

## ATTORNMEN AND NONDISTURBANCE AGREEMENT

THIS AGREEMENT, is made effective this the 22<sup>nd</sup> day of March, 2004, by and among THE UNIVERSITY OF MONTEVALLO, an Alabama institution of higher learning (the "Lessor"), THE PEOPLES BANK AND TRUST COMPANY, an Alabama banking corporation (the "Lender"), and DARROW INVESTMENT GROUP, LLC, an Alabama limited liability company (the "Lessee").

### WITNESSETH:

WHEREAS, the Lessor and Lessee have entered into a Commercial Lease dated as of the 4 day of December, 2003 (the "Ground Lease"), under the terms of which the parcel of land (the "Property") located in Shelby County, Alabama, and described in Exhibit A attached hereto is leased to the Lessee for an initial term of thirty (30) years, together with certain rights to extend the term; and,

WHEREAS, as authorized by the Ground Lease, the Lessee is proceeding to construct improvements on the Property for renovation of a fraternity house to be sub-leased to the Eta Omega Chapter of Alpha Tau Omega (the "Sub-Lessee") as set forth in the sublease between the Lessee and the Sub-Lessee dated December 8, 2003 (the "Sub-Lease"); and

WHEREAS, Lessee has applied to the Lender for a construction loan in the approximate amount of \$140,000, which shall become a term loan for 84 months following the completion of construction; and,

WHEREAS, said loan is being made pursuant to a loan agreement and a Leasehold Mortgage and Security Agreement (the "Mortgage") and our Assignment of Rents and Leases (the "Assignment"), the terms of which Mortgage and Assignment are incorporated by reference herein; and,

WHEREAS, the Lender, in order to protect its security interests under the Mortgage, requires as a condition of the loan, that the Lessor and Lessee consent to the Mortgage and enter into certain agreements relating to the Mortgage as are set forth herein; and,

WHEREAS, the making of this loan by the Lender will enable to the Lessee to construct valuable improvements on the property of the Lessor;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein contained, the parties agree as follows:

1. The Lessor consents to the execution and delivery by the Lessee of the Mortgage and Assignment and related loan documents, and acknowledges that the Mortgage and Assignment, and the actions contemplated thereunder, do not and will not constitute a default under the Ground Lease.

2. Lessor and Lessee confirm that the Ground Lease is in full force and effect and neither party is in default thereunder.

3. Lessor shall notify Lender in writing of the occurrence of any default by the Lessee under the Ground Lease and shall permit Lender a period of thirty (30) days from the date of such notice (the "Cure Period") in which to cure such default prior to proceeding to exercise any of the rights or remedies of Lessor under the Ground Lease; provided, however, that the Cure Period granted to Lender shall be extended by any period of time during which Lender is diligently pursuing the cure of a default which cannot reasonably be expected to be cured within the initial thirty (30) day Cure Period, and shall not be deemed to commence until after any period of time during which Lender is pursuing acquisition of title to the premises through foreclosure or otherwise, such period to include, without limitation, any period of time during which Lender's acquisition of title to the premises is stayed by any proceeding in bankruptcy, any injunction or other judicial process.

4. In the event the Lessee defaults under the terms of the Mortgage, and the Lender acquires the leasehold interest of the Lessee, whether by assignment, deed in lieu of foreclosure, foreclosure, or otherwise, or in the event upon foreclosure of the Mortgage there is a subsequent purchaser ("Subsequent Purchaser") of the leasehold interest of the Lessee (whether as a purchaser at the foreclosure sale or as a purchaser from the Lender after the acquisition by the Lender of the Lessee's interests), the Lessor agrees with respect to the Lender or such other Subsequent Purchaser as may acquire the leasehold interest of the Lessee as follows:

(a) The Lender or Subsequent Purchaser shall have the right for a period of ninety (90) days after acquisition of the interests of the Lessee to assume the rights and obligations of the Lessee and succeed to the Lessee's interests under the Ground Lease, limited, however, as described herein.

(b) This right shall be exercisable by the Lender and/or Subsequent Purchaser giving written notice to the Lessor of its intention to succeed to the Lessee's interest and to be bound by the terms of the Ground Lease, and upon such written notice being given within said 90-day time period, that party shall be bound by all terms of the Ground Lease except as limited herein.

(c) In the event of the occurrence of (a) and (b) above, the Lender and/or Subsequent Purchaser shall not be liable for any acts or omissions of the Lessee arising under the Ground Lease, unless the Lender has previously been given written notice of such default in accordance with this agreement.

(d) Upon the occurrence of (a) and (b) above, the Lender and/or Subsequent Purchaser shall be given the right, as successor lessee, to terminate the Ground Lease upon six (6) months notice to the Lessor; provided, however, that this right to terminate shall exist only during the first year after the election to assume the obligations of the Ground Lease as set forth in (b) above.



5. Lessor consents to the Sublease to the Alpha Tau Omega fraternity at the University of Montevallo and to the assignment by the Lessee of its rights in that Sublease, as set forth in the Assignment.

6. In the event the current Sublessee defaults under the Sublease, or otherwise ceases to use the premises for an ATO fraternity, then for the benefit of both the Lender and Lessee, the Lessor agrees to waive the requirement of the Ground Lease that the property be used as a fraternity house and no other purpose, and allow the property to be used for any lawful purpose, so long as the use is consistent with the overall plans and policies of the University of Montevallo, and is approved by the University.

7. Any notice or communication herein required or permitted to be given shall be in writing and shall be deemed to have been given or delivered when personally delivered, transmitted by legible facsimile, transmitted by reputable overnight courier service such as Federal Express, or when mailed by postage prepaid United States first class mail, postage prepaid, addressed as follows:

**LESSOR:**

The University of Montevallo  
College Drive Station 6060  
Montevallo, AL 35115

**LENDER:**

The Peoples Bank and Trust Company  
835 Main Street  
Montevallo, AL 35115

**LESSEE:**

Darrow Investment Group, LLC  
4923 Mead Brook Way  
Birmingham, AL 35242

Each party shall have the right to specify as its proper address any other address in the United States of America by giving to the other party at least fifteen (15) days written notice thereof.

8. Except as otherwise provided for herein, this agreement shall be binding upon and inure to the benefit of each of the parties hereto, their successors and permitted assigns.

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

[SIGNATURES ON FOLLOWING PAGE]

## THE UNIVERSITY OF MONTEVALLO

BY: Cynthia J. Garrett  
Its: Vice President for Business Affairs

## DARROW INVESTMENT GROUP, LLC

BY: Robert W. Hargis  
Its: \_\_\_\_\_  
BY: Tim Leppard  
Its: \_\_\_\_\_

## THE PEOPLES BANK AND TRUST COMPANY

BY: Susan A. Watts  
Its: VP

STATE OF ALABAMA  
COUNTY OF SHELBY

I, the undersigned authority, a Notary Public in and for said State and County, do hereby certify that CYNTHIA GARRETT, whose name as VICE PRESIDENT of BUSINESS AFFAIRS of THE UNIVERSITY OF MONTEVALLO, an Alabama institution of higher learning, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that being informed of the contents of said instrument, he as such VICE PRESIDENT and with full authority, executed the same voluntarily for and as the act of said corporation.

GIVEN UNDER MY HAND AND SEAL this the 31 day of March, 2004.

Barbara Forrest  
Notary Public

My Commission Expires: 04 01 05

(SEAL)

STATE OF ALABAMA  
COUNTY OF SHELBY

I, the undersigned authority, a Notary Public in and for said State and County, do hereby certify that Robert W. Hardy Jr & Timothy A. Leopard, whose name as an authorized member of DARROW INVESTMENT GROUP, 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 said 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 AND SEAL this the 22<sup>nd</sup> day of March, 2004.

Judy L. Santa Cruz  
Notary Public

(SEAL)

My Commission Expires: **NOTARY PUBLIC, ALABAMA STATE AT LARGE**  
**MY COMMISSION EXPIRES, DECEMBER 11, 2005**

STATE OF ALABAMA  
COUNTY OF SHELBY

I, the undersigned authority, a Notary Public in and for said State and County, do hereby certify that Susan A. Waits, whose name as Vice President of THE PEOPLES BANK AND TRUST COMPANY, an Alabama banking corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that being informed of the contents of said instrument, he/she as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

GIVEN UNDER MY HAND AND SEAL this the 22<sup>nd</sup> day of March, 2004.

Judy L. Santa Cruz  
Notary Public

(SEAL)

My Commission Expires: **NOTARY PUBLIC, ALABAMA STATE AT LARGE**  
**MY COMMISSION EXPIRES, DECEMBER 11, 2005**

EXHIBIT A  
TO  
ATTORNMENT

The North  $\frac{1}{2}$  of Lot 4, in Block F, in Lyman's Addition to the Town of Montevallo, Alabama, according to the map thereof recorded in Map Book 1, Page 18 and Map Book 3, Page 27, by the Office of the Probate Judge of Shelby County, Alabama. Said one-half of said lot fronting 75 feet on the NE boundary of Block Street and running back for a uniform width in a northeasterly direction for a distance of 100 feet. This property being known now and heretofore as the Sharp residence.

Also, the North  $\frac{1}{2}$  of West  $\frac{1}{2}$  of Lot 5 in Block F, of Lyman's Addition to said Town, according to the Map thereof recorded in Map Book 1, Page 18, in the Probate Office of Shelby County, Alabama. That portion of Lot herein described is otherwise described as follows:

Begin at the Northwesterly most corner of said Lot No. 5, in Block F, in Lyman's Addition to the town of Montevallo (where said corner joins the Northeasterly corner of Lot 4 in said Block F); run thence in a Southeasterly direction along the Western boundary line of said Lot 5 a distance of 75 feet to a point; thence turn to the left and run Northeasterly parallel with the North boundary of Oak Street, a distance of 50 feet to a point; thence turn to the left and run Northwesterly parallel with the East boundary of Block Street, a distance of 75 feet to a point on the Northwesterly boundary line of said Lot 5; thence turn to the left and run along the boundary line of said Lot 5 a distance of 50 feet to point of beginning.



## COMMERCIAL LEASE

STATE OF ALABAMA     )

COUNTY OF SHELBY     )

This lease made this 4<sup>th</sup> day of December, 2003, by and between the University of Montevallo, an Alabama institution of higher learning, (hereinafter called "Lessor"), and Darrow Investment Group, LLC, an Alabama limited liability company, for the benefit of the Alpha Tau Omega Fraternity, (hereinafter called "Lessee"):

**WITNESSETH:** That the Lessor does hereby demise and let unto the Lessee the following described premises in the City of Montevallo, County of Shelby, State of Alabama, to-wit:

The North ½ of Lot 4, in Block F, in Lyman's Addition to the Town of Montevallo, Alabama, according to the map thereof recorded in Map Book 1, Page 18, and Map Book 3, Page 27, by the Office of the Judge of Probate of Shelby County, Alabama. Said one-half of said lot fronting 75 feet on the NE boundary of Block Street and running back for a uniform width in a northeasterly direction for a distance of 100 feet. This property being known now and heretofore as the Sharp residence.

### ALSO

The North ½ of the West ½ of Lot 5 in Block F, in Lyman's Addition to the Town of Montevallo, Alabama, according to the map thereof recorded in Map Book 1, Page 18, in the Probate Office of Shelby County, Alabama. That portion of lot herein described is otherwise described as follows: Begin at the Northwesterly most corner of said Lot No. 5, in Block F, in Lyman's Addition to the town of Montevallo (where said corner joins the Northeasterly corner of Lot 4 in said Block F); run thence in a Southeasterly direction along the Western Boundary line of Lot 5, a distance of 75 feet to a point; thence turn to the left and run Northeasterly parallel with the North boundary of Oak Street, a distance of 50 feet to a point; thence turn to the left and run Northwesterly parallel with the East boundary of Block Street, a distance of 75 feet to a point on the Northwesterly boundary line of said Lot 5; thence turn to the left and run along the boundary line of said Lot 5 a distance of 50 feet to the point of beginning.

Subject to existing easements, if any, and the regulatory laws and ordinances of the political subdivision in which the property is situated, for use and occupation by the Lessee as a fraternity house on the University campus and for no other or different use or purpose, for and during the

term of thirty (30) years beginning December 4, 2003 through December 3, 2033. Lessee shall have an option to extend this lease for an additional term of twenty (20) years to 2053 if all terms of the lease are being met. Exercise of this option must be in writing no less than thirty (30) days prior to the lease termination.

In consideration whereof, the Lessee agrees to pay the Lessors the sum of One Dollar (\$1.00) and other good and valuable consideration including the cost of renovating and maintaining the property in good condition. It is acknowledged that Lessee will recover the costs of its renovation by agreement with the Montevallo Chapter of the ATO fraternity and to the extent that it is considered a sublease, this arrangement is approved by Lessor. It is also recognized and approved for Lessee to assign rents as collateral for an improvement loan.

This lease is made upon the following terms, conditions, and covenants: The Lessors covenant to keep the Lessee in possession of said premises during said term, but shall not be liable for the loss of use by eminent domain nor the failure or inability of the Lessee to obtain possession thereof provided the Lessors shall exercise due diligence and effort to place the Lessee in possession. Nothing herein contained shall be construed as a warranty that said premises are in good condition or are fit or suitable for the use or purpose for which they are let. The Lessors have made no representation or promises with respect to said building or the demised premises except as expressly set forth. The Lessee has examined the leased premises and accepts the same in the physical condition the same now exists (except as otherwise expressly provided herein). The property is being rented "AS IS" and it is acknowledged that the Lessee shall be investing substantial funds in repairing and making alterations of the property to make it suitable for the Lessee's use. The Lessee shall have the right to make all such alterations, repairs or improvements on the property as may be approved by the governmental bodies which regulate the property. At the end of the term of the lease, all such alterations, improvements, repairs which are fixtures and have become a part of the original property shall remain with the property with the exception of those specific improvements which are intended to identify the Lessee's fraternity such as signs, etc.

Lessors shall not be liable for any damages caused by, or growing out of, any breakage, leakage, getting out of order or defective condition of any machinery, wiring, pipes, drains, sewer lines, plumbing or other improvements on the leased property. Lessee will comply, at all times and in all respects with all the applicable laws and ordinances relating to nuisance, insofar as the building and premises hereby let, and the streets and highways abounding the same are concerned, and the Lessee will not by any act, or omission, render the Lessors liable for any violation thereof. Lessee will not commit any waste of property, or permit the same to be done, and will take good care of said building and said premises at all times.

Lessees agree that the ATO fraternity will at all times keep itself in good standing with the administration of the University of Montevallo and failure to do so will result in a default under this lease. Such a default will trigger an option of the Lessee to sublease to another approved fraternity, sorority or other approved campus organization. Any such sublease must be approved in writing by Lessor prior to execution.



The Lessee agrees to pay all sewer rental, obligations of utilities and other charges becoming due, levied under the authority of the laws of the State of Alabama or any laws approved subsequent to the execution of this lease. Failure to pay said charges shall constitute a default under the terms of this lease. Any acts which may create a lien or claim against the real estate shall be considered a default unless remedied within ten (10) days of notice. Lessee agrees to indemnify the Lessor should Lessor be required to pay any such lien or claim.

Lessee shall during the entire term of this lease, at Lessee's own expense keep in force by advance payment of premiums, public liability insurance in an amount of not less than \$100,000.00 for injury to or death of one person or as a result of one occurrence and not less than \$200,000.00 for injury to or death in aggregate and for damage to property in the amount of \$100,000.00, insuring Lessee, Lessors and Lessors' agents, servants, and employees (as an additional insured) against any liability that may accrue against them or either of them on account of any occurrences in or about the demised premises during the term or in consequence of Lessee's occupancy thereof and resulting in personal injury or death or property damage. All agreements with the fraternity shall require full liability insurance coverage as available from the fraternity or its national affiliate and provide that Lessor shall be a named insured on such coverage. There shall also be a hold harmless clause in such leases protecting Lessor. Lessee further agrees to pay to Lessor annually the cost of fire and casualty insurance on the improvements on the property within thirty (30) days of Lessor's billing. Lessee shall on request furnish to Lessors certificates of all insurance required under this paragraph. Lessors shall not be liable for any injury or damage caused by, growing out of, any defect in the buildings or improvements on said property, or its equipment, drains, plumbing, wiring, electric equipment or appurtenances, which may be on said premises, or caused by, or growing out of fire, rain, wind, leaks, seepage, or other cause. The Lessee will keep the sidewalks, curbs and gutters and the property on and adjacent to the premises clean and free of snow, ice, debris and obstructions and will hold the Lessors harmless from all damages or claims arising out of the Lessee's failure to do so.

Upon the happening of any one or more of the events as expressed in this paragraph, the Lessors shall have the right, at the option of the Lessors, to either annul and terminate this lease upon two days written notice to Lessee and thereupon re-enter and take possession of the premises; or the right upon two days written notice to the Lessee to re-enter and re-let said premises, from time to time, as agents of the Lessee, and such re-entry or re-letting or both, shall not discharge the Lessee from any liability or obligations hereunder, except that rents (That is, gross rents less the expense of collecting and handling, and less commission) collected as a result of such re-letting shall be credited on the Lessee's liability up to the amount due under the terms of this lease and the balance, if any, credited to the Lessors. The events of default referred to herein are: failure of the Lessee to pay any sum, provided for in this lease as and when the same become due, the removal, attempt to remove or permitting to be removed from said premises, except in the usual course of trade, the goods, furniture, effects or other property of the Lessee or any assignee, or sub-tenant of the Lessee; the levy of an execution or other legal process upon the goods, furniture, effects or other property of the Lessee brought on the leased premises or upon the interest of the Lessee in this lease; the filing of a Petition in Bankruptcy, a Petition for an Arraignment or reorganization by or against the Lessee; the appointment of a receiver or

trustee, or other court officer, for the assets of the Lessee; the execution of an assignment for the benefit of creditors of the Lessee; the vacation or abandonment by the Lessee of the leased premises or the use thereof for any purpose other than the purpose for which the same are hereby let or; the assignment by Lessee of this lease or the re-letting or sub-letting by the Lessee of the leased premises or any part thereof without the written consent of the Lessors first had and obtained; the violation of the Lessee of any other of the terms, conditions or covenants not set out in this paragraph on the part of the Lessee herein contained and failure of the Lessee to remedy such violation within ten (10) days after written notice thereof is given by the Lessors to the Lessee.

The Lessee shall hold harmless Lessor as to any claims made against Lessor or the property arising out of Lessee's tenancy.

Upon termination or breach of this lease or re-entry upon said premises for any one or more of the causes set forth above, or upon termination of this lease or re-entry of said premises, the rents provided for in this lease for the balance of the original rental term, or any renewal thereof or other extended term, and all other indebtedness to the Lessors owed by the Lessee, shall be and become immediately due and payable at the option of the Lessors and without regard to whether or not possession of the premises shall have been surrendered to or taken by the Lessors. The Lessee agrees to pay Lessors, or on Lessors' behalf, a reasonable attorney's fee in the event Lessors employ an attorney to collect any sums due hereunder by Lessee, or to protect the interest of Lessors in the event the Lessee is adjudged a bankrupt, or legal process is levied upon the goods, furniture, effects or personal property of the Lessee upon the same premises, or upon the interest of the Lessee in this lease or in said premises, or in the event the Lessee violates any of the terms, conditions, or covenants on the part of the Lessee herein contained. In order to further secure the prompt payments of said sums, as and when the same mature, and the faithful performance by the Lessee of all and singular the terms, conditions and covenants on the part of the Lessee herein contained, and all damages, and costs that the Lessors may sustain by reason of the violation of said terms, conditions and covenants, or any of them, the Lessee hereby waives any and all rights to claim personal property as exempt from levy and sale, under the laws of any State or the United States.

In the event the Lessee abandons the leased premises before the expiration of the term, whether voluntarily or involuntarily, or violates any of the terms, conditions or covenants hereof, the Lessors shall have the privilege at Lessors' option of re-entering and taking possession of said premises and leasing all or any portion of said premises for such term and for such use deemed satisfactory to the Lessors, applying each month the net proceeds obtained from said leasing to the credit of the Lessee herein, up to the amount due under the terms of this lease and the balance to the Lessors and said leasing shall not release the Lessee from liability hereunder for the sums due reserved for the residue of the term hereof, but Lessee shall be responsible each month for the difference, if any, between the net rents obtained from such leasing and the sums due rent reserved hereunder, and said difference shall be payable to the Lessors on the first day of each month for the residue of the term hereof.

No re-entry hereunder shall bar the recovery of damages for the breach of any of the



terms, conditions, or covenants on the part of the Lessee herein contained. The receipt of sums due after breach or condition broken, or delay on the part of Lessors to enforce any right hereunder, shall not be deemed a waiver of forfeiture, or a waiver of the right of the Lessors to annul the lease or to re-enter said premises or to re-let the same.

All improvements and additions to the leased premises shall adhere to the leased premises, and become the property of the Lessors, with the exception of such additions as are usually classed as furniture and trade fixtures; said furniture and trade fixtures are to remain the property of the Lessee, and may be removed by the Lessee two (2) weeks prior to the expiration of this lease, provided all terms, conditions and covenants of within contract have been complied with by Lessee and provided said Lessee restores the building and premises to its original condition, normal wear and tear excepted.

In the event of the total destruction of, or partial damage to, the buildings upon the demised premises by fire or other casualty, Lessors shall proceed with due diligence and dispatch to repair and restore the buildings to the conditions to which they existed immediately prior to the occurrence of such casualty, at Lessors' cost and expense, provided such cost does not exceed the proceeds of insurance collected on the buildings, by reason of such casualty, the application of which insurance proceeds are not prohibited, by reason of any mortgage provision, from being used toward the cost of restoration and repairing the same; provided, further, that if the unexpired portion of the term or any extension thereof shall be two (2) years or less on the date of such casualty and the cost of such repair or restoration exceeds twenty percent (20%) of the then replacement value of said damaged leased premises, as estimated by two or more reputable contractors, Lessors may by written notice to the Lessee, within thirty (30) days after the occurrence of such casualty, terminate this lease. If Lessors exercise the above right to terminate this lease and Lessee elects to exercise an option of renewal privilege which Lessee may have under this lease, which if exercised, would extend the unexpired term beyond two (2) years. Lessee may void such above notice of Lessors' right to terminate this lease by exercising such option renewal privilege within such thirty (30) day period. If the insurance proceeds are insufficient to effect such restoration or repairs, Lessors at their option may cancel this lease by written notice to Lessee within thirty (30) days after the occurrence of such casualty.

In the event the repairing and restoring of the buildings can not be completed within four (4) months after the date of the occurrence of such casualty, as estimated by two or more reputable contractors, the Lessee shall have the right to terminate this lease upon giving written notice to Lessors within thirty (30) days from the date of occurrence of said casualty. From the date of such damage or destruction until said building has been substantially repaired or restored, an equitable abatement of sums due shall be allowed the Lessee.

Each and every transfer or assignment of this lease, or any interest therein, and each and every sub-letting of said premises, or any part thereof, or any interest therein, shall be null and void, unless the written consent of the Lessors be first obtained thereto. As a condition precedent to the obtaining of such consent, the assignee or sub-lessee must assume, in writing, all the obligations of the Lessee hereunder, but such assumption shall not operate to release the Lessee from any agreement or understanding on the part of the Lessee expressed or implied in this lease.



All notices and demands authorized or required to be given to the Lessee under any provision hereof must be in writing, and may be delivered to the Lessee in person or left on or in the leased premises or shall be conclusively deemed to have been delivered to the Lessee if the same be deposited in the United States mail addressed to the Lessee at the leased premises, with the proper postage affixed thereto. All notices herein authorized are required to be given to the Lessors may be given by certified mail, addressed to the Lessors at the address of the Lessors shown on page 1 of this lease, or in care of the Lessor's agent at that time authorized by the Lessor to service this lease, and said notices must be in writing.

Should the Lessee continue to occupy the premises after the expiration of said term or after a forfeiture incurred, whether with or against the consent of the Lessor, such tenancy shall be a tenancy at sufferance and in no event a tenancy from month to month, or from year to year.

The failure of the Lessors to insist, in any one or more instances, upon a strict performance of any of the covenants of this lease, or to exercise any option herein contained, shall not be construed as a waiver, or a relinquishment for the future, of such covenant or option, but the same shall continue and remain in full force and effect. The receipt by the Lessors of sums due, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by the Lessors of any provision hereof shall be deemed to have been made unless expressed in writing, and signed by the Lessors.

If all or any part of the demised premises is taken by eminent domain ("eminent domain shall include the exercise of any similar power of taking, and any purchase or acquisition in lieu of condemnation), or in the event the improvements are condemned and ordered torn down or removed by lawful authority, then the term of this lease shall cease as of the date possession shall be taken by the condemning authority, or as of the date improvements are ordered torn down or removed, whichever may be applicable, with the sums due to be apportioned as of the date of such taking or of such order, as the case may be; provided, however, if as a result of a partial taking of the demised premises by eminent domain, the ground floor area of the building forming a part of the demised premises is reduced by not more than twenty-five percent (25%), the Lessors may elect to continue the term of this lease and to restore, at Lessors' expense, the remaining premises to a complete architectural unit with storefront, signs and interior of equal appearance and utility as they had previous to the taking, but there will be prorata reduction of the rent payable each month. The Lessors shall be deemed to have exercised its said option to restore the premises unless, within 30 days after the date of taking, the Lessors shall notify the Lessee in writing of its election to terminate this lease. In the event of a taking of the improvements, Lessee will be allowed to participate in the proceeds to receive reimbursement of its not already reimbursed (through sublease or otherwise) costs of improvements. This would also be true if the property is destroyed, insurance coverage is paid to Lessor and the improvements are not rebuilt.

The Lessee hereby agrees that upon the expiration or prior termination of this lease, the Lessee will promptly remove from the leased premises all signs, trash, debris and property of the Lessee, and the Lessee will leave the floors, stairs, passageways, elevator and shafts as clean as it is possible to clean them by means of the use of broom and shovel.

During the term of this lease, Lessee agrees to pay allocated real estate taxes on the property provided by this lease, any special assessments, or insurance cost levied or assessed on the subject property. Lessee shall be fully responsible for all utilities, cost of operation, garbage service pickup, water, electricity, etc. Lessee shall be responsible to provide for any drainage of waters that its improvements on the property may cause from the property. Lessee agrees that it shall comply with all environmental regulations with respect to the fluids used in the operation of and in the maintenance of any restaurant that it maintains on the premises and all such machinery related to any restaurant or the operation of its business in any other way.

The leased premises is being leased in its "AS IS" condition, and Lessors make no warranties or representations as to the condition or state of the leased premises whatsoever. Without limitation of the foregoing, Lessors specifically disclaim any express or implied covenants, warranties or representations (a) as to the past, present or future existence of any toxic substances or hazardous waste on or under the leased premises or the improvements located thereon, (b) as to the compliance by the leased premises or the use thereof with any applicable building or zoning codes or other land use regulations, any applicable environmental laws or regulations, or any other applicable laws or regulations, or (c) a fitness for a particular purpose or of habitability of the leased premises. Lessee shall not allow any toxic substances or hazardous waste to be stored upon the leased premises or utilized in the Lessee's operations on the leased premises, and Lessee's use of the leased premises shall fully comply with all applicable building and zoning codes and other land use regulations, any applicable and environmental laws or regulations and any other applicable laws or regulations. Lessee shall save, defend, indemnify, protect, and hold Lessor harmless from any and all claims, suits, actions, losses, damages, cost and expenses (including, without limitation, attorney's fees and court cost) threatened or incurred, and any judgments finally awarded, as a result of or arising from the breach by Lessee of any of Lessee's representations, warranties or covenants contained in this paragraph. The foregoing covenants, warranties, and representations of the Lessee and the foregoing indemnification provision shall survive the termination of this lease.

This lease consists of eight (8) pages. It is understood and agreed by the parties hereto that this lease shall be binding upon the Lessee, its executor, administrator, heirs, assigns or successors.

IN WITNESS WHEREOF, the Lessors and the Lessee have respectively executed these presents this 4<sup>th</sup> day of December, 2003.

LESSOR:

UNIVERSITY OF MONTEVALLO,

BY:

Robert M. McCaskey

Barbara J. Forrest

NOTARY PUBLIC

MY COMMISSION EXPIRES 4-07-05

LESSEE:

DARROW INVESTMENT GROUP, LLC,  
an Alabama Limited Liability Company, for the  
benefit of the Alpha Tau Omega Fraternity

BY: Robert W. Hargis Jr.