First Commercial Bank in effect as of the earlier of such dates; and
- (ii) Any other amount necessary to compensate Lessor for the detriment proximately caused by Lessee's failure to perform its obligations under this Lease.

(g) If any statute or rule of law shall validly limit any amount agreed upon in this Section 4.2 Lessor shall be entitled to the maximum amount allowable under such statute or rule of law.

Section 4.3 Additional Rights of Lessor.

No right or remedy herein conferred upon or reserved to Lessor is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder or now or hereafter existing at law or in equity or by statute, provided that Lessor shall not be reimbursed for any loss or damage more than once.

ARTICLE V

MISCELLANEOUS

Section 5.1 Notices, Demands, and Other Instruments.

All notices, requests, demands and other communications with respect to this Lease shall be in writing and shall be delivered by hand, sent prepaid by Federal Express (or a comparable overnight delivery service) or sent by the United States mail, certified, postage prepaid, return receipt requested, at the following addresses:

If addressed to Lessee:

**JWK, L.L.C.
5492 Highway 280 East
Birmingham, AL 35242**

If addressed to Lessor:

**Eastwood Mini Storage Company
5492 Highway 280 East
Birmingham, AL 35242**

Any notice, request, demand or other communication delivered or sent in the manner aforesaid shall be deemed given or made (as the case may be) upon the earlier of the date it is actually received or (a) on the business day after the day on which it is delivered by hand, (b) on the business day after the day on which it is properly delivered to Federal Express (or a comparable overnight delivery service), or (c) on the third business day after the day on which it is deposited in the United States mail. Any addressee above may change its address by notifying the other addressees of the new address in any manner permitted by this Section.

Section 5.2 Estoppel Certificates.

(a) Lessee shall execute, acknowledge and deliver to Lessor, promptly upon request by Lessor, a certificate certifying as follows;

- (i) That this Lease is unmodified and in full effect (or, if there have been modifications, that the Lease is in still effect, as modified, and stating the modifications);
- (ii) The dates, if any, to which Rent has been paid and the amount of Rent currently payable;
- (iii) That no notice has been received by Lessee of any default hereunder which has not been cured or, if any default hereunder for which notice has been received has not been cured, specifying the nature and period of existence thereof,

and what action Lessee is taking or proposes to take with respect thereto;

- (iv) Whether Lessee has made any payment of Rent more than thirty days before such payment is due under this Lease and if so, specifying the amount of such prepaid Rent; and
- (v) Whether Lessee has any claim of offset against Rent to be paid by Lessee under this Lease and if so, specifying the claim and the amount of the claimed offset; and
- (vi) That, to the best of its knowledge, there are no defaults under any leases of all or any part of the Improvements, or that, if there are any such defaults, those defaults (and Lessee's efforts to have them cured or to exercise remedies against defaulting tenants) are accurately described in an attachment to such certificate.

Any such certificate may be relied upon by any actual or prospective purchaser of the Lessor's Estate or any part thereof, or by any other person to whom Lessor may deliver the certificate.

(b) If the following statements are in fact true at the time of the desired certification, Lessor shall execute, acknowledge and deliver to Lessee, promptly upon request by Lessee, a certificate certifying as follows:

- (i) That this Lease is unmodified and in full effect (or, if there have been modifications, that this Lease is in full effect, as modified, and stating the modifications);
- (ii) The dates, if any, to which Rent has been paid and the amount of Rent currently payable; and
- (iii) That no notice has been given by Lessor of any default which has not been cured, or if any default for which notice has been given has not been cured, specifying the nature and period of existence thereof and what action Lessor is taking or proposes to take with respect thereto.

Any such certificate may be relied upon by any actual or prospective assignee of Lessee's interest in this Lease, any purchaser of the Improvements, any Mortgagee, any lender to Lessee, or any other person to whom Lessee may deliver the certificate.

Section 5.3 Independence of Covenants.

Each and every covenant and agreement contained in this Lease is, and shall be construed to be, a separate and independent covenant and agreement, and the breach of any such covenant or agreement by Lessor shall not discharge or relieve Lessee from its obligations.

Section 5.4 Binding Effect.

All of the covenants, conditions, and obligations contained in this Lease shall be binding upon and inure to the benefit of the respective successors and assigns of Lessor and Lessee, as such successors and assigns are permitted under this Lease, to the same extent as if each such permitted successor and assign were in each case named as a party to this Lease; and the term "Lessor," as used in this Lease, shall include any successor owner or owners, at any time, of the Leased Premises or any part thereof. This Lease may not be changed, modified or discharged except by a writing signed by Lessor and Lessee.

Section 5.5 Severability.

If any term, covenant or condition of this Lease or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Lease or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each term, covenant or condition of this Lease shall be valid and enforceable to the fullest extent permitted by law.

Section 5.6 Governing Law.

This Lease shall be governed by and interpreted under the laws of the State of Alabama.

Section 5.7 Limitation on Personal Liability.

Anything herein or in any other instrument referred to herein to the contrary notwithstanding, Lessee agrees to look solely to the Lessor's Estate for the payment of all sums due under this Lease, and neither Lessor nor any general or limited partner, officer, director, stockholder, agent or employee of Lessor, shall be liable for the payment of any moneys or the performance of any obligations under this Lease.

Section 5.8 Counterparts.

To facilitate execution, this Lease may be executed in as many counterparts as may be required. It shall not be necessary that the signature of, or on behalf of, each party, or that the signatures of all persons required to bind any party, appear on each counterpart. It shall be sufficient that the signature of, or on behalf of, each party, or that the signatures of the persons required to bind any party, appear on one of such counterparts. All counterparts shall collectively constitute a single agreement.

Section 5.9 No Partnership.

This Agreement does not and shall not be construed to create a partnership, joint venture or any other relationship between the parties hereto, except the relationship specified herein.

Section 5.10 Grant of Easements.

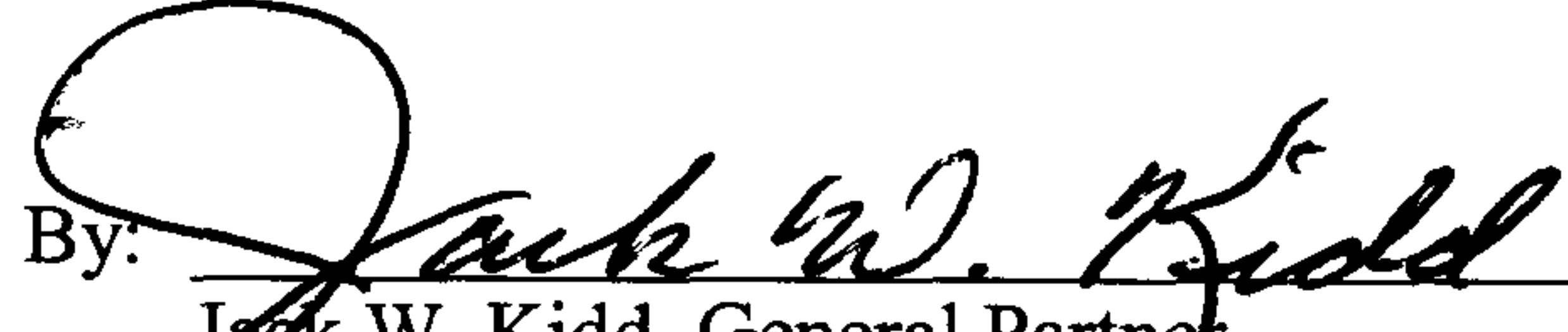
Lessor acknowledges that there exists and further grants to Lessee an easement for ingress, egress and utilities over, under, across and through the property described in Exhibit B. Lessee acknowledges that the property described in Exhibit B is and will remain subject to the Road Maintenance Agreement recorded at Instrument No. 1997-28547 in the Probate Court for Shelby County, Alabama.

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IN WITNESS WHEREOF, the parties hereto have caused this Lease to be signed as of the day and year first above written.

LESSOR:

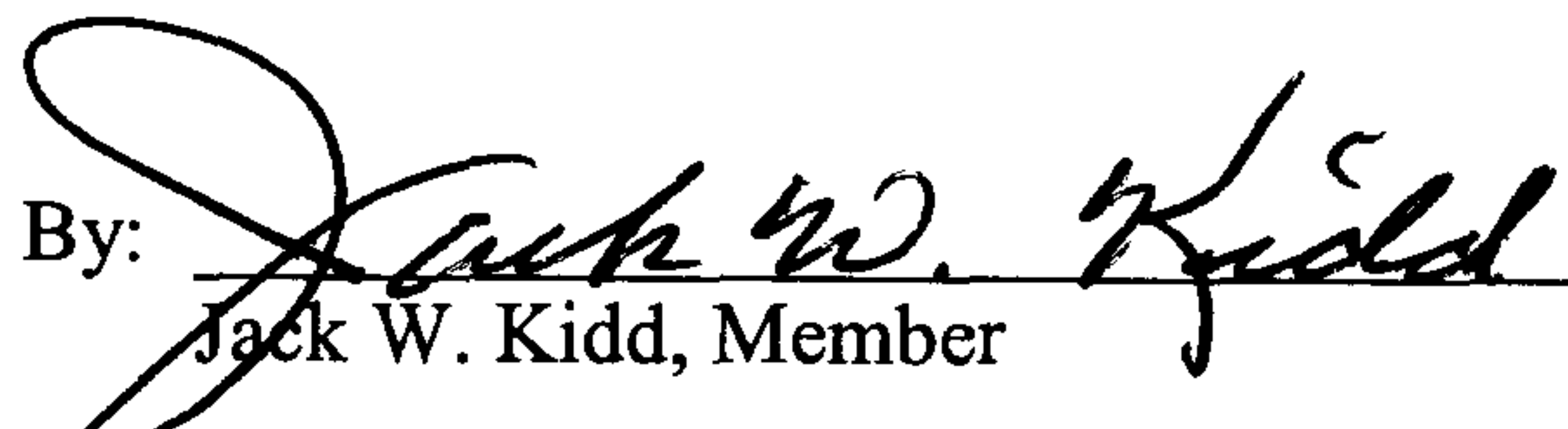
EASTWOOD MINI STORAGE COMPANY,
an Alabama general partnership

By: 
Jack W. Kidd, General Partner

By: 
Faye D. Kidd, General Partner

LESSEE:

JWK, L.L.C.
an Alabama limited liability company

By: 
Jack W. Kidd, Member

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that **Jack W. Kidd** whose name as a general partner of **Eastwood Mini Storage Company**, an Alabama general partnership, is signed to the foregoing Ground Lease, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such general partner and with full authority, executed the same voluntarily for and as the act of said partnership.

Given under my hand this 21st day of May, 2003.

Pamela B. Griffith
Notary Public
My Commission Expires: 6/15/05

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that **Faye D. Kidd** whose name as a general partner of **Eastwood Mini Storage Company**, an Alabama general partnership, is signed to the foregoing Ground Lease, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, she, as such general partner and with full authority, executed the same voluntarily for and as the act of said partnership.

Given under my hand this 21st day of May, 2003.

A. H. Duke
Notary Public
My Commission Expires: Oct 2003

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that **Jack W. Kidd**, whose name as Member of **JWK, LLC**, an Alabama 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 said instrument, he, as such Member and with full authority, executed the same voluntarily as the act of said limited liability company.

Given under my hand, this 21st day of May, 2003.

Pamela B. Griffith
Notary Public
My Commission Expires: 6/15/05

EXHIBIT A

Commence at the Northwest corner of the Northwest Quarter of the Northeast Quarter of Section 5, Township 19 South, Range 1 West; thence run North 86 degrees 43 minutes 38 seconds East for a distance of 333.88 feet; thence run South 71 degrees 31 minutes 13 seconds East for a distance of 100.2 feet; thence run South 23 degrees 59 minutes 08 seconds West for a distance of 260.68 feet to the POINT OF BEGINNING; thence run South 71 degrees 16 minutes 34 seconds East for a distance of 261.39 feet; thence run South 23 degrees 46 minutes 12 seconds West for a distance of 14.21 feet; thence run South 71 degrees 16 minutes 03 seconds East for a distance of 261.76 feet; thence run South 24 degrees 57 minutes 11 seconds West for a distance of 130.09 feet; thence run North 61 degrees 30 minutes 13 seconds West for a distance of 508.82 feet; thence run North 17 degrees 45 minutes 59 seconds East for a distance of 41.76 feet; thence run North 67 degrees 10 minutes 15 seconds West for a distance of 7.05 feet; thence run North 23 degrees 58 minutes 58 seconds East for a distance of 14.95 feet to the POINT OF BEGINNING.

EXHIBIT B

Commence at the northwest corner of the Northwest one-quarter of the Northeast one-quarter of Section 5, Township 19 South, Range 1 West; thence run North 86 degrees 43 minutes 38 seconds East along the North line of said quarter-quarter for a distance of 333.88 feet; thence run South 71 degrees 31 minutes 13 seconds East for a distance of 100.20 feet; thence run South 23 degrees 59 minutes 16 seconds West for a distance of 260.63 feet to the POINT OF BEGINNING; thence run South 71 degrees 19 minutes 30 seconds East for a distance of 29.78 feet to the point of intersection with a curve to the left, said curve having a central angle of 18 degrees 42 minutes 34 seconds, a radius of 183.00, a chord of 59.49 and a chord bearing of South 26 degrees 50 minutes 01 seconds West; thence run along the arc of said curve for a distance of 59.76 feet to the end of said curve; thence run South 17 degrees 28 minutes 44 seconds West for a distance of 153.42 feet to the point of commencement of a curve to the right, said curve having a central angle of 50 degrees 45 minutes, a radius of 146.77 feet, a chord of 125.79 and a chord bearing of South 42 degrees 51 minutes 14 seconds; thence run along the arc of said curve for a distance of 130.00 feet to the end of said curve; thence run South 68 degrees 13 minutes 44 seconds West for a distance of 30.04 feet to a point on the northeasterly right of way line of U. S. 280, said right of way being situated on a curve to the left and having a central angle of 0 degrees 35 minutes 01 seconds, a radius 2944.79 feet, a chord of 30.00 feet and a chord bearing of North 21 degrees 46 minutes 15 seconds West; thence run along the arc of said curve and the Northeasterly right of way line of U. S. Highway No. 280 for a distance of 30.00 feet; thence run North 68 degrees 13 minutes 44 seconds East for a distance of 30.04 feet to the point of commencement of a curve to the left, said curve having a central angle of 50 degrees 45 minutes, a radius of 116.77 feet, a chord of 100.08 feet and a chord bearing of North 42 degrees, 51 minutes 14 seconds East; thence run along the arc of said curve for a distance of 103.43 feet to the end of said curve; thence run North 17 degrees 28 minutes 44 seconds East for a distance of 153.42 feet to the point of commencement of a curve to the right, said curve, having a central angle of 16 degrees 10 minutes 47 seconds, a radius of 213.00 feet, a chord of 59.95 feet and a chord bearing of North 25 degrees 34 minutes 08 seconds East; thence run along the arc of said curve for a distance of 60.15 feet to the end of said curve; thence run South 71 degrees, 19 minutes 30 seconds East for a distance of 1.46 feet to the POINT OF BEGINNING.

EXHIBIT C

PERMITTED ENCUMBRANCES

1. Right of Way granted to Alabama Power Company by instrument(s) recorded in Deed Volume 222, Page 739 and Deed Volume 173, Page 186.
2. Terms and conditions of the easement in Instrument #1997-28141 and Instrument #1998-12011.
3. Road Maintenance Agreement in Instrument #1997-28547 and Instrument #1997-30269.
4. Right of Way granted to Water Works and Sewer Board of Birmingham as recorded in Instrument #2002-53126.