

Tax Parcel Nos.: 19-02-03-0-000-002.001;  
20-08-33-0-000-001.001; 20-08-34-0-000-  
001.001; 20-09-31-0-000-004.000; 20-09-32-  
0-000-001.001; 20-09-32-0-000-001.003;  
22-02-03-0-000-001.000; 22-02-04-0-000-  
001.000; 22-03-05-0-000-001.000; 22-03-  
05-0-000-002.000; 22-03-06-0-000-001.000;  
22-03-07-0-000-001.000; 22-03-08-0-000-  
002.000; 22-03-08-0-000-005.000; 22-03-  
08-0-000-006.000; 23-02-09-0-000-002.001;  
28-03-05-0-000-034.000

This instrument was prepared by and when  
recorded return to:

C. Corley Holt, Esquire  
Winston & Strawn LLP  
100 North Tryon Street, Suite 3300  
Charlotte, North Carolina 28202


STATE OF ALABAMA  
  
COUNTY OF TALLADEGA

**SOME OF THE PROPERTY CONVEYED AS  
COLLATERAL HEREBY IS OR INCLUDES  
FIXTURES**

**LEASEHOLD MORTGAGE, ASSIGNMENT OF LEASES AND RENTS,  
SECURITY AGREEMENT AND FIXTURE FILING**

THIS LEASEHOLD MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY  
AGREEMENT AND FIXTURE FILING (as amended, restated, replaced, renewed, extended,  
supplemented or otherwise modified from time to time, this "Mortgage") is made and entered into as of  
the 15 day of May, 2008, by:

**IN ACCORDANCE WITH ALA CODE SECTION 40-22-2(4), NO MORTGAGE  
RECORDING TAX IS DUE UPON RECORDING OF THIS MORTGAGE. THIS  
MORTGAGE IS GIVEN AS ADDITIONAL SECURITY FOR THE SAME  
INDEBTEDNESS SECURED BY THAT CERTAIN MORTGAGE, ASSIGNMENT OF  
LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING FROM  
BOWATER ALABAMA, LLC IN FAVOR MORTGAGEE OF EVEN DATE HERewith  
AND RECORDED SIMULTANEOUSLY HERewith UPON WHICH ALL  
MORTGAGE RECORDING TAXES HAVE BEEN PAID.**

  
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MORT 1275 595  
Recorded In Above Book and Page  
05/15/2008 03:07:49 PM  
Billy Atkinson  
Probate Judge  
Talladega County, AL



BOWATER ALABAMA LLC, an Alabama limited liability company, whose address is 17589 Plant Road, Coosa Pines, Alabama 35044 (the "Mortgagor"); to

WACHOVIA BANK, NATIONAL ASSOCIATION, a national banking association, in its capacity as Administrative Agent (as hereinafter defined) under the Credit Agreement referred to below and as agent for the Secured Parties pursuant to subsection 5.4(b) hereof, in each capacity, for the benefit of the Secured Parties (as hereinafter defined), whose address is 1525 West W.T. Harris Boulevard, Mailcode: NC0680, Charlotte, North Carolina 28262, Attention: Syndication Agency Services (the "Mortgagee").


### **STATEMENT OF PURPOSE**

Reference is hereby made to that certain Credit Agreement dated as of May 31, 2006, as amended by that certain First Amendment dated as of July 20, 2007, that certain Second Amendment dated as of October 31, 2007, that certain Third Amendment and Waiver dated as of February 25, 2008 and that certain Fourth Amendment dated as of March 31, 2008, and as joined by the Mortgagor and the other New Borrowers (as defined in the Credit Agreement) pursuant to that certain Joinder Agreement (the "US Joinder") of even date herewith (as further amended, restated, replaced, renewed, extended, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and among Bowater Incorporated, a Delaware corporation, as borrower (the "Original Borrower") and, after giving effect to the US Joinder, the Mortgagor, as an additional borrower (the Mortgagor, together with the Original Borrower and the other New Borrowers (as defined in the Credit Agreement), the "Borrowers"), Wachovia Bank, National Association, in its capacity as administrative agent for the benefit of the Lenders (as hereinafter defined) (in such capacity, the "Administrative Agent"), in its capacity as swingline lender, and in its capacity as issuing lender, and the banks and other financial institutions who are or may become party thereto, as lenders (the "Lenders").

Reference is hereby also made to that certain Credit Agreement dated as of May 31, 2006, as amended by that certain First Amendment dated as of July 20, 2007, that certain Second Amendment dated as of October 31, 2007, that certain Third Amendment and Waiver dated as of February 25, 2008, and that certain Fourth Amendment dated as of March 31, 2008, and as joined by the Mortgagor and the other New U.S. Borrowers (as defined in the Canadian Credit Agreement) pursuant to that certain Joinder Agreement (the "Canadian Joinder") of even date herewith (as further amended, restated, replaced, renewed, extended, supplemented or otherwise modified from time to time, the "Canadian Credit Agreement"), by and among Bowater Canadian Forest Products Inc., a Canadian corporation, as borrower (the "Canadian Borrower"), the Original Borrower and, after giving effect to the Canadian Joinder, the Mortgagor and the other New U.S. Borrowers (as defined in the Canadian Credit Agreement), as guarantors, The Bank of Nova Scotia, in its capacity as administrative agent for the benefit of the Canadian Lenders (as hereinafter defined) (in such capacity, the "Canadian Administrative Agent") and in its capacity as issuing lender, and the banks and other financial institutions who are or may become party thereto, as lenders (the "Canadian Lenders").

This Mortgage secures:

- (i) all "Obligations" under and as defined in the Credit Agreement (all such obligations being hereinafter referred to as the "Domestic Facility Obligations");
- (ii) all "Obligations" under and as defined in the Canadian Credit Agreement (all such obligations being hereinafter referred to as the "Canadian Facility Obligations"); and

  
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(iii) the payment by the Mortgagor of all other sums, with interest thereon, advanced by the Mortgagee to protect the security of this Mortgage (together with the Domestic Facility Obligations and the Canadian Facility Obligations, the "Secured Obligations").

Defined terms used herein, as indicated by the initial capitalization thereof, shall have the meanings ascribed to such terms in the Credit Agreement or other applicable Loan Document (as defined in the Credit Agreement), unless otherwise provided herein. For the avoidance of doubt the parties hereto agree that any calculation of the Required Lenders under this Mortgage shall be made consistent with the calculations of Required Lenders under and as defined in the Credit Agreement.

For the purposes of this Mortgage, and for clarification, the following terms shall have the following definitions:

"Bankruptcy Code" means the United States Bankruptcy Code, 11 U.S.C. §§ 101 et seq., as amended.

"Canadian Facility Commitment Percentage" means, as to each of the Canadian Facility Secured Parties, such Canadian Facility Secured Party's "Commitment Percentage" as defined in the Canadian Credit Agreement.

"Canadian Facility Secured Parties" means the "Secured Parties" as defined in the Canadian Credit Agreement.

"Canadian Loan Documents" means the "Loan Documents" as defined in the Canadian Credit Agreement.

"Default" means a "Default" as defined in the Credit Agreement or a "Default" as defined in the Canadian Credit Agreement.


"Domestic Facility Commitment Percentage" means, as to each of the Domestic Facility Secured Parties, such Domestic Facility Secured Party's "Commitment Percentage" as defined in the Credit Agreement.

"Domestic Facility Secured Parties" shall mean the "Secured Parties" as defined in the Credit Agreement.

"Event of Default" means an "Event of Default" as defined in the Credit Agreement or an "Event of Default" as defined in the Canadian Credit Agreement.

"Lease Agreement" means that certain Lease Agreement dated as of June 1, 1989 between The Industrial Development Board of the City of Childersburg, as Lessor, and Mortgagor (as successor-in-interest to Kimberly-Clark Corporation, a Delaware corporation, as Lessee (as it may have been amended, restated, replaces, renewed, extended, supplemented, or otherwise modified from time to time), as recorded June 8, 1989 in Book 575, Page 572 and amended by supplemental agreements thereto recorded in Deed Book 664, Page 843 and Deed Book 683, Page 419 in the Probate Office of Talladega County, Alabama.

"Secured Parties" shall mean, collectively, the Domestic Facility Secured Parties and the Canadian Facility Secured Parties.

  
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A condition to the continued extension by the Administrative Agent and the Lenders of the credit facilities provided for in the Credit Agreement, and a condition to the continued extension by the Canadian Administrative Agent and Canadian Lenders of the credit facilities provided for in the Canadian Credit Agreement is the execution and delivery by the Mortgagor of this Mortgage, and the grant by the Mortgagor of the Lien and security interest created pursuant hereto, in favor of the Administrative Agent, for its own benefit and for the benefit of the other Secured Parties, as security for the Secured Obligations. The Mortgagor is an affiliate of the Original Borrower and has become a borrower under the Credit Agreement, and is an affiliate of the Canadian Borrower and has become a guarantor under the Canadian Credit Agreement, and will receive a direct benefit from the credit facilities extended under the Credit Agreement and the Canadian Credit Agreement, and therefore the Mortgagor has agreed to execute and deliver this Mortgage, and to grant the Lien and security interest created pursuant hereto, in favor of the Administrative Agent, for its own benefit and for the benefit of the other Secured Parties, as security for the Secured Obligations.

NOW, THEREFORE, in order to secure (a) the Secured Obligations and the repayment of the Secured Obligations, with interest thereon, and all renewals, extensions and modifications thereof; (b) the repayment of any future advances, with interest thereon, made by the Secured Parties or any of them to or for the benefit of the Borrowers (including the Mortgagor) or to the Canadian Borrower pursuant to Section 1.3 hereof; (c) the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this instrument; and (d) the performance of the covenants and agreements of the Mortgagor contained herein, in the Credit Agreement, the other Loan Documents, the Canadian Credit Agreement and the other Canadian Loan Documents, and in consideration of the Lenders' continuing agreements under the Credit Agreement to extend the credit facilities provided for therein to the Borrowers and the Canadian Lenders' continuing agreements under the Canadian Credit Agreement to extend the credit facilities provided for therein to the Canadian Borrower, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Mortgagor by these presents does hereby (i) give, grant, bargain, sell, alienate, remise, warrant, convey, mortgage, release, confirm, assign, transfer and set over unto the Mortgagee, its successors and assigns, for the benefit of the Secured Parties, all of the Mortgagor's right, title and interest in and to the "Land" (as defined below) and the "Improvements" (as defined below) (the Land and the Improvements, collectively, the "Premises"), as described below and any real or mixed property referred to below, and (ii) convey and grant a security interest unto the Mortgagee, for the benefit of the Secured Parties, in all of the Mortgagor's right, title and interest in and to the "Equipment", the "Proceeds" and any other personal property referred to below. The property and rights (collectively, the "Property") subject to this Mortgage are all of the Mortgagor's right, title and interest in and to the following:

A. All of the right, title and interest of the Mortgagor in and to the real estate (the "Land"), as more specifically described in Exhibit A attached hereto, arising under or in connection with the Lease Agreement, together with (i) all amendments, modifications, extensions, and renewals thereof, and all credits, deposits, options, privileges, and rights thereunder or thereto, and (ii) all other, further, additional or greater estate, right, title or interest of the Mortgagor (including, without limitation, any after acquired title of the Mortgagor) in, to, under or derived from the Land or the Improvements (as defined below) now or hereafter located thereon which may at any time be acquired by the Mortgagor by the terms of the Lease Agreement by reason of the exercise of any right or option thereunder, or otherwise, including without limitation, the right of the Mortgagor to possession under Section 365 of the Bankruptcy Code in the event of the rejection of the Lease Agreement by the lessor thereunder or its trustee pursuant to said Section; and together with all rights and benefits of whatsoever nature derived or to be derived by the Mortgagor under the Lease Agreement, including (subject to the terms hereof) the rights to exercise options or rights of purchase (including, without limitation, those granted under Article XI of the Lease Agreement), options or rights of first refusal, to give consents, to modify, extend, or terminate the Lease Agreement, to surrender the Lease Agreement, to reject the Lease Agreement, or elect to treat the Lease



Agreement as rejected or to remain in possession under Section 365 of the Bankruptcy Code, and to receive all deposits and other amounts payable to Mortgagor pursuant to the Lease Agreement;

B. all of the Mortgagor's rights, title and interest under all easements, rights of way, restrictive covenants, parking agreements, encroachment agreements, licenses, streets, alleys, passages, walkways, strips of land, sewer rights, waters, water courses, water privileges, tenements, hereditaments and other appurtenances and rights, including, but not limited to, air rights, surface rights and subsurface rights relating or appertaining to the Premises;

C. all of the right, title and interest of the Mortgagor in and to all facilities, buildings, structures, fixtures, improvements and parking areas now or hereafter located on the Land and all replacements thereof and additions thereto (collectively, the "Improvements"); without limiting the foregoing, the term "Improvements" shall include: all buildings, components of buildings, roads, streets, curbs, gutters, sidewalks and pedestrian ways; all storm drainage, water systems, sewer systems, electrical systems, gas systems and other utilities equipment; and all improvements relating to easements appurtenant to the Land and landscaping, whether or not located on the Land, which are necessary or appropriate to fully benefit and serve the Improvements located on the Land;

D. all chattels, machinery, fixtures, equipment, furnishings, goods, construction materials and articles of personal property now or hereafter attached to, incorporated in, or located on the Premises or on appurtenant easements and used or usable in connection with any present or future construction, operation or letting of the Property or the activities at any time conducted therein or thereon which are owned by the Mortgagor (collectively, the "Equipment"), including, but not limited to, any and all types of apparatus, machinery and equipment, heating, venting and air-conditioning, lighting, laundry, incinerating and power equipment and machinery, plumbing, refrigerating, trash compacting, cleaning, cooking, smoke detection, fire prevention and fire extinguishing systems, security and access control apparatus, communications apparatus (including antennas, satellite dishes and systems, telecommunications systems, equipment, facilities and devices, televisions and television systems, audio and video systems, equipment, facilities and devices, and computer systems and fixtures and appurtenances thereto), sprinkler systems, gas and electric fixtures, awnings, shades, screens, window shades and blinds, storm doors and windows, appliances, cabinets, ducts and compressors, water heaters, water closets, sinks, dishwashers, disposals, washers, dryers, radiators, ranges, paneling, office equipment and other furnishings, fitness and exercise equipment, rugs, carpets, curtain rods, draperies and linens, mirrors, elevators, escalators, pumps, motors, boilers, engines, conduits, dynamos, refrigerators, freezers, incinerators, trash receptacles, trees, plants, flowers, shrubbery, and all other machinery, equipment, appliances, fittings, furniture, furnishings, chattels and articles of personalty of every kind and nature used in the operation of the Improvements and structures now or hereafter situated on and constituting part of the Property or on appurtenant easements, together with any and all replacements thereof and additions thereto;

E. all of the right, title and interest of the Mortgagor in and to any unearned insurance premiums and any insurance proceeds realized from or as a result of the Mortgagor's ownership or operation of the Property and any and all awards, including interest thereon, heretofore and hereafter made to the Mortgagor for any taking by eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or any part of the Property, including any awards for changes of grade of streets, which awards are hereby assigned to the Mortgagee (for the benefit of the Secured Parties), who is hereby authorized to collect and receive the proceeds of such awards and to give proper receipts and acquittances therefor and to apply the same to the Secured Obligations, to the extent hereinafter provided (all of the foregoing being referred to herein as the "Proceeds");



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F. all of the right, title and interest of the Mortgagor in and to all existing and future leases, subleases, tenancies, licenses, occupancy agreements and other agreements for the use and occupancy of all or any portion of the Property, and any and all extensions, renewals and modifications thereof, whether written or oral and whether for a definite term or month to month, including without limitation (i) any and all cash or securities deposited thereunder to secure performance by the lessees of their obligations thereunder, (ii) the right to receive and collect all rents thereunder, (iii) any options or rights of first refusal thereunder, and (iv) any and all guarantees of the lessee's obligations thereunder (collectively, the "Leases");

G. all of the right, title and interest of the Mortgagor in and to all earnings, revenues, rents, issues, profits, receipts, reserves, avails, general intangibles, choses in action, proceeds and other income of and from the Property or any portion thereof including, without limitation, all rents and receipts (including, without limitation, minimum rents, additional rents, percentage rents, parking, maintenance and deficiency rents) from, or proceeds payable under or related to, the Leases (together with the items described in Clauses G, H and I below, collectively, the "Rents");

H. all of the right, title and interest of the Mortgagor in and to all awards and payments of any kind derived from or relating to any Lease, including, without limitation: (i) claims for the recovery of damages to the Property by proceeds of any policy of insurance or otherwise, or for the abatement of any nuisance existing thereon; (ii) claims for damages resulting from acts of insolvency or bankruptcy or otherwise; (iii) lump sum payments for the cancellation or termination of any Lease, the waiver of any term thereof, or the exercise of any right of first refusal or option to purchase; and (iv) the return of any insurance premiums or *ad valorem* tax payments made in advance and subsequently refunded;

I. all of the right, title and interest of the Mortgagor in and to all security deposits and escrow accounts made by any tenant or subtenant under any Lease;

J. all architectural, engineering and similar plans, specifications, drawings, renderings, profiles, studies, shop drawings, reports, plats, permits, surveys and similar documents relating to the Property; all sewer taps, permits and allocations; and all agreements for utilities, bonds, sureties and the like, relating to the Property or appurtenant facilities erected or to be erected upon or about the Property;

K. all warranties and guarantees of contractors or subcontractors or of suppliers or manufacturers of equipment or other property incorporated into the Improvements or used with or otherwise constituting part of the fixtures therein; and

L. all the property of every kind and description, whether real, personal or mixed, which at any time hereafter, by indenture or indentures supplemental hereto, and by other instruments of transfer, may be expressly conveyed, mortgaged or pledged, delivered, assigned or transferred to the Mortgagee, for the benefit of the Secured Parties, by or on behalf of the Mortgagor, as and for additional or substitute security for the Secured Obligations.

TO HAVE AND TO HOLD the Property hereby conveyed or mentioned and intended so to be, unto Mortgagee, to its own use forever.

PROVIDED, ALWAYS, if the Secured Obligations, including future advances to the extent secured herein, shall be indefeasibly paid and performed in full when due and the Commitment, and the Canadian Lenders' commitments under the Canadian Credit Agreement (collectively, the "Canadian Facility Commitments"), terminated, and if the Mortgagor shall keep, perform and observe each of the covenants, agreements and provisions in this Mortgage to be kept, performed and observed by the Mortgagor, then, at such time, this Mortgage and the estate and rights hereby granted shall terminate and



be of no further force and effect and the Lien created by this Mortgage shall be released, any and all costs associated with such release to be borne by the Mortgagor.

This Mortgage secures, inter alia, present and future advances made by the Secured Parties pursuant to the Loan Documents and the Canadian Loan Documents. The priority of such future advances shall relate back to the date of this Mortgage, or to the earliest later date as required by Applicable Law. This Mortgage also secures advances made by the Mortgagee with respect to the Property for the payment of taxes, assessments, maintenance charges, and insurance premiums, costs incurred by the Mortgagee for the protection of the Property or the Lien of this Mortgage, and expenses incurred by the Mortgagee by reason of the occurrence of an Event of Default and the priority of such advances, costs and expenses shall also relate back to the date of this Mortgage, or to such later date as required by Applicable Law.

## ARTICLE I

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF MORTGAGOR

The Mortgagor represents, warrants, and covenants with the Mortgagee and other Secured Parties as follows:

SECTION 1.1            Payment and Performance of Secured Obligations. The Mortgagor will pay and perform, or cause to be paid and performed, when due the Secured Obligations.

SECTION 1.2            Priority of Lien. This Mortgage is and, prior to the performance and indefeasible payment in full of the Secured Obligations and termination of the Commitment and the Canadian Facility Commitments shall remain, a first Lien on all of the Property, subject only to those matters set forth on Schedule B-II – Section II of the commitment for title insurance insuring the Lien created hereby to be delivered pursuant to the Credit Agreement, or otherwise approved by the Mortgagee in advance (the “Permitted Exceptions”). The Mortgagor shall pay or cause to be discharged within ten (10) days after they shall be payable, or shall make adequate provisions for the satisfaction or discharge of, all lawful claims and demands of mechanics, laborers and materialmen (including the posting of a bond sufficient to satisfy or discharge such claims) which, if unpaid, might be a Lien or charge on the Property (or any part thereof) or the income therefrom; provided, that the Mortgagor may contest any such claims or demands in good faith so long as adequate reserves are maintained with respect thereto in accordance with GAAP. Nothing herein contained shall require the Mortgagor to pay any claims for labor, materials or services provided solely for the benefit of any landlord or any other tenant.

SECTION 1.3            Future Advances. It is understood and agreed that this Mortgage covers, inter alia, present and future advances made by the Mortgagee or other Secured Parties or any of them to or for the benefit of the Mortgagor pursuant to the Credit Agreement or the Canadian Credit Agreement, and that the Lien of such future advances shall relate back to the date of this Mortgage. In addition, this Mortgage secures, and the Secured Obligations include, the unpaid balances of any advances made with respect to the Property for the payment of taxes, assessments, maintenance charges, insurance premiums or costs incurred for the protection of the Property or the Lien of this Mortgage (including expenses referred to in Section 1.4 below) and expenses incurred by the Mortgagee by reason of default by the Mortgagor under this Mortgage, any other Loan Document or any Canadian Loan Document.

SECTION 1.4            Expenses. If any action or proceeding is commenced to which the Mortgagee or the other Secured Parties (or any of them) become or are made a party arising out of or in connection with any of the Loan Documents or any of the Canadian Loan Documents, or in which it



becomes necessary to enforce, defend or uphold the Lien of this Mortgage, all court costs and litigation costs (including, without limitation, reasonable attorneys' fees and expenses) (collectively "Expenses") incurred by the Mortgagee and the other Secured Parties shall be paid by the Mortgagor, and any such sum shall be a Lien on the Property, prior to any right, or title to, interest in, or claim upon the Property attaching or accruing subsequent to the Lien of this Mortgage, and shall be deemed to be secured by this Mortgage. In any action or proceeding to foreclose the Lien of this Mortgage or to recover, collect or compel the performance of the Secured Obligations, the provisions of Applicable Law respecting the recovery of costs, disbursements and allowances shall prevail unaffected by this covenant.

SECTION 1.5                      Insurance.

(a)        The Mortgagor will maintain, or cause to be maintained, in full force and effect all insurance coverage and policies required to be maintained under the terms of the Credit Agreement or any other Loan Document, under the terms of the Canadian Credit Agreement or any other Canadian Loan Document, and as set forth herein. Insurance coverage shall include:

(i)        insurance against loss or damage to the Property by fire, windstorm, tornado and hail and against loss or damage by such other, further and additional risks as may be now or hereafter embraced by an "all risk" form insurance policy with Extended Coverage Endorsement and replacement cost broad form fire and collapse insurance on the Property with a company or companies approved by the Mortgagee and with coverages and in form, content and amount reasonably acceptable to the Mortgagee. Such policy shall also extend coverage for acts of vandalism and malicious mischief, without co-insurance, in an amount equal to 100% of the replacement cost of the Improvements. For buildings equipped with automatic sprinkler systems designed to discharge an extinguishing agent, including, but not limited to, water, chemicals or gas, such policy shall include sprinkler leakage as a covered cause of loss;

(ii)       for buildings equipped with boilers, heating and ventilating systems, refrigeration equipment, air conditioning units, pumps, compressors, motors, blowers, generators, transformers and other types of heavy equipment, the Mortgagee shall require Boiler and Machinery Insurance to cover the sudden and accidental breakdown of such equipment;

(iii)      if any Improvements (now or hereafter existing) on the Land are or will be located in an area identified by the U.S. Department of Housing and Urban Development or Federal Emergency Management Agency as an area having "special flood hazards", the Mortgagor shall also furnish flood insurance in the amount which is the lesser of (A) sum of (1) the maximum amount of the Domestic Facility Obligations for the purposes of this Mortgage and (2) the maximum amount of the Canadian Facility Obligations for the purposes of this Mortgage, or (B) the maximum limit of coverage available under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, and the Housing and Community Development Acts of 1974 and 1977, all as amended;

(iv)       such worker's compensation insurance as is required by any Applicable Law;

(v)       rental loss insurance or loss of business income insurance in an amount sufficient to compensate for all rents or income, if any, at the Property and real estate taxes and insurance premiums for a period of at least (6) six months;

(vi)       single limit comprehensive general public liability insurance against claims for bodily injury, death or property affording protection in respect of injury or death to any person or damage to property of any one owner, and in respect of injury or death to more than one person or



damage to property of more than one owner arising from any one accident or occurrence, each to the limit required by the Mortgagee; and

(vii) such other insurance on the Property or on any replacements or substitutions thereof or additions thereto as may from time to time be required by the Mortgagee against other insurable hazards or casualties which at the time are commonly insured against in the case of property similarly situated, including, without limitation, Sinkhole, Mine Subsidence and Earthquake insurance, due regard being given to the height and type of buildings, their construction, location, use and occupancy.

(b) During the term of the Credit Agreement and/or the Canadian Credit Agreement, the premium on each insurance policy described above shall be paid on or prior to the date when due and the policy term renewed annually in the same form and with at least the same coverage as the preceding year, with the Mortgagee to receive notice of renewal at least thirty (30) days prior to expiration. Further, no such policy shall be subject to cancellation, nonrenewal or reduction of coverage unless the insurer has given the Mortgagee at least thirty (30) days' prior written notice of such action. All policies described herein must be issued by insurance companies and agencies licensed by the Insurance Commission (or comparable agency) of the state in which the Property is located (the "State") to conduct business in the State and approved by the Mortgagee. The Mortgagee shall have the right to approve each and every insurance carrier and policy, such approval not to be unreasonably withheld.

(c) All policies shall include a standard, non-contributory mortgagee clause naming the Mortgagee and/or the Secured Parties (as may be required) as additional insured under all liability insurance policies, as first mortgagee on all property insurance policies and as the loss payee on all loss of rents insurance policies. All policies shall be in form and content as approved by the Mortgagee.

SECTION 1.6 Removal of Improvements. Except as set forth in Section 8.2 of the Credit Agreement, no improvements shall be removed, demolished or materially altered without the Mortgagee's prior written consent, which shall not be unreasonably withheld, conditioned or delayed; provided that, notwithstanding Section 8.2 of the Credit Agreement, the Mortgagor shall not abandon, nor permit the idling of, the Premises (including the improvements).

SECTION 1.7 Security Interest. The Mortgagor shall promptly execute and cause to be filed (as directed by the Mortgagee) any and all documents, including UCC Financing Statements (the "Financing Statements") pursuant to the Uniform Commercial Code of the State as now enacted and subsequently amended from time to time (the "Code") and/or pursuant to the Uniform Commercial Code of the state in which the Mortgagor is organized, as may be necessary, or as the Mortgagee may reasonably request, to preserve and maintain the first lien priority of the interest created hereby on all fixtures and personal property constituting part of the Property. Such Financing Statements shall be filed in such places as the Mortgagee reasonably determines. The Mortgagor hereby authorizes and empowers the Mortgagee to execute and file, on the Mortgagor's behalf, all Financing Statements and refilings and continuations thereof as the Mortgagee deems reasonably necessary or advisable to perfect, preserve and protect the Mortgagee's and Secured Parties' interest in such fixtures and personal property, and the Mortgagor hereby irrevocably appoints the Mortgagee as the Mortgagor's agent and attorney-in-fact (such appointment being coupled with an interest) so to do. This Mortgage is deemed a "Security Agreement" (as defined in the Code) and, with respect to the personal property encumbered by this Mortgage, the remedies for any violation of the covenants, terms and conditions and agreements contained in the Loan Documents and the Canadian Loan Documents shall be as prescribed (i) in this Mortgage (the Mortgagor agreeing that all such personal property may be sold by the Mortgagee as part of any sale under any foreclosure sale provided for in Section 4.1(e) hereof) or under any other Loan Document or Canadian Loan Document, (ii) by Applicable Law or (iii) by the Code, all at the Mortgagee's sole election.



SECTION 1.8                      Sale; Liens; Subdivision. Except as may be permitted under the Credit Agreement, any other Loan Document, the Canadian Credit Agreement, any other Canadian Loan Document, the Mortgagor shall not, directly or indirectly, sell, transfer, convey, lease or further encumber or mortgage, whether voluntary, involuntary or by operation of law, or suffer or permit the same, all or any part of the Property or any interest therein or in the Mortgagor; provided, that in the event any such sale, transfer, conveyance, lease or encumbrance is permitted and shall occur, the proceeds relating to or arising therefrom shall be applied to the Secured Obligations to the extent required by, and in the manner set forth in, Section 8.2(b) of the Credit Agreement and Section 8.2(b) of the Canadian Credit Agreement and, to the extent applied to the Secured Obligations, shall be allocated among the Secured Parties in accordance with Section 4.4 hereof.

SECTION 1.9                      Eminent Domain. The Mortgagee is hereby authorized and empowered to settle, adjust or compromise any and all claims and rights arising from any eminent domain or condemnation action relating to part or all of the Property (or any interest therein) and to collect and receive the proceeds relating to or arising therefrom (collectively, the "Condemnation Proceeds"), provided, however, that if an Event of Default has not then occurred, Mortgagee agrees that it will not settle, adjust or compromise any claims and rights arising from any eminent domain or condemnation action without Mortgagor's consent, which consent shall not be unreasonably withheld, conditioned or delayed. Each entity which may hereafter exercise a power of eminent domain or condemnation with respect to part or all of the Property is hereby authorized and directed to pay Condemnation Proceeds directly to the Mortgagee, for the benefit of the Secured Parties, instead of to the Mortgagor and the Mortgagee jointly. In the event any entity which may hereafter exercise a power of eminent domain or condemnation with respect to part or all of the Property fails to disburse Condemnation Proceeds directly and solely to the Mortgagee but disburses such Condemnation Proceeds instead either solely to the Mortgagor or to the Mortgagor and the Mortgagee jointly, the Mortgagor agrees to endorse and transfer such Condemnation Proceeds to the Mortgagee within five (5) Business Days of the date of receipt of such Condemnation Proceeds. Upon the failure of the Mortgagor to immediately endorse and transfer such Condemnation Proceeds as aforesaid, the Mortgagee may execute such endorsements or transfers for and in the name of the Mortgagor, and the Mortgagor hereby irrevocably appoints the Mortgagee as the Mortgagor's agent and attorney-in-fact (such appointment being coupled with an interest) so to do. The Condemnation Proceeds shall be applied to the Secured Obligations (or otherwise allocated) to the extent required by, and in the manner set forth in, Section 8.2(b) of the Credit Agreement and Section 8.2(b) of the Canadian Credit Agreement and, to the extent applied to the Secured Obligations, shall be allocated among the Secured Parties in accordance with Section 4.4 hereof.

SECTION 1.10                      Insurance Proceeds. The Mortgagee is hereby authorized and empowered to settle, adjust or compromise any claims or rights under any insurance policies maintained pursuant to this Mortgage and to collect and receive the proceeds from any such policy or policies (collectively, the "Insurance Proceeds"), provided, however, that if an Event of Default has not then occurred, Mortgagee agrees that it will not settle, adjust or compromise any claims and rights under any insurance policies maintained pursuant to this Mortgage without Mortgagor's consent, which consent shall not be unreasonably withheld, conditioned or delayed. Each insurance company is hereby authorized and directed to pay all Insurance Proceeds directly to the Mortgagee, for the benefit of the Secured Parties, instead of to the Mortgagor and the Mortgagee jointly. In the event any insurance company fails to disburse Insurance Proceeds directly and solely to the Mortgagee but disburses such Insurance Proceeds instead either solely to the Mortgagor or to the Mortgagor and the Mortgagee jointly, the Mortgagor agrees to endorse and transfer such Insurance Proceeds to the Mortgagee within five (5) Business Days of the date of receipt of such Insurance Proceeds. Upon the failure of the Mortgagor to endorse and transfer such Insurance Proceeds as aforesaid, the Mortgagee may execute such endorsements or transfers for and in the name of the Mortgagor, and the Mortgagor hereby irrevocably appoints the Mortgagee as the Mortgagor's agent and attorney-in-fact (such appointment being coupled



with an interest) so to do. The Insurance Proceeds shall be applied to the Secured Obligations (or otherwise allocated) to the extent required by, and in the manner set forth in, Section 8.2(b) of the Credit Agreement and Section 8.2(b) of the Canadian Credit Agreement and, to the extent applied to the Secured Obligations, shall be allocated among the Secured Parties in accordance with Section 4.4 hereof.

**SECTION 1.11**      Leasehold Mortgage Provisions. This Mortgage encumbers all of the Mortgagor's right, title and interest in, to and under the Lease Agreement. Accordingly, the following provisions shall apply:

(a)      the Mortgagor represents and warrants that (i) the Lease Agreement is in full force and effect and has not been modified or amended in any manner whatsoever, (ii) there are no defaults under the Lease Agreement and no event has occurred, which but for the passage of time, or notice, or both, would constitute a default under the Lease Agreement, (iii) all rents, additional rents and other sums due and payable under Lease Agreement have been paid in full, (iv) neither the Mortgagor nor the lessor of the Lease Agreement has commenced any action or given or received any notice for the purpose of terminating the Lease Agreement, and (v) the interest of the tenant under the Lease Agreement is vested in the Mortgagor.

(b)      any default under the Lease Agreement that permits the lessor of the Lease Agreement to exercise its remedies thereunder shall be an Event of Default under this Mortgage.

(c)      the Mortgagor shall pay or cause to be paid, not later than the date upon which the same become due and payable by the Mortgagor pursuant to the provisions of the Lease Agreement (i) all base rent, additional rent, rent increases and adjustments to rent and other payments required to be paid by the lessee under the Lease Agreement and (ii) all real estate taxes, assessments, water and sewer rates and charges, and all other governmental levies and charges of every kind whatsoever, general and special, ordinary and extraordinary, unforeseen as well as foreseen, which shall be assessed, levied, confirmed, imposed, or become a lien upon or against the Property, or which shall become payable with respect thereto (collectively the "Lease Agreement Impositions"). Within ten (10) days after demand by the Mortgagee, the Mortgagor shall deliver to the Mortgagee a copy of the official receipt evidencing such payment or other proof of payment of such rent and Lease Agreement Impositions satisfactory to the Mortgagee, and failure of the Mortgagor to deliver to the Mortgagee the receipts or to submit other proof satisfactory to the Mortgagee shall constitute an Event of Default under this Mortgage. The Mortgagee will accept as proof of payment of rent payable under the Lease Agreement a certification executed by an officer or general partner of the Mortgagor to the effect that such rent has been paid. To the extent that the Lease Agreement or this Mortgage shall grant to the Mortgagor the privilege to postpone or defer the payment of any Lease Agreement Impositions, the failure of the Mortgagor to pay the same shall not constitute a default under this Mortgage so long as the Mortgagor shall faithfully comply with all of the terms, covenants and conditions under the Lease Agreement and this Mortgage with respect to the exercise of such privilege.

(d)      the Mortgagor shall promptly perform and observe all of the terms, covenants and conditions required to be performed and observed by the Mortgagor under the Lease Agreement within the stated opportunity to cure periods provided in the Lease Agreement or such lesser opportunity to cure as are provided in the applicable default provisions of this Mortgage, if any, and shall do all things necessary to preserve and to keep unimpaired the Mortgagor's rights under the Lease Agreement.

(e)      if the Mortgagor shall fail to pay any base rent or additional rent or adjusted rent required under Lease Agreement or any Lease Agreement Impositions, or to make any other payment required to



be paid by the Mortgagor under the Lease Agreement at the time and in the manner provided in the Lease Agreement or if the Mortgagor shall fail to perform or observe any other term, covenant or condition required to be performed or observed by the Mortgagor under the Lease Agreement, then, without limiting the generality of any other provision of this Mortgage and without releasing the Mortgagor from any of its obligations under this Mortgage, the Mortgagee shall have the right, but not the obligation, to pay base rent or additional rent and/or Lease Agreement Impositions, or other payment, and may take such action as may be appropriate to cause such other term, covenant or condition to be performed or observed on behalf of the Mortgagor, to the end that the Mortgagor's rights under the Lease Agreement shall be kept unimpaired from default, and the Mortgagor shall permit the Mortgagee to enter upon the Property with or without notice and to do anything which the Mortgagee shall deem necessary or prudent for such purpose.

(f) if the Mortgagee shall make any payment or take action in accordance with the preceding paragraph, the Mortgagee, within thirty (30) days thereafter, shall give to the Mortgagor written notice of the making of any such payment or the taking of any such action. All moneys expended by the Mortgagee in connection therewith including, but not limited to, legal expenses, shall be paid by the Mortgagor to the Mortgagee upon demand by the Mortgagee, and shall be secured by this Mortgage. The Mortgagee shall have, in addition to any other right or remedy of the Mortgagee, the same rights and remedies in the event of nonpayment of any such sums by the Mortgagor as in the case of a default by the Mortgagor in the payment and performance of the Secured Obligations. If, pursuant to the Lease Agreement, the lessor of the Lease Agreement shall deliver to the Mortgagee a duplicate copy of any notice given by the lessor of the Lease Agreement to the Mortgagor, such notice shall constitute full protection to the Mortgagee for any action taken or omitted to be taken by the Mortgagee, in good faith, in reliance thereon.

(g) the Mortgagor shall (i) promptly notify the Mortgagee in writing of any default by the Mortgagor under the Lease Agreement or of the receipt by the Mortgagor of any notice (other than notices customarily sent on a regular periodic basis) from the lessor of the Lease Agreement under the Lease Agreement including without limitation any notice claiming any default by the Mortgagor in the performance or observance of any of the terms, covenants, or conditions to be performed or observed by the Mortgagor under the Lease Agreement; (ii) promptly notify the Mortgagee in writing of the receipt by the Mortgagor of any notice from the lessor of the Lease Agreement under the Lease Agreement of termination of the Lease Agreement pursuant to the provisions of the Lease Agreement; and (iii) promptly cause a copy of each such notice received by the Mortgagor to be delivered to the Mortgagee.

(h) if the Lease Agreement provides for arbitration, the Mortgagor shall promptly notify the Mortgagee in writing of any request made by either party to the Lease Agreement for arbitration proceedings pursuant to the Lease Agreement and of the institution of any arbitration proceedings, as well as of all proceedings thereunder, and shall promptly deliver to the Mortgagee a copy of the determination of the arbitrators in each such arbitration proceeding. The Mortgagee shall have the right to participate in such arbitration proceedings in association with the Mortgagor or on its own behalf as an interested party.

(i) the Mortgagor shall not, without the prior written consent of the Mortgagee, consent to any agreement which releases the Mortgagor from any of its obligations under the Lease Agreement, exercise any option to purchase the Property contained in the Lease Agreement, or consent to or permit any waiver, modification or cancellation of any provision of the Lease Agreement, the surrender or termination of the Lease Agreement, or the subordination of the Lease Agreement to any mortgage of the fee interest of the lessor of the Lease Agreement of the Property (other than the subordination provisions of this Mortgage).



(j) the Mortgagor shall not sell, transfer or assign the Lease Agreement or any portion of the Mortgagor's interest therein without the prior written consent of the Mortgagee and the lessor of the Lease Agreement first had and obtained.

(k) if at any time the Mortgagor, or any party claiming by, through or under the Mortgagor, and/or any trustee in bankruptcy, shall have the right to assume or reject the Lease Agreement pursuant to Section 365 of the United States Bankruptcy Code, 11 U.S.C. Section 101, et seq., as the same may be amended (the "Code") or any successor statute, then the Mortgagee shall have (and is hereby granted) the exclusive right to exercise such right to assume or reject. In the event that the foregoing grant is held to be unenforceable by a court of competent jurisdiction, then and in such case the Mortgagor hereby covenants and agrees that the Mortgagor, any party claiming by, through or under the Mortgagor, and/or any trustee in bankruptcy shall not exercise any rights to assume or reject the Lease Agreement without having first obtained the prior written consent of the Mortgagee.

(l) the Mortgagor shall irrevocably and unconditionally assigns, transfers and sets over to the Mortgagee all of the Mortgagor's claims and rights to the payment of damages arising under the Code from any rejection of the Lease Agreement by lessor of the Lease Agreement. The Mortgage and all the liens, terms, covenants and conditions of this Mortgage shall extend to and cover the Mortgagor's possessory rights under Section 365(h) of the Bankruptcy Code and to any claim for damages due to the rejection or disaffirmance of the Lease Agreement or other termination of the Lease Agreement. The Mortgagee shall have the right to proceed in its own name or in the name of the Mortgagor in respect of any claim, suit, action or proceeding relating to the rejection of the Lease Agreement, including but not limited to the right to file and prosecute, to the exclusion of the Mortgagor, any proofs of claim, complaints, motions, applications, notices and other documents. The Mortgagor shall agree to execute any and all powers, authorizations, consents and other documents required by the Mortgagee in connection with any such litigation. The Mortgagor shall not commence any suit, action, proceeding or case, or file any application or make any motion, in respect of the Lease Agreement in any such case under the Code without the prior written consent of the Mortgagee. The Mortgagor shall, upon demand, pay to the Mortgagee all costs and expenses (including but not limited to attorneys' fees) paid or incurred by the Mortgagee in connection with the prosecution or conduct of each such litigation.

(m) the Mortgagor shall execute and deliver, on request of the Mortgagee, such instruments as Mortgagee may deem useful or required to permit the Mortgagee to cure any default under the Lease Agreement or to permit the Mortgagee to take such other actions as the Mortgagee considers desirable to cure or remedy the matter in default and preserve the interest of the Mortgagee in the Property.

(n) in the event that the Mortgagor acquires the fee interest in the Property subject to the Lease Agreement, whether by exercise of any purchase option contained in the Lease Agreement or otherwise, so long as any of the Mortgagor's obligations to the Mortgagee remain unpaid, the fee title to and the leasehold estate in the Property, or any portion thereof, shall not merge, but shall always be kept separate and distinct, notwithstanding the union of such estates either in the lessor or the lessee under the Lease Agreement or in a third party, by purchase or otherwise. The Mortgagor shall not agree to any merger of the leasehold and fee without the prior written consent of the Mortgagee.

(o) In the event that the Mortgagor, so long as any portion of the Secured Obligations remain outstanding, shall be the owner and holder of the fee title to the Land, the lien of this Mortgage shall be spread to cover the Mortgagor's fee title to the Land and said fee title shall be deemed to be included in the Property. The Mortgagor agrees, at its sole cost and expense, including without limitation the Mortgagee's reasonable attorneys' fees, to (i) execute any and all documents or instruments necessary to



subject its fee title to the Land to the lien of this Mortgage; and (ii) provide a title insurance policy which shall insure that the lien of this Mortgage is a first lien on Mortgagor's fee title to the Land. Notwithstanding the foregoing, if the Lease Agreement is for any reason whatsoever terminated prior to the natural expiration of its term, and if, pursuant to any provisions of the Lease Agreement or otherwise, the Mortgagee or its designee shall acquire from the landlord thereunder another lease of the Land, the Mortgagor shall have no right, title or interest in or to such other lease or the leasehold estate created thereby.

(p) The Mortgagor shall warrant and defend the leasehold estate created by the Lease Agreement for the entire remainder of the term set forth in the Lease Agreement, against each and every person or persons lawfully claiming, or who may claim the same or any part of the Lease Agreement, subject only to the payment of the rents reserved in the Lease Agreement and to the performance and observance of all the terms, covenants, conditions and warranties of the Lease Agreement.

(q) The generality of the provisions of sections in this Mortgage relating to the Lease Agreement shall not be limited by other provisions of this Mortgage setting forth particular obligations of the Mortgagor which are also required of the Mortgagor as the lessee under the Lease Agreement.

## ARTICLE II

### POSSESSION AND ADMINISTRATION OF THE PROPERTY

#### SECTION 2.1 Impositions.

(a) The Mortgagor will pay or cause to be paid in a timely manner all taxes, assessments and other charges now or hereafter levied against the Property, or any part thereof, and also any and all license fees or similar charges which may be imposed by the municipality in which the Premises are situated for the use of walks, areas, air space, parking areas and other space or facilities beyond the lot line and on or abutting the public sidewalks in front of or adjoining the Premises, together with any penalties or interest on any of the foregoing; and in the case of default in the payment thereof, the Mortgagee may (but shall not be obligated to) pay the same and the Mortgagor will repay or cause to be repaid such sum, and such sum shall be added to the indebtedness secured by this Mortgage.

(b) The Mortgagor will not claim any credit on or make any deduction from the interest or principal of the Secured Obligations by reason of the payment of any taxes levied or to be levied on the Property, or any part thereof, during the continuance of the Lien of this Mortgage.

SECTION 2.2 Warranty of Title. The Mortgagor warrants that the Mortgagor has good and indefeasible leasehold title in the Premises pursuant to the Lease Agreement, , free and clear from all encumbrances (subject only to the Permitted Exceptions), and that the Mortgagor has full power and lawful authority to convey and encumber the same; that the Mortgagor shall and will make, execute, acknowledge and deliver all such further or other deeds, instruments or assurances as may at any time hereafter be reasonably desired or required by the Mortgagee to more fully and effectually convey the Property for the purposes aforesaid; and that the Mortgagor will warrant and defend the Property against all persons whomsoever, except for claims arising pursuant to the Permitted Exceptions.



SECTION 2.3      Waste. The Mortgagor will cause the Improvements now or hereafter constructed on, and constituting part of, the Property to be protected and to be kept in good order and repair and will not commit or suffer any waste, deterioration or impairment of the Property whereby the value of the Property might be materially impaired. In the event that such waste, deterioration or impairment of the Property shall occur, which such waste, deterioration or impairment is not promptly cured by the Mortgagor, the Mortgagee may (but shall not be obligated to) take such action as may be necessary to remedy such condition and the Mortgagor shall repay or cause to be repaid all costs and expenses associated with such remedy and such sum shall be added to the Secured Obligations.

SECTION 2.4      Inspection. The Mortgagee and any persons authorized by the Mortgagee shall have the right to enter and inspect the Property at all reasonable times and upon reasonable prior notice to the Mortgagor; provided that, upon the occurrence and during the continuance of an Event of Default, the Mortgagee may do any of the foregoing at any time without advance notice.

SECTION 2.5      Compliance with Governmental Authorities. The Mortgagor will comply with or cause to be complied with in all material respects, all statutes, ordinances and requirements of any Governmental Authority relating to the Property. The Mortgagor will not initiate, join in, or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restrictions, limiting or defining the uses which may be made of the Premises, or any part thereof, without the prior written consent of the Mortgagee, which shall not be unreasonably withheld.

### ARTICLE III

#### ASSIGNMENT OF LEASES AND RENTS

SECTION 3.1      Assignment. The Mortgagor hereby assigns to the Mortgagee all Rents and all of the Mortgagor's rights in and under all Leases. So long as no Event of Default has occurred, the Mortgagor shall have a license (which license shall terminate automatically and without further notice upon the occurrence of an Event of Default) to collect, but not prior to accrual, the Rents under the Leases and, where applicable, subleases, such Rents to be held in trust for the Mortgagee and to otherwise deal with all Leases as permitted by this Mortgage. Each month, provided no Event of Default has occurred, the Mortgagor may retain such Rents as were collected that month and held in trust for the Mortgagee. Upon the revocation of such license, all Rents shall be paid directly to the Mortgagee and not through the Mortgagor, all without the necessity of any further action by the Mortgagee, including, without limitation, any action to obtain possession of the Land, Improvements or any other portion of the Property or any action for the appointment of a receiver. The Mortgagor hereby authorizes and directs the tenants under the Leases to pay Rents to the Mortgagee upon written demand by the Mortgagee, without further consent of the Mortgagor, without any obligation of such tenants to determine whether an Event of Default has in fact occurred and regardless of whether the Mortgagee has taken possession of any portion of the Property, and the tenants may rely upon any written statement delivered by the Mortgagee to the tenants. Any such payments to the Mortgagee shall constitute payments to the Mortgagor under the Leases. The curing of an Event of Default, unless any other Event of Default also then exists, shall entitle the Mortgagor to recover its aforesaid license to do any such things which the Mortgagor might otherwise do with respect to the Property and the Leases thereon and to again collect such Rents. The powers and rights granted in this paragraph shall be in addition to the other remedies herein provided for upon the occurrence of an Event of Default and may be exercised independently of or concurrently with any of said remedies. Nothing in the foregoing shall be construed to impose any obligation upon the Mortgagee to exercise any power or right granted in this Section 3.1 or to assume any liability under any Lease of any part of the Property and no liability shall attach to the Mortgagee for failure or inability to collect any Rents under any such Lease. The assignment contained in this Section 3.1 shall become null and void upon the release of this Mortgage.



SECTION 3.2                      Covenants, Representations and Warranties Concerning Leases and Rents. The Mortgagor covenants, represents and warrants that: (a) the Mortgagor has good title to, and is the owner of the entire landlord's interest in, the Leases and Rents hereby assigned and authority to assign them; (b) all Leases are valid and enforceable, and in full force and effect, and are unmodified except as stated therein; (c) neither the Mortgagor nor any tenant in the Property is in default under its Lease (and no event has occurred which with the passage of time or notice or both would result in a default under its Lease) or is the subject of any bankruptcy, insolvency or similar proceeding; (d) unless otherwise stated in a Permitted Exception, no Rents or Leases have been or will be assigned, mortgaged, pledged or otherwise encumbered and no other Person has or will acquire any right, title or interest in such Rents or Leases; (e) no Rents have been waived, released, discounted, set off or compromised; (f) except as stated in the Leases, the Mortgagor has not received any funds or deposits from any tenant for which credit has not already been made on account of accrued Rents; (g) the Mortgagor shall perform all of its obligations under the Leases and enforce the tenants' obligations under the Leases to the extent enforcement is prudent under the circumstances; (h) the Mortgagor will not without the prior written consent of the Mortgagee, enter into any Lease after the date hereof, or waive, release, discount, set off, compromise, reduce or defer any Rents, receive or collect Rents more than one (1) month in advance, grant any rent-free period to any tenant, reduce any Lease term or waive, release or otherwise modify any other material obligation under any Lease, renew or extend any Lease except in accordance with a right of the tenant thereto in such Lease, approve or consent to an assignment of a Lease or a subletting of any part of the premises covered by a Lease, or settle or compromise any claim against a tenant under a Lease in bankruptcy or otherwise; (i) the Mortgagor will not, without the prior written consent of the Mortgagee, which shall not be unreasonably withheld, terminate or consent to the cancellation or surrender of any Lease having an unexpired term of one (1) year or more; (j) the Mortgagor shall give prompt notice to the Mortgagee, as soon as the Mortgagor first obtains notice, of any claim, or the commencement of any action, by any tenant or subtenant under or with respect to a Lease regarding any claimed damage, default, diminution of or offset against Rents, cancellation of the Lease, or constructive eviction, and the Mortgagor shall defend, at the Mortgagor's expense, any proceeding pertaining to any Lease, including, if the Mortgagee so requests, any such proceeding to which the Mortgagee is a party; (k) the Mortgagor shall as often as requested by the Mortgagee, within ten (10) days of each request, deliver to the Mortgagee a complete rent roll of the Property in such detail as the Mortgagee may require and financial statements of the tenants, subtenants and guarantors under the Leases to the extent available to the Mortgagor, and deliver to such of the tenants and others obligated under the Leases specified by the Mortgagee written notice of the assignment in Section 3.1 hereof in form and content satisfactory to the Mortgagee; (l) promptly upon request by the Mortgagee, the Mortgagor shall deliver to the Mortgagee executed originals of all Leases and copies of all records relating thereto; and (m) there shall be no merger of the leasehold estates created by the Leases with the fee estate of the Land without the prior written consent of the Mortgagee.

SECTION 3.3                      Estoppel Certificates. All future Leases and extensions or renewals of existing Leases shall require the tenant to execute and deliver to the Mortgagee an estoppel certificate in form and substance acceptable to the Mortgagee within ten (10) days after notice from the Mortgagee.

SECTION 3.4                      No Liability of the Mortgagee. The Mortgagee's acceptance of this assignment shall not be deemed to constitute the Mortgagee a "mortgagee in possession," nor obligate the Mortgagee to appear in or defend any proceeding relating to any Lease or to the Property, or to take any action hereunder, expend any money, incur any expenses, or perform any obligation or liability under any Lease, or assume any obligation for any deposit delivered to the Mortgagor by any tenant and not as such delivered to and accepted by the Mortgagee. The Mortgagee shall not be liable for any injury or damage to person or property in or about the Property, or for the Mortgagee's failure to collect or to exercise diligence in collecting Rents, but shall be accountable only for Rents that it shall actually receive. Neither the assignment of Leases and Rents nor enforcement of the Mortgagee's rights regarding Leases and



Rents (including collection of Rents) nor possession of the Property by the Mortgagee nor the Mortgagee's consent to or approval of any Lease (nor all of the same), shall render the Mortgagee liable on any obligation under or with respect to any Lease or constitute affirmation of, or any subordination to, any Lease, occupancy, use or option.

If the Mortgagee seeks or obtains any judicial relief regarding Rents or Leases, the same shall in no way prevent the concurrent or subsequent employment of any other appropriate rights or remedies nor shall same constitute an election of judicial relief for any foreclosure or any other purpose. The Mortgagee neither has nor assumes any obligations as lessor or landlord with respect to any Lease. The rights of the Mortgagee under this Article III shall be cumulative of all other rights of the Mortgagee under the Loan Documents or otherwise.

#### ARTICLE IV

#### REMEDIES

**SECTION 4.1**            Remedies. In addition to, and without limitation of, remedies set forth in the Credit Agreement, the other Loan Documents, the Canadian Credit Agreement, the other Canadian Loan Documents and Applicable Law, upon the occurrence of an Event of Default, and at any time thereafter during the continuance of such Event of Default, to the extent permitted by Applicable Law, the Mortgagee may, and upon the request of the Required Lenders shall, exercise any or all of the following remedies:

(a)        the Mortgagee may enter into and upon all or any part of the Property and may exclude the Mortgagor and its agents and servants wholly therefrom, and having and holding the same may use, operate, develop, manage and control the Property, or any part thereof, and conduct the business of the Mortgagor (including, without limitation, exercising any and all rights of the Mortgagor under the Leases and any other applicable lease with respect to the Property), either personally, or by the Mortgagee's agents, attorneys, receivers or trustees, in such manner as the Mortgagee may deem to be to the Mortgagee's best advantage. To the extent permitted by Applicable Law, the Mortgagee shall be entitled to collect and receive all Rents, for the benefit of the Secured Parties or to otherwise exercise all of the Mortgagor's rights with respect to the Rents after deducting all associated expenses, and all necessary repairs, maintenance, renewals, replacements, alterations, additions, betterments and improvements, and all payments which may be made for taxes, assessments, insurance and other charges creating Liens on the Property, or any part thereof, as well as reasonable compensation for their own services and for the services of their counsel, agents, clerks, servants and other employees by them properly engaged and employed, provided no compensation shall be paid to any employee, agent or clerk of the Mortgagee above the level of property manager employed in connection with the exercise of the Mortgagee's rights under this Section 4.1(a).

(b)        the Mortgagee shall apply the balance of the money derived from the operation and management of the Property and business in the manner set forth in Section 4.4 below.

(c)        the Mortgagee may bring an appropriate action to recover any sums required to be paid by the Mortgagor under the terms of the Loan Documents and/or the Canadian Loan Documents, as they become due, without regard to whether or not the principal indebtedness or any other sums evidenced by the Loan Documents and/or the Canadian Loan Documents and secured by this Mortgage shall be due, and without prejudice to the right of the Mortgagee thereafter to bring an action of foreclosure, or any other action, for any Event of Default existing at the time the earlier action was commenced.



(d) the Mortgagee may declare the Secured Obligations, or any of them, to be immediately due and payable, and unless same are paid or performed on demand, the Mortgagee may resort to any and all remedies provided in any Loan Document or in any Canadian Loan Document or by law and in equity.

(e) the Mortgagee may foreclose the Lien of this Mortgage.

(f) the Mortgagee may exercise any or all of the remedies available to a secured party under the Code, including, but not limited to, selling, leasing or otherwise disposing of any fixtures and personal property which is encumbered hereby at public sale, with or without having such fixtures or personal property at the place of sale, and upon such terms and in such manner as the Mortgagee may determine. The Mortgagee and the Secured Parties, or any of them, may be a purchaser at any such public sale of such fixtures or personal property.


(g) the Mortgagee may proceed to protect and enforce the Mortgagee's and Secured Parties' rights under this Mortgage, any other Loan Document or any other Canadian Loan Document by a suit or suits in equity or at law, whether for the specific performance of any covenant or agreement, assistance in connection with the execution of any power granted herein or other appropriate legal or equitable remedy.

(h) the Mortgagee may apply to an appropriate court for the appointment of a receiver of the Rents of the Property, and the Mortgagee shall be entitled to the appointment of such a receiver as a matter of right without consideration of the value of the Property as security for the amounts due the Mortgagee and the other Secured Parties or the solvency of any person or entity liable for the payment of such amounts.

(i) the Mortgagee may sell the Property (or any part thereof designated by the Mortgagee) at public outcry to the highest bidder for cash in front of the courthouse door in the county where the Property is located, either in person or by auctioneer, after having first given notice of the time, place and terms of sale by publication once a week for three (3) successive weeks prior to said sale in some newspaper published in said county, and, upon payment of the purchase money, the Mortgagee or any person conducting the sale for the Mortgagee is authorized to execute to the purchaser at said sale a deed to or assignment of the Property so purchased. The Mortgagee may bid at said sale and purchase said Property, or any part thereof, if the highest bidder therefor, and apply all or any part of the Secured Obligations secured hereby as a credit against the purchase price.

In the event the Property, or any portion thereof, is sold pursuant to any writ of execution on a judgment obtained by virtue of any Loan Document or any Canadian Loan Document or pursuant to a power of sale as contemplated and provided for hereby, or pursuant to any other judicial proceedings under any Loan Document or any Canadian Loan Document, the Property may be sold as a whole or as separate parcels and in such manner or order as the Mortgagee in its reasonable discretion may elect.

To the extent permitted by Applicable Law, any judicial sale or sales made under or by virtue of this Mortgage (including pursuant to a power of sale contemplated and provided for hereby), shall operate to divest all right, title, interest, claim and demand whatsoever, either at law or in equity, of the Mortgagor in and with respect to the Property sold and shall be a perpetual bar, both at law and in equity, against the Mortgagor, its successors and assigns, and against any and all persons claiming the Property, or any part thereof, through or under the Mortgagor.

  
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SECTION 4.2            Remedies Not Exclusive. The Mortgagee shall be entitled to enforce payment and performance of the applicable Secured Obligations secured hereby and to exercise all rights and powers under this Mortgage, or any laws now or hereafter enforced, notwithstanding that some of the applicable Secured Obligations may now or hereafter be otherwise secured. Neither the acceptance of this Mortgage nor its enforcement, shall prejudice or in any manner affect the Mortgagee's right to realize upon or enforce any other security now or hereafter held by the Mortgagee or by the Secured Parties or any of them, it being agreed that the Mortgagee shall be entitled to enforce this Mortgage and any other security now or hereafter held by the Mortgagee and the Secured Parties or any of them in such order and manner as they or any of them may in their absolute discretion determine. No remedy herein conferred upon or reserved to the Mortgagee is intended to be exclusive of any other remedy in this Mortgage, in the other Loan Documents, in the Canadian Loan Documents or by Applicable Law provided to the Mortgagee or any other Secured Party or to preclude any other remedy in this Mortgage, in the other Loan Documents, in the Canadian Loan Documents or by Applicable Law provided or permitted to the Mortgagee or any other Secured Party, but each such remedy shall be cumulative and shall be in addition to every other remedy given in this Mortgage, in the other Loan Documents, in the Canadian Loan Documents or now or hereafter existing at law or in equity. Every power or remedy given by any of the Loan Documents or any of the Canadian Loan Documents, as applicable, to the Mortgagee or any Secured Party, as applicable, or to which any of them may be otherwise entitled, may be exercised concurrently or independently from time to time and as often as may be deemed expedient by the Mortgagee or such Secured Party, as applicable.

SECTION 4.3            Powers and Rights Not Waived. Any failure by the Mortgagee or the Secured Parties to insist upon the strict performance by the Mortgagor of any of the terms and provisions hereof shall not be deemed to be a waiver of any of the terms and provisions hereof, and the Mortgagee and the Secured Parties, notwithstanding any such failure, shall have the right thereafter to insist upon the strict performance by the Mortgagor of any and all of the terms and provisions of this Mortgage to be performed by the Mortgagor. Neither the Mortgagor nor any other Person now or hereafter obligated for the payment of the whole or any part of the sums now or hereafter secured by this Mortgage shall be relieved of such obligation by reason of the failure of the Mortgagee or the Secured Parties to comply with any request of the Mortgagor, or of any other Person so obligated, to take action to foreclose this Mortgage or otherwise enforce any of the provisions of this Mortgage or any obligations secured by this Mortgage, or by reason of the release, regardless of consideration, of the whole or any part of the security held for the indebtedness secured by this Mortgage, or by reason of any agreement or stipulation between any subsequent owner or owners of the Property and the Mortgagee extending the time of payment or modifying the terms of the Secured Obligations (provided that such modifications shall not increase the principal amount of the Secured Obligations or the interest rate, except with respect to default interest rate provisions) or of this Mortgage without first having obtained the consent of the Mortgagor or such other Person, and in the latter event, the Mortgagor and all such other Persons shall continue to be liable to make such payments according to the terms of any such agreement of extension or modification unless expressly discharged in writing by the Mortgagee. Regardless of consideration, the Mortgagee may, or at the request of the Required Lenders shall, release the obligation of any party at any time liable for any of the Secured Obligations without in any way impairing or affecting the Lien hereof, and the Mortgagee and the Secured Parties may resort for the payment of the Secured Obligations to any other security therefor held by the Mortgagee and the Secured Parties in such order and manner as they may elect.

SECTION 4.4            Application of Proceeds. If an Event of Default shall have occurred and be continuing and the Mortgagee shall have exercised any of its rights or remedies with respect to the Property pursuant to this Article IV, the Mortgagee shall apply the proceeds resulting from the exercise of such rights or remedies (after deducting all reasonable costs and expenses of every kind incurred in connection therewith or incidental to the care or safekeeping of any of the Property or in any way relating



to the Property or the rights or remedies of the Mortgagee and the other Secured Parties hereunder, including, without limitation, reasonable attorneys' fees and disbursements) as follows:

FIRST, to the payment of all costs and expenses incurred by the Mortgagee in connection with such exercise of rights and remedies in connection with this Mortgage, the Credit Agreement, the Canadian Credit Agreement, any other Loan Document, any Canadian Loan Document or any of the Secured Obligations, including all court costs and the fees and expenses of its agents and legal counsel, the repayment of all advances made by the Mortgagee under this Mortgage, the Credit Agreement, the Canadian Credit Agreement, any other Loan Document or any Canadian Loan Document and any other costs or expenses incurred in connection with the exercise of any right or remedy hereunder or under the Credit Agreement, the Canadian Credit Agreement, any other Loan Document or any Canadian Loan Document;

SECOND, to the payment in full of the Secured Obligations secured hereby (each amount so applied (i) to be distributed by the Mortgagee to the Administrative Agent or the Canadian Administrative Agent as follows: (A) to the Administrative Agent, to be distributed to the Domestic Facility Secured Parties in accordance with the Credit Agreement, in an aggregate amount equal to the product of (1) the ratio that is equal to (x) the aggregate amount of the Domestic Facility Obligations over (y) the sum of the aggregate amount of the Domestic Facility Obligations plus the aggregate amount of the Canadian Facility Obligations times (2) such amount and (B) to the Canadian Administrative Agent, to be distributed to the Canadian Facility Secured Parties in accordance with the Canadian Credit Agreement, in an aggregate amount equal to the product of (1) the ratio that is equal to (x) the aggregate amount of the Canadian Facility Obligations over (y) the sum of the aggregate amount of the Canadian Facility Obligations plus the aggregate amount of the Domestic Facility Obligations times (2) such amount and (ii) to be further distributed by the Administrative Agent or Canadian Administrative Agent (as applicable) as required pursuant to the terms of the Credit Agreement or the Canadian Credit Agreement (as applicable)); and

THIRD, upon the indefeasible payment in full of the Secured Obligations secured hereby, to the Mortgagor or to whomsoever (if such Person is not the Mortgagor) may be lawfully entitled to receive the same or as a court of competent jurisdiction may otherwise direct.

The Mortgagee shall have absolute discretion as to the time of application of any such proceeds, moneys or balances in accordance with this Mortgage. Upon any sale of Property by the Mortgagee (including pursuant to a power of sale granted by statute or under a judicial proceeding), the receipt by the Mortgagee or by the officer making the sale shall be a sufficient discharge to the purchaser or purchasers of the Property so sold and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid over to the Mortgagee or such officer or be answerable in any way for the misapplication thereof. Only after (i) the payment by the Mortgagee of any other amount required by any provision of Applicable Law, including, without limitation, Section 9-610 and Section 9-615 of the Code and (ii) the indefeasible payment in full of the Secured Obligations and the termination of the Commitment and the Canadian Facility Commitments, shall the Mortgagee account for the surplus, if any, to the Mortgagor, or to whomsoever may be lawfully entitled to receive the same (if such Person is not the Mortgagor).

## ARTICLE V

### MORTGAGEE

#### SECTION 5.1

#### Appointment of Mortgagee as Attorney-In-Fact.



(a) The Mortgagor hereby irrevocably constitutes and appoints each of the Mortgagee and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of the Mortgagor or and in the name of the Mortgagor or in its own name, for the purpose of carrying out the terms of this Mortgage, effective upon the occurrence of an Event of Default, to take any and all appropriate action and to execute any and all documents and instruments which may be necessary or desirable to accomplish the purposes of this Mortgage, and, without limiting the generality of the foregoing, the Mortgagor hereby gives the Mortgagee the power and right, on behalf of the Mortgagor, without notice to or assent by the Mortgagor, to do any or all of the following upon the occurrence and during the continuation of an Event of Default:

(i) pay or discharge taxes and Liens levied or placed on or threatened against the Property, effect any repairs or any insurance called for by the terms of this Mortgage and pay all or any part of the premiums therefor and the costs thereof;

(ii) execute, in connection with any sale provided for in this Mortgage, any endorsements, assignments or other instruments of conveyance or transfer with respect to the Property;

(iii) to do all things, after an Event of Default, which the Mortgagor might otherwise do with respect to the Property and the Leases thereon, including, without limitation, (A) collecting Rents with or without suit and applying the same, less expenses of collection, to any of the obligations secured hereunder or to expenses of operating and maintaining the Property (including reasonable reserves for anticipated expenses), at the option of the Mortgagee, all in such manner as may be determined by the Mortgagee, or at the option of the Mortgagee, holding the same as security for the payment of the Secured Obligations, (B) leasing, in the name of the Mortgagor, the whole or any part of the Property which may become vacant, and (C) employing agents therefor and paying such agents reasonable compensation for their services; and

(iv) (A) commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to foreclose upon the Property or any portion thereof and to enforce any other right in respect of the Property; (B) defend any suit, action or proceeding brought against the Mortgagor with respect to the Property; (C) settle, compromise or adjust any such suit, action or proceeding and, in connection therewith, give such discharges or releases as Mortgagee may deem appropriate; and (D) generally, sell, transfer, pledge and make any agreement with respect to or otherwise deal with any of the Property as fully and completely as though the Mortgagee was the absolute owner thereof for all purposes, and do, at the Mortgagee's option and such Mortgagor's expense, at any time, or from time to time, all acts and things which the Mortgagee deems necessary to protect, preserve or realize upon the Property and the Mortgagee's and the Secured Parties' Lien therein and to effect the intent of this Mortgage, all as fully and effectively as the Mortgagor might do.

(b) If the Mortgagor fails to perform or comply with any of its agreements contained herein, the Mortgagee, at its option, but without any obligation so to do, may perform or comply, or otherwise cause performance or compliance, with such agreement in accordance with the provisions of Section 5.1(a) above.

(c) The expenses of the Mortgagee incurred in connection with actions taken pursuant to the terms of this Mortgage, together with interest thereon at a rate per annum equal to the highest rate per annum at which interest would then be payable on any category of past due Revolving Credit Loans under the Credit Agreement, from the date of payment by the Mortgagee to the date reimbursed by the Mortgagor, shall be payable by the Mortgagor to the Mortgagee on demand.



(d) The Mortgagor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof in accordance with Section 5.1(a) above. All powers, authorizations and agencies contained in this Mortgage are coupled with an interest and are irrevocable until this Mortgage is terminated and the Lien created hereby is released.

**SECTION 5.2**            Duty of Mortgagee. The sole duty of Mortgagee with respect to the custody, safekeeping and physical preservation of the Property, under Section 9-207 of the Code or otherwise, shall be to deal with it in the same manner as the Mortgagee deals with similar property for its own account. Neither the Mortgagee, any other Secured Party nor any of their respective officers, directors, employees or agents shall be liable for failure to demand, collect or realize upon any of the Property or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Property upon the request of the Mortgagor or any other Person or to take any other action whatsoever with regard to the Property or any part thereof. The powers conferred on the Mortgagee and the other Secured Parties hereunder are solely to protect the interests of the Mortgagee and the other Secured Parties in the Property and shall not impose any duty upon the Mortgagee or any other Secured Party to exercise any such powers. The Mortgagee and the other Secured Parties shall be accountable only for amounts that they actually receive as a result of the exercise of such powers, and neither they nor any of their officers, directors, employees or agents shall be responsible to the Mortgagor for any act or failure to act hereunder, except for their own gross negligence or willful misconduct.

**SECTION 5.3**            Authority of Mortgagee. The Mortgagor acknowledges that the rights and responsibilities of the Mortgagee under this Mortgage with respect to any action taken by the Mortgagee or the exercise or non-exercise by the Mortgagee of any request, judgment or other right or remedy provided for herein or resulting or arising out of this Mortgage shall, as between the Mortgagee and the Mortgagor, be conclusively presumed to be an action taken as agent for the Secured Parties with full and valid authority so to act or refrain from acting, and the Mortgagor shall not be under any obligation, or entitlement to make any inquiry respecting such authority.

**SECTION 5.4**            Intercreditor Agreements.

(a) By acceptance of the benefits of this Mortgage, each of the Secured Parties shall be deemed to have agreed to be bound by the terms hereof. The provisions of this Section 5.4 are, and are intended, solely to establish certain rights as among the Secured Parties and shall not create, and shall not be construed as creating, any rights enforceable by the Borrowers or any of them, or any Subsidiary or any Affiliate thereof, including the Mortgagor, regardless of whether the Borrowers or any of them, or any Subsidiary or any Affiliate thereof is a Secured Party, or rights enforceable by the Canadian Administrative Agent against the Borrowers or any of them, or any Subsidiary or any Affiliate thereof, including the Mortgagor, unless and to the extent required by the express terms of the Canadian Credit Agreement and the other Canadian Loan Documents (excluding this Mortgage).

(b) By acceptance of the benefits of this Mortgage, each of the Secured Parties (other than the Mortgagee) shall be deemed irrevocably (i) to consent to the appointment of the Mortgagee as its agent hereunder, (ii) to confirm that the Mortgagee shall have the authority to act as the exclusive agent of such Secured Party for enforcement of any provisions of this Mortgage against the Mortgagor or the exercise of remedies hereunder and (iii) to agree that such Secured Party shall not take any action to enforce any provisions of this Mortgage against the Mortgagor or to exercise any remedy hereunder.

(c) The Mortgagee shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the



Secured Parties as shall be necessary, or as the Mortgagee shall believe in good faith shall be necessary, under the circumstances as provided herein or in the Credit Agreement or in the Canadian Credit Agreement) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by a final nonappealable judgment.

(d) Neither the Canadian Administrative Agent nor any Canadian Facility Secured Party shall be entitled to, and none of such Persons shall, (i) direct the actions of the Mortgagee hereunder, (ii) take any action, or commence any legal proceeding seeking, to require, compel or cause the Mortgagee to enforce any provisions of this Mortgage against the Mortgagor or to exercise any remedy hereunder, (iii) take any action, or commence any legal proceeding seeking, to prevent or enjoin the Mortgagee from taking any action (including, without limitation, the enforcement of any provisions of this Mortgage against the Mortgagor, the exercise of any remedy hereunder, the release of any Property hereunder or the consent to any amendment or modification of this Mortgage or the grant of any waiver hereunder), or refraining from taking any such action, in accordance with this Mortgage or (iv) take any action, or commence any legal proceeding seeking, to delay, hinder or otherwise impair the Mortgagee in taking any such action in accordance with this Mortgage. By acceptance of the benefits under this Mortgage, the Canadian Administrative Agent and each Canadian Facility Secured Party will each be deemed to have acknowledged and agreed that the provisions of the preceding sentence are intended to induce the Mortgagee and the Domestic Facility Secured Parties to permit each of the Canadian Administrative Agent and each Canadian Facility Secured Party to be a Secured Party under this Mortgage and are being relied upon by the Mortgagee and the Domestic Facility Secured Parties as consideration therefor.

(e) **THE MORTGAGEE HAS CONSENTED TO SERVE AS MORTGAGEE HEREUNDER ON THE EXPRESS UNDERSTANDING THAT THE CANADIAN ADMINISTRATIVE AGENT, AND EACH CANADIAN FACILITY SECURED PARTY, BY ACCEPTING THE BENEFITS OF THIS MORTGAGE, SHALL EACH BE DEEMED TO HAVE AGREED THAT THE MORTGAGEE SHALL HAVE NO DUTY AND SHALL OWE NO OBLIGATION OR RESPONSIBILITY (FIDUCIARY OR OTHERWISE) TO THE CANADIAN ADMINISTRATIVE AGENT OR ANY CANADIAN FACILITY SECURED PARTY, OTHER THAN THE DUTY TO PERFORM ITS EXPRESS OBLIGATIONS UNDER THIS MORTGAGE IN ACCORDANCE WITH THEIR TERMS, SUBJECT IN ALL EVENTS TO THE PROVISIONS OF SECTION 5.5 HEREOF AND THE OTHER PROVISIONS OF THIS MORTGAGE LIMITING THE RESPONSIBILITY OR LIABILITY OF THE MORTGAGEE HEREUNDER. WITHOUT LIMITING THE FOREGOING, THE CANADIAN ADMINISTRATIVE AGENT, AND EACH CANADIAN FACILITY SECURED PARTY, BY ACCEPTING THE BENEFITS OF THIS MORTGAGE, SHALL EACH BE DEEMED TO HAVE WAIVED ANY RIGHT THAT THE CANADIAN ADMINISTRATIVE AGENT OR ANY CANADIAN FACILITY SECURED PARTY MIGHT HAVE AS A SECURED PARTY UNDER APPLICABLE LAW OR OTHERWISE, TO COMPEL THE SALE OR OTHER DISPOSITION OF ANY PROPERTY, AND ANY OBLIGATION THE MORTGAGEE MIGHT HAVE, UNDER APPLICABLE LAW OR OTHERWISE, TO OBTAIN ANY MINIMUM PRICE FOR ANY PROPERTY UPON THE SALE THEREOF, IT BEING EXPRESSLY UNDERSTOOD, AND THE AVAILABILITY OF THE BENEFITS OF THIS MORTGAGE TO THE CANADIAN ADMINISTRATIVE AGENT AND EACH CANADIAN FACILITY SECURED PARTY BEING CONDITIONED UPON THE UNDERSTANDING, THAT THE SOLE RIGHT OF THE CANADIAN ADMINISTRATIVE AGENT AND EACH CANADIAN FACILITY SECURED PARTY**





**SHALL BE TO RECEIVE ITS SHARE OF ANY PROCEEDS OF THE PROPERTY IN  
ACCORDANCE WITH SECTION 4.4 HEREOF.**

(f) By acceptance of the benefits of this Mortgage, each of the Secured Parties shall, ratably in accordance with the amount of the Secured Obligations owed to it, indemnify the Mortgagee (to the extent it shall not have been reimbursed by the Mortgagor) against any expense or liability that the Mortgagee would be entitled to recover from the Mortgagor pursuant to the Credit Agreement or any other Loan Document. Any amount so owed by a Secured Party can be withheld by the Mortgagee from any amount owed to such Secured Party.

(g) The Mortgagee shall be entitled to rely on information provided by the Secured Parties, or representatives of the Secured Parties, as to the amount of the Secured Obligations.

(h) The Mortgagee and each of the Secured Parties hereby agrees that the Liens granted to the Mortgagee hereunder shall be treated, as among the Secured Parties, as being for the equal and proportionate benefit of all the Secured Parties, without preference, priority, prejudice or distinction as to the Lien of any Secured Party over any other Secured Party, and shall at all times be shared among the Secured Parties as provided herein.

**SECTION 5.5                    Limitations on Responsibility of the Mortgagee.**

(a) The Mortgagee shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Mortgage, any other Loan Document or any other Canadian Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default or Event of Default or (iv) the validity, enforceability, effectiveness or genuineness of this Mortgage, any other Loan Document, any other Canadian Loan Document or any other agreement, instrument or document.

(b) The Mortgagee makes no representation as to the value or condition of the Property or any part thereof, as to the title of the Mortgagor to the Property, as to the security afforded by this Mortgage or as to the validity, execution, enforceability, legality or sufficiency of this Mortgage, and the Mortgagee shall incur no liability or responsibility in respect of any such matters. The Mortgagee shall not be responsible for insuring the Property, for the payment of taxes, charges, assessments or Liens upon the Property or otherwise for the maintenance of the Property, except as provided in the immediately following sentence when the Mortgagee has possession or control of the Property. Except as otherwise provided herein, the Mortgagee shall have no duty to the Mortgagor, the other Secured Parties or to any other holders of the Secured Obligations as to any Property in its possession or control, or in the possession or control of any agent or nominee of the Mortgagee, or any income thereon or as to the preservation of rights against prior parties or any other rights pertaining thereto, except the duty to accord such Property the same care that it normally accords to its own assets and the duty to account for moneys received by it. Neither the Mortgagee, any Secured Party nor any of their respective officers, directors, employees or agents shall be liable for failure to demand, collect or realize upon any of the Property or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Property upon the request of the Mortgagor or any other Person or to take any other action whatsoever with regard to the Property or any part thereof. The powers conferred on the Mortgagee and the Secured Parties hereunder are solely to protect the Mortgagee's and the Secured Parties' interests in the Property and shall not impose any duty upon the Mortgagee or



any Secured Party to exercise any such powers. The Mortgagee and the Secured Parties shall be accountable only for amounts that they actually receive as a result of the exercise of such powers, and neither they nor any of their officers, directors, employees or agents shall be responsible to the Mortgagor for any act or failure to act hereunder, except for their own gross negligence or willful misconduct.

(c) Neither the Mortgagee nor any officer, agent or representative thereof shall be personally liable for any action taken or omitted to be taken by any such person in connection with this Mortgage except for such person's own gross negligence or willful misconduct (it being understood that any action taken in accordance with the terms of this Mortgage by the Mortgagee or any such officer, agent or representative at the direction or instruction of any Secured Party and/or the Mortgagee (or not taken, in the absence of any such directions or instructions) shall not constitute gross negligence or willful misconduct).

(d) The Mortgagee may execute any of the powers granted under this Mortgage and perform any duty hereunder either directly or by or through agents or attorneys-in-fact, and shall not be responsible for the negligence or misconduct of any agents or attorneys-in-fact selected by it without gross negligence or willful misconduct.

(e) The Mortgagee shall not be subject to any fiduciary or other implied duties, regardless of whether a Default or an Event of Default has occurred and is continuing.

(f) The Mortgagee shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Mortgagee is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents); provided that the Mortgagee shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Mortgagee to liability or that is contrary to any Loan Document or Applicable Law.

(g) The Mortgagee shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Parent, the Borrowers, the Mortgagor or any of their respective Subsidiaries or Affiliates that is communicated to or obtained by the Person serving as the Mortgagee or any of its Affiliates in any capacity.

(h) The Mortgagee shall be deemed not to have knowledge of any Default or Event of Default unless and until notice describing such Default or Event of Default is given to the Mortgagee by an authorized officer of either of the Borrowers.

**SECTION 5.6**      Reliance by Mortgagee. The Mortgagee shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Mortgagee also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. The Mortgagee may consult with legal counsel (who may be counsel for the Borrowers and the Mortgagor), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.



SECTION 5.7                      Resignation and Removal of the Mortgagee. In the event the Mortgagee is removed as, or resigns as, Administrative Agent under the Credit Agreement, the entity or Person who shall become successor Administrative Agent under the terms of the Credit Agreement shall become successor Mortgagee hereunder. Upon such succession, the former Mortgagee shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case that title to the Property is held by the Mortgagee on behalf of the Secured Parties, the former Mortgagee shall continue to hold such title to such Property until such time as a successor Mortgagee is identified) and (b) all payments, communications and determinations provided to be made by, to or through the Mortgagee shall instead be made by or to each Secured Party directly, until such time as a successor Mortgagee is identified. Such successor Mortgagee shall succeed to and become vested with all of the rights, powers, privileges and duties of the former Mortgagee, and the former Mortgagee shall be discharged from all of its duties and obligations hereunder (if not already discharged therefrom as provided above in this paragraph). The fees payable by the Borrowers and their respective Subsidiaries (including the Mortgagor) to a successor Mortgagee shall be the same as those payable to its predecessor unless otherwise agreed between the Borrowers and such successor. After the former Mortgagee's removal hereunder and under the other Loan Documents, the provisions of this Article V and Sections 1.4 and 6.4 shall continue in effect for the benefit of such former Mortgagee, its sub agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the former Mortgagee was acting as Mortgagee.

## ARTICLE VI

### MISCELLANEOUS

SECTION 6.1                      Notices. Any notice, demand or other communication which, by any provision of this Mortgage, is required or permitted to be given or served by or to the Mortgagee, the Secured Parties or the Mortgagor shall be conclusively deemed to have been properly given or served by the sending party and to be effective if made in compliance with Section 13.1 of the Credit Agreement (with a copy to the Canadian Administrative Agent at the address set forth in Section 14.1 of the Canadian Credit Agreement) and, in the case of the Mortgagor, at the address set forth in the preamble to this Mortgage.

SECTION 6.2                      Severability. To the extent any provision of this Mortgage may be deemed invalid or unenforceable under any Applicable Law, such provision shall be deemed void and inoperative and shall not form part of this Mortgage, but the remainder of this Mortgage shall remain in full force and effect. The parties hereto specifically declare that they would have entered into this Mortgage if any such void provisions had been omitted herefrom.

SECTION 6.3                      Governing Law. This Mortgage shall be deemed to be a contract entered into pursuant to the laws of the state of New York and shall in all respects be governed by, construed and enforced in accordance with the laws of the state of New York; provided, however, that with respect to the creation, perfection, priority and enforcement of the Lien or interest of this Mortgage, the laws of the State shall apply.

SECTION 6.4                      Stamp Tax Indemnity. Except as may be prohibited by Applicable Law, if at any time the United States of America, any state thereof or any governmental subdivision of such state having jurisdiction, shall require revenue, excise or documentary stamps to be affixed to this Mortgage, or other tax (including without limitation the mortgage recording privilege tax imposed by the State) to be paid on or in connection therewith, the Mortgagor will pay the same with any interest or penalties imposed in connection therewith. The provisions of this Section 6.4 shall survive any termination, release or satisfaction of this Mortgage.



SECTION 6.5 Credit Agreement. The terms and provisions of the Credit Agreement are incorporated in this Mortgage by reference. In the event of any conflict between the provisions of this Mortgage and those of the Credit Agreement, the provisions of the Credit Agreement shall control; provided that the inclusion of supplemental rights or remedies in favor of the Mortgagee, the Administrative Agent or the other Secured Parties in this Mortgage shall not be deemed a conflict with Credit Agreement.

SECTION 6.6 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS MORTGAGE, ANY OTHER LOAN DOCUMENT, ANY OTHER CANADIAN LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS MORTGAGE, THE OTHER LOAN DOCUMENTS AND THE OTHER CANADIAN LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 6.6.

SECTION 6.7 Redemption. The Mortgagor, for itself and all persons receiving title from the Mortgagor, waives all rights of redemption to which the Mortgagor and those persons would otherwise be entitled if this Mortgage is at any time foreclosed.

SECTION 6.8 Fixture Filings. In addition to all of its other rights under this Mortgage and otherwise, the Mortgagee and the Secured Parties shall have all of the rights of a secured party under the Code or under the Uniform Commercial Code in force from time to time in any other state to the extent the same is Applicable Law. This Mortgage shall be effective as a financing statement filed as a fixture filing with respect to all fixtures included within the Property and is to be filed for record in the real estate records of each county where any part of the Property (including such fixtures) is situated. This Mortgage shall also be effective as a financing statement with respect to any other Property as to which a security interest may be perfected by the filing of a financing statement and may be filed as such in any appropriate filing or recording office. The respective mailing addresses of Mortgagor, the "Debtor" for purposes of this financing statement, and Mortgagee, the "Secured Party" for purposes of this financing statement, are set forth in the opening paragraph of this Mortgage. A carbon, photographic or other reproduction of this Mortgage or any other financing statement relating to this Mortgage shall be sufficient as a financing statement for any of the purposes referred to in this Section. Mortgagor hereby irrevocably authorizes Mortgagee at any time and from time to time to file any initial financing statements, amendments thereto and continuation statements as authorized by Applicable Law, to establish or maintain the validity, perfection and priority of the security interests granted in this Mortgage. The record owner of the real property described in Exhibit A attached hereto is Mortgagor.

SECTION 6.9 Release of Mortgage.

(a) At such time as the Secured Obligations (other than Hedging Obligations), including future advances to the extent secured herein, shall have been paid in full in cash and the Commitment and the Canadian Facility Commitments have been terminated, the Property shall be released from the Lien created by this Mortgage, and this Mortgage and all obligations (other than those expressly stated to survive such termination) of the Mortgagee and the Mortgagor hereunder shall terminate, all without



delivery of any instrument or performance of any act by any party, and all rights to the Property shall revert to the Mortgagor.


(b) If any of the Property shall be sold, transferred or otherwise disposed of by the Mortgagor in a transaction permitted by the Credit Agreement and by the Canadian Credit Agreement, then the Mortgagee, at the request and sole expense of the Mortgagor, shall execute and deliver to the Mortgagor all releases or other documents reasonably necessary or desirable for the release of the Liens created hereby on such Property; or if all the equity interests of the Mortgagor shall be sold, transferred or otherwise disposed of in a transaction permitted by the Credit Agreement and by the Canadian Credit Agreement, then, at the request of the Mortgagor, and at the expense of the Mortgagor, the Mortgagor shall be released from its obligations hereunder; provided, that in each case the Mortgagor shall have delivered to the Mortgagee, at least ten (10) Business Days prior to the date of the proposed release, a written request for release identifying the Mortgagor or the relevant Property or portion thereof (as applicable) and the terms of the sale or other disposition in reasonable detail, including the price thereof and any expenses in connection therewith, together with a certification by Borrowers demonstrating to the satisfaction of the Mortgagee that such transaction is in compliance with the Credit Agreement, the other Loan Documents, the Canadian Loan Agreement and the other Canadian Loan Documents.

SECTION 6.10            Modification to Amend Legal Description.

The Mortgagor hereby agrees that in the event that the final title policy to be delivered to the Mortgagee pursuant to Section 8.10(e)(ii)(C)(1) of the Credit Agreement, and/or the survey to be delivered to the Mortgagee pursuant to Section 8.10(e)(ii)(C)(4) of the Credit Agreement, cover and insure a description of the Land which differs from the description contained on Exhibit A hereto, then the Mortgagor shall execute and deliver, and shall cause to be recorded in the applicable registry, in each case at the Mortgagor's expense, (i) such modification to this Mortgage as may be reasonably required by the Mortgagee and in form and content satisfactory to the Mortgagee, as may be necessary to amend Exhibit A hereto so that the description of the Land contained herein conforms to the description of the Land covered and insured by and under such title policy and survey, and/or (ii) such endorsement to the commitment for title policy, or to the policy itself, as may be reasonably required by the Mortgagee and in form and content satisfactory to the Mortgagee, as may be necessary to conform the description of the Land covered and insured by and under such title policy to that shown on such survey and to remove any survey exceptions as may be contained in such commitment or policy.

**This Mortgage is to be construed to be a mortgage, assignment of rents, security agreement, fixture filing and financing statement and is to be indexed in the real estate records of the county in which it is recorded. This Mortgage covers fixtures attached to the Improvements.**

[Remainder of Page Intentionally Left Blank]

  
20080516000200140 28/37 \$119.00  
Shelby Cnty Judge of Probate, AL  
05/16/2008 10:05:28AM FILED/CERT



IN WITNESS WHEREOF, the Mortgagor has caused this Mortgage to be executed, sealed and delivered by its duly authorized representative, all as of the day and year first above written.

**MORTGAGOR:**

**BOWATER ALABAMA LLC,**  
an Alabama limited liability company

By: **BOWATER NEWSPRINT SOUTH LLC, a**  
Delaware limited liability company,  
its Member

By: William G. Harvey  
Name: William G. Harvey  
Title: Manager

STATE OF South Carolina )  
COUNTY OF Greenville )

I, the undersigned Notary Public in and for said County, in said State, hereby certify that William G. Harvey, whose name as Manager of Bowater Newsprint South LLC, a Delaware limited liability company, which is the Member of Bowater Alabama 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 instrument, s/he, as such Manager and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal, this 5<sup>th</sup> day of May, 2008.

[NOTARY SEAL]

Henry M. Shyler  
Notary Public  
My Commission Expires: 10/3/2011

MORT 1275 623  
Recorded In Above Book and Page  
05/15/2008 03:07:49 PM  
Billy Atkinson  
Probate Judge  
Talladega County, AL

20080516000200140 29/37 \$119.00  
Shelby Cnty Judge of Probate, AL  
05/16/2008 10:05:28AM FILED/CERT



**EXHIBIT A  
TO  
LEASEHOLD MORTGAGE, ASSIGNMENT OF LEASES AND RENTS,  
AND SECURITY AGREEMENT**

[Description of the Land]

**Tract No. 1:**

Commence at a corner in place accepted as the Southeast corner of Section 5, Township 20 South, Range 3 East, Talladega County, Alabama; thence proceed North 00 degrees 01' 14" West along the East boundary of said section for a distance of 435.45 feet to the point of beginning. From this beginning point proceed South 88 degrees 42' 31" West for a distance of 3904.74 feet to a concrete monument in place; thence proceed South 00 degrees 17' 51" East for a distance of 689.51 feet to a point on the Easterly right-of-way line of Alabama Highway No. 235; thence proceed North 51 degrees 10' 41" West along the Easterly right-of-way line of said highway for a distance of 429.77 feet to the P.C. of a concave curve right having a delta angle of 37 degrees 40' 50" and a tangent of 462.40 feet; thence proceed Northwesterly along the Easterly right-of-way line of said highway and along the curvature of said curve for a distance of 891.23 feet to a corner in place; thence proceed North 85 degrees 49' 28" East for a distance of 228.05 feet to a corner in place; thence proceed North 00 degrees 00' 20" East for a distance of 325.60 feet; thence proceed South 85 degrees 49' 28" West for a distance of 267.50 feet to a corner in place being located on the Easterly right-of-way line of said highway; thence proceed North 00 degrees 18' 55" West along the Easterly right-of-way line of said highway for a distance of 511.61 feet to the P.C. of a concave curve left having a delta angle of 15 degrees 05' 40" and a tangent of 305.63 feet; thence proceed Northwesterly along the Easterly right-of-way line of said highway and along the curvature of said curve for a distance of 607.73 feet to the P.T. of said curve; thence proceed North 15 degrees 24' 35" West along the Easterly right-of-way line of said highway for a distance of 1268.95 feet to the P.C. of a concave curve right having a delta angle of 15 degrees 32' 36" and a tangent of 315.31 feet; thence proceed Northerly along the Easterly right-of-way line of said highway and along the curvature of said curve, for a distance of 626.75 feet to the P.T. of said curve; thence proceed North 00 degrees 08' 01" East along the Easterly right-of-way line of said highway for a distance of 1292.46 feet to the P.C. of a concave curve right having a delta angle of 29 degrees 56' 41" and a tangent of 384.63 feet; thence proceed Northeasterly along the Easterly right-of-way line of said highway and along the curvature of said curve for a distance of 751.67 feet to the P.T. of said curve; thence proceed North 30 degrees 04' 43" Easterly along the Easterly right-of-way line of said highway for a distance of 188.34 feet to the P.C. of a concave curve left having a delta angle of 15 degrees 05' 04" and a tangent of 209.41 feet; thence proceed Northeasterly along the Easterly right-of-way line of said highway and the curvature of said curve for a distance of 416.40 feet; thence proceed North 90 degrees 00' East for a distance of 37.39 feet to a corner in place being AOW Coordinate Position N 18200 E 3145; thence proceed South 00 degrees 00' West for a distance of 310.0 feet to a point being AOW Coordinate Position N 17890 E 3145; thence proceed North 90 degrees 00' East for a distance of 248.0 feet to a point that is 12 feet North of and at right angles to the centerline of a railroad spur track; thence proceed North 64 degrees 35' 03" East parallel to and 12 feet North of said railroad spur track for a distance of 135.91 feet; thence



proceed North 67 degrees 25' 24" East parallel to and 12 feet North of said railroad spur tract for a distance of 66.23 feet; thence proceed North 76 degrees 00' 26" East parallel to and 12 feet North of said railroad spur tract for a distance of 73.18 feet; thence proceed North 85 degrees 31' 37" East parallel to and 12 feet North of said railroad spur tract for a distance of 90.35 feet; thence proceed North 85 degrees 03' 20" East parallel to and 12 feet North of said railroad spur tract for a distance of 79.70 feet; thence proceed North 74 degrees 19' 35" East parallel to and 12 feet North of said railroad spur tract for a distance of 101.92 feet; thence proceed North 62 degrees 21' 50" East parallel to and 12 feet North of said railroad spur tract for a distance of 89.57 feet; thence proceed North 51 degrees 10' 37" East parallel to the 12 feet North of said railroad spur tract for a distance of 113.83 feet; thence proceed North 39 degrees 46' 49" East parallel to the 12 feet North of said railroad spur tract for a distance of 49.10 feet to a corner in place being AOW Coordinate Position N 18183.55 E 4115.00; thence proceed north 00 degrees 00' East for a distance of 316.45 feet to a 6 inch concrete monument in place being AOW Coordinate Position N 18500 E 4115.00; thence proceed North 90 degrees 00' West for a distance of 958.84 feet to a corner in place being located on the Easterly right-of-way line of said Alabama Highway 235; thence proceed North 02 degrees 41' East along the Easterly right-of-way line of said highway for a distance of 42.55 feet to a corner in place being a 6 inch concrete monument; thence proceed North 90 degrees 00' East for a distance of 985.0 feet to a concrete monument in place; thence proceed South 80 degrees 00' 01" East for a distance of 250.0 feet to a concrete monument in place; thence proceed South 25 degrees 26' 11" East for a distance of 39.28 feet to a fence corner; thence proceed South 49 degrees 09' 56" East for a distance of 121.0 feet to a concrete monument in place; thence proceed South 64 degrees 49' 45" East for a distance of 151.65 feet to a concrete monument in place; thence proceed South 90 degrees 00 minutes East for a distance of 110.0 feet to a concrete monument in place; thence proceed South 00 degrees East for a distance of 120.0 feet to a concrete monument in place being AOW Coordinate Position N 18200 E4745.00; thence proceed north 89 degrees 58' 57" East for a distance of 10502.59 feet to a concrete monument in place; thence proceed South 30 degrees 04' 34" East for a distance of 1590.13 feet to a concrete monument in place; thence proceed South 45 degrees 25' 54" West for a distance of 1043.87 feet to a corner in place thence proceed South 46 degrees 16' 34" West for a distance of 2344.42 feet to a corner in place; thence proceed South 63 degrees 40' 26" West for a distance of 3429.06 feet to a concrete monument in place, said point being located on the East boundary of the Southeast one-fourth of the Southwest one-fourth of Section 4, Township 20 South, Range 3 East, Talladega County, Alabama; thence proceed South 00 degrees 09' 51" East along the East boundary of said quarter-quarter section for a distance of 759.28 feet to a concrete monument in place; thence proceed South 88 degrees 42' 31" West for a distance of 2633.53 feet to the point of beginning.

The above described land is located in the Northwest one-fourth of the Southwest one-fourth, the Northeast one-fourth of the Southwest one-fourth, the Southwest one-fourth of the Southwest one-fourth, the Southeast one-fourth of the Southwest one-fourth, the Southwest one-fourth of the Southeast one-fourth and the Southeast one-fourth of the Southeast one-fourth of Section 32, Township 19 South Range, 3 East; the Southwest one-fourth of the Southwest one-fourth, the Southeast one-fourth of the Southwest one-fourth, the Southwest one-fourth of the Southeast one-fourth and the Southeast one-fourth of the Southeast one-fourth of Section 33, Township 19 South, Range 3 East; the Southwest one-fourth of the Southwest one-fourth, the Southeast one-fourth of the Southwest one-fourth and the Southwest one-fourth of the Southeast one-fourth of



Section 34, Township 19 South, range 3 East; thence Northwest one-fourth of the Northwest one-fourth, the Northeast one-fourth of the Northwest one-fourth, the Northwest one-fourth of the northeast one-fourth, thence Northwest one-fourth of the Northeast one-fourth, the Southeast one-fourth of the Northeast one-fourth, the Southwest one-fourth of the Northeast one-fourth, the Southeast one-fourth of the Northwest one-fourth, the Southwest one-fourth of the Northwest one-fourth, Northwest one-fourth of the Southwest one-fourth, the Northwest one-fourth of the Southwest one-fourth, the Northwest one-fourth of the Southeast one-fourth, the Northwest one-fourth of the Southeast one-fourth, the Southeast one-fourth of the Southeast one-fourth, the Southwest one-fourth of the Southeast one-fourth, the Southeast one-fourth of the Southwest one-fourth and the Southwest one-fourth of the Southwest one-fourth of Section 5, Township 20 South, Range 3 East, the Northwest one-fourth of the Northwest one-fourth and the Northwest one-fourth of the Northwest one-fourth Section 8, Township 20 South, Range 3 East; thence Northwest one-fourth of the Northwest one-fourth, the Northwest one-fourth of the Northwest one-fourth, the Northwest one-fourth of the Northeast one-fourth, the Northeast one-fourth of the Northeast one-fourth, the Southeast one-fourth of the Northeast one-fourth, the Southwest one-fourth of the Northeast one-fourth the Southeast one-fourth of the of the Northwest one-fourth, the Southeast one-fourth of the Northwest one-fourth, the Northwest one-fourth of the Southwest one-fourth, the Northeast one-fourth of the Southwest one-fourth, the Northwest one-fourth of the Southeast one-fourth, the Southwest one-fourth of the Southeast one-fourth, the Southeast one-fourth of the Southwest one-fourth and the Southwest one-fourth of the Southwest one-fourth of Section 4, Township 20 South, Range 3 East; thence Northwest one-fourth of the Northwest one-fourth, the Northeast one-fourth of the Northwest one-fourth, the Northwest one-fourth of the Northeast one-fourth, the Southeast one-fourth of the Northwest one-fourth, the Southwest one-fourth of the Northwest one-fourth and the Northwest one-fourth of the Southwest one-fourth of Section 3, Township 20 South, Range 3 East, Talladega County, Alabama.

**Tract No. 2:**

Commence at a corner in place accepted as the Southeast corner of Section 5, Township 20 South, Range 3 East, Talladega County, Alabama: thence proceed North 00 degrees 01' 14" West along the East boundary of said Section for a distance of 435.45 feet; thence proceed South 88 degrees 42' 31" West for a distance of 3904.74 feet to a concrete monument in place: thence proceed South 00 degrees 17' 51" East for a distance of 689.51 feet to a point on the Easterly right-of-way line of Alabama Highway 235; thence proceed South 15 degrees 11' 48" East for a distance of 204.25 feet to a point on the Westerly right-of-way line of said highway, said point being the point of beginning. From this beginning point proceed South 43 degrees 46' 14" East along the Westerly right-of-way line of said highway for a distance of 249.77 feet to STA 114+93.83; thence proceed South 16 degrees 47' 50" East along the Westerly right-of-way line of said highway for a distance of 102.0 feet to the STA 114+ 00, said point being the P.C. of a concave curve having a delta angle of 16 degrees 23' 16" and a tangent of 182.36 feet; thence proceed Southerly along the Westerly right-of-way line of said highway and along the curvature of said curve for a distance of 362.23 feet to PCC STA 110+ 13.30, said point being the P.C. of a concave curve right having a delta angle of 38 degrees 19' 14" and a tangent of 477.08 feet; thence proceed Southerly along the Westerly right-of-way line of said highway and along the curvature of said curve for a distance of 918.32 feet to the P.T. of said curve being STA 100+



25.49; thence proceed South 14 degrees 50' 27" West along the Westerly right-of-way line of said highway for a distance of 256.80 feet to its point of intersection with the Northerly bank of Talladega Creek; thence proceed North 82 degrees 02' 05" West along the Northerly bank of said creek for a distance of 943.25 feet; thence proceed North 89 degrees 22' 49" West along the Northerly bank of said creek for a distance of 393.55 feet; thence proceed South 67 degrees 21' 42" West along the Northerly bank of said creek for a distance of 145.25 Feet to its point of intersection with the Easterly bank of the Coosa Rive; thence proceed North 11 degrees 09' 16" West along the Easterly bank of said river for a distance of 218.25 feet; thence proceed North 18 degrees 43' 47" West along the Easterly bank of said river for a distance of 545.19 feet; thence proceed North 23 degrees 17' 47" West along the Easterly bank of said river for a distance of 809.60 feet; thence proceed North 33 degrees 28' 31" West along the Easterly bank of said river for a distance of 923.89 feet; thence proceed North 38 degrees 40' 43" West along the Easterly bank of said river for a distance of 1096.84 feet; thence proceed North 28 degrees 58' 02" West along the Easterly bank of said river for a distance of 484.20 feet; thence proceed North 17 degrees 34' 17" West along the Easterly bank of said river for a distance of 373.45 feet; thence proceed North 00 degrees 38' 39" West along the Easterly bank of said river for a distance of 401.12 feet; thence proceed North 09 degrees 34' 23" East along the Easterly bank of said river for a distance of 406.75 feet; thence proceed North 14 degrees 32' 05" East along the Easterly bank of said river for a distance of 1024.24 feet; thence proceed North 22 degrees 45' 53" East along the Easterly bank of said river for a distance of 606.03 feet; thence proceed North 30 degrees 13' 12" East along the Easterly bank of said river for a distance of 349.43 feet; thence proceed North 18 degrees 26' 48" East along the Easterly bank of said river for a distance of 641.35 feet; thence proceed North 02 degrees 51' 52" East along the Easterly bank of said river for a distance of 360.98 feet; thence proceed North 09 degrees 33' 20" West along the Easterly bank of said river for a distance of 498.13 feet; thence proceed South 89 degrees 19' 26" West along the bank of the river and along the edge of the River Pump House for a distance of 57.62 feet; thence proceed North 00 degrees 07' 03" East along the edge of the River Pump House for a distance of 27.57 feet; thence proceed North 88 degrees 50' 36" West along the edge of the River Pump House for a distance of 29.08 feet; thence proceed North 00 degrees 18' 41" West along the edge of the River Pump House for a distance of 31.47 feet; thence proceed North 89 degrees 54' 13" East along the edge of the River Pump House for a distance of 27.94 feet; thence proceed North 00 degrees 06' 59" East along the edge of the River Pump House for a distance of 38.37 feet; thence proceed North 19 degrees 33' 01" East along the Easterly bank of said river for a distance of 112.60 feet, said point being AOW Coordinate Position N 17712.05 E 1751.20; thence proceed North 89 degrees 56' 00" East for a distance of 399.97 feet, said point being AOW Coordinate Position N 17712.52 E 2151.17; thence proceed South 03 degrees 24' 29" East for a distance of 601.42 feet said point AOW Coordinate Position N 17112.16 E 2186.92; thence proceed North 85 degrees 13' 30" East for a distance of 363.83 feet to a point being AOW Coordinate Position N 17142.45 E 2549.49, said point being located on the Westerly right-of-way line of Alabama Highway No. 235, said point being located on the curvature of a concave right having a delta angle of 29 degrees 56' 41" and a tangent of 416.72 feet; thence proceed Southerly along the Westerly right-of-way line of said highway and along the curvature of said curve for a distance of 206.37 feet to the P.T. of said curve; thence proceed South 00 degrees 08' 01" West along the Westerly right-of-way line of said highway for a distance of 1292.46 feet to the P.C. of a concave curve left having a delta angle of 15 degrees 32' 36" and a tangent of 331.69 feet; thence proceed Southerly along the Westerly right-of-way line of said highway for a



distance of 1268.95 feet to the P.C. of a concave curve right having a delta angle of 15 degrees 05' 40" and a tangent of 289.73 feet: thence proceed Southerly along the Westerly right-of-way line of said highway for a distance of 525.64 feet to the P.C. of a concave curve left having a delta angle of 50 degrees 51' 46" and a tangent of 701.45 feet: thence proceed Southerly along the Westerly right-of-way line of said highway and along the curvature of said curve for a distance of 1309.54 feet to the P.T. of said curve: thence proceed South 51 degrees 10' 41" East along the Westerly right-of-way line of said highway for a distance of 595.05 feet to the point of beginning.

The above described land is located in the Southeast one-fourth of the Southeast one-fourth of Section 31, Township 19 South, Range 3 East, Talladega County, Alabama: the Northeast one-fourth of the Northeast one-fourth, the Southeast one-fourth of the Northeast one-fourth, the Northeast one-fourth of the Southeast one-fourth, the Southeast one-fourth of the Southeast one-fourth, the Southwest one-fourth of the Southeast one-fourth, the Northwest one-fourth of the Southeast one-fourth and the Southwest one-fourth of the Northeast one-fourth of Section 6, Township 20 South, Range 3 East: the Southwest one-fourth of the Southwest one-fourth of the Northwest one-fourth of Section 5, Township 20 South, Range 3 East: the Northwest one-fourth of the Northwest one-fourth, the Northeast one-fourth of the Northwest one-fourth, the Southeast one-fourth of the Northwest one-fourth and the Southwest one-fourth of the Northwest one-fourth of Section 8, Township 20 South, Range 3 East: the Northeast one-fourth of the Northeast one-fourth of Section 7, Township 20 South, Range 3 East.

**Tract No. 3:**

Commence at a corner in place accepted as the Southeast corner of Section 5, Township 20 South, Range 3 East, Talladega County, Alabama: thence proceed North 00 degrees 01' 14" West along the East boundary of said Section for a distance of 435.45 feet: thence proceed South 88 degrees 42' 31" West for a distance of 3904.74 feet to a concrete monument in place: thence proceed South 00 degrees 17' 51" East for a distance of 689.51 feet to a point on the Easterly right-of-way line of Alabama Highway 235: thence proceed South 15 degrees 11' 48" East for a distance of 204.25 feet to a point on the Westerly right-of-way line of said highway for a distance of 249.77 feet to STA 114+ 93.83: thence proceed South 16 degrees 47' 50" East along the Westerly right-of-way line of said highway for a distance of 102.0 feet to STA 114+ 00, said point being the P.C. of a concave curve right having a delta angle of 16 degrees 23' 16" and a tangent of 182.36 feet: thence proceed Southerly along the Westerly right-of-way line of said highway and along the curvature of said curve for a distance of 362.23 feet to the P.C. of said curve, being PCC STA 110+ 13.30, said point being the P.C. of a concave curve right having a delta angle of 38 degrees 19' 14" and a tangent of 477.08 feet: thence proceed Southerly along the Westerly right-of-way line of said highway and along the curvature of said curve for a distance of 918.32 feet to the P.T. of said curve being STA 100+ 25.49: thence proceed South 04 degrees 50' 27" West along the Westerly right-of-way line of said highway for a distance of 256.80 feet to its point of intersection with the Northerly bank of Talladega Creek: thence proceed South 14 degrees 50' 27" West long the Westerly right-of-way line of said highway for a distance of 131.18 feet to its point of intersection with the Southerly bank of said Talladega Creek, said point being the point of beginning. From this beginning point thence continue South 14 degrees 50' 27" West along the Westerly right-of-way line of said highway for a distance of



303.65 feet to the P.C. of a concave curve left having a delta angle of 37 degrees 53' 55" and a tangent of 589.25 feet: thence proceed Southerly along the Westerly right-of-way line of said highway and along the curvature of said curve for a distance of 1135.21 feet to its point of intersection with the Southern boundary of a Alabama Power Company Transmission Line right-of-way: thence proceed South 66 degrees 52' 54" West along the South boundary of said Alabama Power Company right-of-way for a distance of 356.83 feet to a point on the normal pool elevation of Lay Lake: thence proceed North 21 degrees 38' 43" East along the normal pool elevation of said lake for a distance of 140.84 feet to a point on the North boundary of said Alabama Power Company right-of-way: thence proceed North 04 degrees 03' 08" West along the normal pool elevation of said lake for a distance of 514.78 feet: thence proceed North 67 degrees 50' 50" West along the normal pool elevation of said lake for a distance of 62.84 feet: thence proceed South 02 degrees 18' 13" West along the normal pool elevation of said lake for a distance of 429.05 feet: thence proceed South 26 degrees 04' 08" West along the normal pool elevation of said lake for a distance of 219.84 feet to its point of intersection with the Northerly boundary of said Alabama Power Company right-of-way: thence proceed South 66 degrees 52' 54" West along the Northerly boundary of said Alabama Power Company right-of-way and along the normal pool elevation of said Lay Lake for a distance of 333.54 feet to its point of intersection with the Easterly bank of the Coosa River for a distance of 545.38 feet: thence proceed North 23 degrees 23' 33" West along the Easterly boundary of said Coosa River for a distance of 450.66 feet: thence proceed North 15 degrees 04' 42" West along the Easterly bank of said Coosa River for a distance of 522.07 feet: thence proceed North 06 degrees 38' 59" West along the Easterly bank of said Coosa River for a distance of 223.39 feet to its point of intersection with the Southerly bank of the aforementioned Talladega Creek: thence proceed North 46 degrees 21' 05" East along the Southerly bank of said creek for a distance of 131.09 feet: thence proceed North 83 degrees 08' 27" East along the Southerly bank of said creek for a distance of 234.50 feet: thence proceed South 81 degrees 37' 09" East along the Southerly bank of said creek for a distance of 576.06 feet: thence proceed South 85 degrees 47' 43" East along the Southerly bank of said creek for a distance of 464.03 feet to the point of beginning.

The above described land is located in the Southwest one-fourth of the Northwest one-fourth, the Southeast one-fourth of the Northwest one-fourth, the Northwest one-fourth of the Southwest one-fourth and the Northeast one-fourth of the Southwest one-fourth of Section 8, Township 20 South, Range 3 East, Talladega County, Alabama.

**Tract No. 4:**

Commence at a corner in place accepted as the Northeast corner of the Northwest one-fourth of the Southwest one-fourth of Section 31, Township 19 South, Range 3 East, Shelby County, Alabama, said point being the point of beginning. From this beginning point proceed North 1°20' 25" West along the West boundary of the Southeast one-fourth of the Northwest one-fourth for a distance of 763.60 feet to a point on the South bank of Locust Creek; thence proceed South 59°26'01" East along the South bank of said creek for a distance of 213.67 feet; thence proceed North 44°53' 50" East along the South bank of said creek for a distance of 217.05 feet; thence proceed South 88°58'40" East along the South bank of said creek for a distance of 406.02 feet; thence proceed North 64°05'43" East along the



South bank of said creek for a distance of 396.78 feet; thence proceed South 88°49' 31" East along the South bank of said creek for a distance of 100.36 feet; thence proceed South 14° 36'12" East along the South bank of said creek for a distance of 172.64 feet; thence proceed South 60°46'14" East along the South bank of said creek for a distance of 225.00 feet; thence proceed South 73°40'27" East along the south bank of said creek for a distance of 121.57 feet; thence proceed South 19°07'15" East along the West bank of said creek for a distance of 143.44 feet; thence proceed South 33°11'50" East along the West bank of said creek for a distance of 287.78 feet to a point on the Westerly-bank of the Coosa River; thence proceed Southerly along the Westerly bank of said Coosa River for the following bearings and distances: South 31° 30' 30" East, 363.96 feet; South 35°32'33" East, 475.09 feet; South 24°58'25" East, 465.35 feet; South 29°56' 42" East, 837.52 feet; South 16°38' 07" East, 698.94 feet; South 09°58'51" East, 405.89 feet; South 00°09'48" East, 539.08 feet; South 11°18' 37" West, 509.89 feet; South 23°32'15" West, 813.59 feet; South 22°31'30" West, 802.31 feet; South 11°54'33" West, 630.32 feet; South 04°36'19" West, 482.98 feet; South 09°09'29" East, 197.34 feet; South 20°45'10" East, 571.47 feet; South 35°57'15" East, 1018.32 feet; South 40°48'00" East, 478.69 feet; South 31°24'11" East, 515.30 feet; South 25°06'51" East, 580.45 feet; South 20°59'52" East, 865.17 feet; South 14°27'12" East, 565.60 feet; South 14°17' 16" East, 641.26 feet; South 26°47'13" East, 1135.20 feet; South 18°53'31" East, 675.37 feet; South 01°43'47" East, 280.10 feet; South 17°15'35" East, 387.64 feet; South 05°41'45" East, 249.70 feet; South 01°10'19" West, 346.22 feet; South 07°28'35" West, 340.37 feet; South 16°49'10" West, 277.42 feet; South 38°17'03" West, 368.02 feet; South 49°21'38" West, 363.42 feet; South 50°05'28" West, 332.96 feet; South 56°41'29" West, 385.46 feet; South 61°36'41" West, 389.60 feet to its point of Intersection with the Easterly right-of-way line of the Central of Georgia Railroad right-of-way; thence proceed North 22°01'31" West along the Easterly right-of-way line of said railroad right-of-way line for a distance of 12,010.95 feet to the P.C. of a concave curve left having a delta angle of 7°07'45" and a tangent of 403.11 feet; thence proceed Northwesterly along the curvature of said curve and along the Easterly right-of-way line of said railroad right of way line for a distance of 805.19 feet to the P.T. of said curve; thence proceed North 29°09'16" West along the Easterly right-of-way line of said railroad right-of-way for a distance of 2487.62 feet to a point on the Southeasterly right-of-way line of a Shelby County paved road; thence proceed North 35°56'58" East along the Southeasterly right-of-way line of said road for a distance of 270.62 feet to a corner in place; thence proceed North 89°02'57" East for a distance of 248.35 feet to a corner in place; thence proceed North 84°39'48" East for a distance of 782.76 feet to a corner in place said point being North 00°20'18" West of and 180.02 feet from the Southwest corner of the Northwest one-fourth of the Southwest one-fourth of said Section 31, Township 19 South, Range 3 East, Shelby County, Alabama; thence proceed North 00° 20' 18" West along the West boundary of said Northwest one-fourth of the Southwest one-fourth of said Section for a distance of 1104.14 feet to a corner in place being located on the Southerly boundary of a dirt road; thence proceed South 85°31'31" East along the Southerly boundary of said dirt road for a distance of 187.77 feet; thence proceed North 87°58'52" East along the Southerly boundary of said dirt road for a distance of 91.63 feet; thence proceed North 68°26'52" East along the Southerly boundary of said dirt road for a distance of 88.72 feet; thence proceed North 60°04'49" East along the Southerly boundary of said dirt road for a distance of 148.44 feet to its point of intersection with the North boundary of said quarter-quarter Section; thence proceed North 87°39'05" East along the North boundary of said



Northwest one-fourth of the Southwest one-fourth of said Section for a distance of 848.86 feet to the point of beginning.

The above-described land is located in the Southeast one-fourth of the Northwest one-fourth, the Southwest one-fourth of the Northeast one-fourth, the Northwest one-fourth of the Southwest one-fourth, the Northeast one-fourth of the Southwest one-fourth, the Northwest one-fourth of the Southeast one-fourth, the Southwest one-fourth of the Southwest one-fourth, the Southeast one-fourth of the Southwest one-fourth, the Southwest one-fourth of the Southeast one-fourth and the Southeast one-fourth of the Southeast one-fourth of Section 31, Township 19 South, Range 3 East; the Northeast one-fourth of the Southeast one-fourth and the Southeast one-fourth of the Southeast one-fourth of Section 36, Township 19 South, Range 2 East, Shelby County, Alabama; the Northeast one-fourth of the Northeast one-fourth of Section 1, Township 20 South, Range 2 East, Shelby County, Alabama; the Northwest one-fourth of the Northwest one-fourth, the Northeast one-fourth of the Northwest one-fourth, the Northwest one-fourth of the Northeast one-fourth, the Northeast one-fourth of the Northeast one-fourth, the Southwest one-fourth of the Northwest one-fourth, the Southeast one-fourth of the Northwest one-fourth, Southwest one-fourth of the Northeast one-fourth and the Northwest one-fourth of the Southwest one-fourth, the Northeast one-fourth of the Southwest one-fourth, the Northwest one-fourth of the Southeast one-fourth, the Southwest one-fourth of the Southwest one-fourth, the Southeast one-fourth of the Southwest one-fourth, the Southwest one-fourth of the Southeast one-fourth and the Southeast one-fourth of the Southeast one-fourth of Section 6, Township 20 South, Range 3 East, Shelby County, Alabama; the Northeast one-fourth of the Northwest one-fourth, the Northwest one-fourth of the Northeast one-fourth, the Northeast one-fourth of the Northeast one-fourth, the Southeast one-fourth of the Northeast one-fourth, the Southwest one-fourth of the Northeast one-fourth, Southeast one-fourth of the Northwest one-fourth, the Northeast one-fourth of the Southeast one-fourth, the Northwest one-fourth of the Southeast one-fourth and the Southeast one-fourth of the Southeast one-fourth of Section 7, Township 20 South, Range 3 East; the Southwest one-fourth of the Northwest one-fourth, the Northwest one-fourth of the Southwest one-fourth and the Southwest one-fourth of the Southwest one-fourth of Section 8, Township 20 South, Range 3 East; the Northwest one-fourth of the Northwest one-fourth and the Southwest one-fourth of the Northwest one-fourth of Section 17, Township 20 South, Range 3 East; the Northeast one-fourth of the Northeast one-fourth, the Southeast one-fourth of the Northeast one-fourth and the Northwest one-fourth of the Northeast one-fourth of Section 18, Township 20 South Range 3 East, Shelby County, Alabama.

No Tax Collected	1.00
Recording Fee	141.50
TOTAL	142.50

20080516000200140 37/37 \$119.00  
Shelby Cnty Judge of Probate, AL  
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