

This Instrument Prepared By  
and When Recorded Return to:  
Claude McCain Moncus, Esq.  
CORLEY MONCUS, P.C.  
728 Shades Creek Parkway  
Suite 100  
Birmingham, Alabama 35209  
(205) 879-5959

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**ASSUMPTION AGREEMENT AND AMENDMENT TO LOAN DOCUMENTS  
[INCLUDING AMENDMENT TO LEASEHOLD MORTGAGE AND SECURITY  
AGREEMENT, ASSIGNMENT OF RENTS AND LEASES,  
AND UCC FINANCING STATEMENT]**

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**THIS ASSUMPTION AGREEMENT AND AMENDMENT TO LOAN DOCUMENTS** (this "Agreement"), is made and entered into as of the 21<sup>st</sup> day of September, 2009, by and between **FIRST COMMERCIAL BANK**, a State Bank (the "Lender"), and **MGA SERVICES, LLC**, an Alabama Limited Liability Company ("MGA Services") (successor to E Z SERVICES, INC., an Alabama Corporation "Original Borrower").

**RECITALS:**

A. Lender is the owner and holder of that certain Promissory Note dated August 19, 2004, in the original principal sum of Two Hundred Forty Nine Thousand and No/100 Dollars (\$249,000.00) (the "Promissory Note"), which instrument was executed and delivered to Lender by Original in order to evidence a loan from Lender to Original Borrower in said principal amount (the "Loan"). The Loan is secured by the following:

1. Leasehold Mortgage and Security Agreement dated August 19, 2004, recorded on August 27, 2004 in the Office of the Judge of Probate of Shelby County, Alabama, at Instrument No. 20040827000482010 (the "Mortgage"); and

2. Assignment of Rents and Leases dated August 19, 2004, and recorded on August 27, 2004 in the Office of the Judge of Probate of Shelby County, Alabama, at Instrument No. 20040827000482020 (the "Assignment of Rents"); and

3. UCC-1 Financing Statement recorded on August 27, 2004 in the Office of the Judge of Probate of Shelby County, Alabama, at Instrument No. 20040827000482030, and UCC-1 Financing Statement recorded on November 19, 2004 with the Alabama Secretary of State at Instrument Number 04-0903547 (collectively, the "Financing Statements").

The Promissory Note, the Mortgage, the Assignment of Rents, and the Financing Statements, together with all other instruments or documents evidencing, securing or otherwise executed in connection with the Loan, as any of the same may have heretofore been modified, amended, extended or renewed, are collectively referred to herein as the "Loan Documents." All capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Loan Documents.

B. Effective July 30, 2004, Donald Wayne Myrick and M. Scott Gurosky, as shareholders of the Original Borrower, by Assignment of Commercial Lease of Aircraft Hanger Premise conveyed, transferred, assigned and set over unto MGA Services, an Alabama general partnership (the "Partnership"), the Lease dated June 23, 2004 by and between Shelby County, as Landlord, and the Original Borrower, as Lessee. MGA Services, LLC was formed by Articles of Organization filed with the Jefferson County Probate Office on October 19, 2004 at Instrument No. 200414/3067, and the Partnership by Statement of Conversion dated October 19, 2004 was converted to MGA Services, LLC.

C. MGA Services has requested that Lender consent to and permit the assumption by MGA Services of the Loan and the obligations of Original Borrower under the Loan Documents. Lender has agreed to permit such assumption pursuant to the terms of this Agreement. All obligations of Original Borrower under the Loan Documents are collectively referred to herein as the "Loan Obligations".

### AGREEMENT

**NOW, THEREFORE,** in consideration of the foregoing, and the representations, warranties, covenants and agreements herein set forth, the parties hereby agree as follows:

1. **Affirmation of Recitals; Definitions.** The parties hereby acknowledge the foregoing Recitals to be true and correct. MGA Services confirms that it has received copies of the Loan Documents, and has had full and fair opportunity to review the same with independent legal counsel of MGA Services' choosing.

2. **Outstanding Principal Balance of Loan; No Default.** The parties hereby acknowledge and agree that all accrued interest on the outstanding principal balance of the Loan has been paid current as of the date hereof, and that the outstanding principal balance of the Loan as of the date of this Agreement is \$201,407.96, which balance is hereby assumed by MGA Services. The parties hereby further acknowledge and agree that, to the best of their knowledge and belief, there presently exists no Event of Default under the Loan Documents, nor any event which, upon the giving of any required notice or the expiration of any stipulated grace or cure period, would constitute an Event of Default under the Loan Documents.

3. **Assumption of Loan Obligations.** MGA Services hereby assumes and agrees to be fully bound by the Loan Obligations as stated in the Loan Documents, including all covenants, agreements and waivers therein set forth, and shall be unaffected by any offset, defense or defect in enforceability of any of the Loan Documents against Original Borrower, all of which are hereby expressly waived by MGA Services. Any and all references to the "Borrower" contained in any Loan Document shall hereafter be deemed to refer to MGA Services, LLC, an Alabama Limited Liability Company with full and equal force and effect.

4. **Representations and Warranties.** MGA Services confirms that it has reviewed the covenants, representations and warranties contained in the Loan Documents, and that upon substituting itself for Original Borrower all such covenants, representations and warranties, to the extent applicable, shall remain true and correct as of the date hereof unless specifically modified in writing by agreement of the parties. As a material inducement to Lender's agreement to permit the assumption of the Loan Obligations by MGA Services, MGA Services hereby further represent and warrant to Lender as follows:

(a) MGA Services is a duly organized and validly existing Alabama limited liability company, having full power and authority to consummate the transactions contemplated by this Agreement and to perform the Loan Obligations.

(b) Pursuant to proper resolution of MGA Services, the Manager of MGA Services, M. Scott Gurosky, has been properly authorized to execute the Assumption Documents on behalf of MGA Services.

(c) There are no actions, suits, or proceedings pending or, to the best of MGA Services' knowledge, threatened, which might materially and adversely affect the financial condition of MGA Services or which might materially impair the value of any collateral taken or to be taken by Lender in connection with the transactions contemplated hereby. MGA Services is not in violation of any agreement the violation of which might reasonably be expected to have a materially adverse effect on MGA Services business or assets, and MGA Services is not in violation of any order, judgment, or decree of any court, or any statute or governmental regulation to which MGA Services is subject. Neither the execution and performance of this Agreement or of any of the Loan Documents will result in any breach of any mortgage, security deed, lease, credit or loan agreement or any other instrument which may bind or affect MGA Services.

(d) All financial statements of MGA Services heretofore given and hereafter to be given to Lender are and will be true and complete in all respects as of their respective dates and prepared in accordance with generally accepted accounting principles consistently applied, and fairly represent the financial conditions of MGA Services as of the date thereof, and no materially adverse change shall have occurred in the financial conditions reflected therein during the period between the date thereof and the date of delivery of such financial statements to Lender.

(e) There are no proceedings pending, or to the best of MGA Services' knowledge, threatened, to acquire by power of condemnation or eminent domain any portion of the Premises, or any interest therein, or to enjoin or similarly prevent the use of any of the Premises for the purposes contemplated by MGA Services.

(f) All documents furnished to Lender by or on behalf of MGA Services as part of or in support of the MGA Services' application to assume the Loan are true, correct, complete and accurately represent the matters to which they pertain in all material respects.

(g) The Premises will at all times be maintained in substantial compliance with all applicable laws, ordinances, rules and regulations, including, without limitation, the Americans with Disabilities Act and regulations thereunder, and all laws, ordinances, rules and regulations relating to zoning, building codes, set back requirements and environmental matters.

5. Address for Notices. The address for notices to MGA Services contained in each of the Loan Documents is hereby amended to read as follows:

MGA Services, LLC  
Four Riverchase Ridge  
Birmingham, Alabama 35244

6. **Consent to Assumption; Discharge.** In consideration of the representations, warranties and agreements of MGA Services herein set forth, Lender does hereby (a) consent to the transfer of the Premises

from Original Borrower to MGA Services, (b) consent to the assumption of the Loan Obligations by MGA Services, (c) release and discharge Original Borrower and its officers from any further liability with respect to any of the Loan Obligations.

7. **Recording; Title Insurance.** MGA Services agrees that it shall cause this Agreement to be duly recorded in the Office of the Probate Court of Shelby County, Alabama, and shall pay all recording fees, or other taxes in connection therewith. MGA Services further agrees that, at MGA Services' sole cost and expense, it shall cause an endorsement to be issued to Lender's existing title insurance policy insuring the Mortgage (First American Title Insurance Corporation Policy No. FA-31-809392, as heretofore endorsed), which endorsement shall (i) change the effective date of such policy to the date and time of recording of this Agreement, without the addition of exceptions for intervening matters deemed unsatisfactory by Lender, and (ii) amend the description of the insured instrument to include this Agreement, as recorded, and (iii) insure that fee simple title to the Premises has fully vested in MGA Services, subject to the lien of the Mortgage as amended hereby. Any failure by MGA Services to deliver such endorsement in a timely manner shall, at the discretion of Lender, constitute an Event of Default under the Loan Documents.

8. **Further Assurances.** Upon request by the Lender, MGA Services will make, execute and deliver or cause to be made, executed and delivered, to the Lender and, where appropriate, to cause to be recorded and/or filed and from time to time thereafter to be re-recorded and/or refiled at such time and in such offices and places as shall be deemed reasonably necessary by the Lender, any and all such instruments of further assurance, certificates and other documents as may, in the reasonable opinion of the Lender, be necessary or desirable in order to effectuate, complete, or perfect, or to continue and preserve the Loan Obligations of MGA Services assumed hereby, and the lien and security title of the Loan Documents as a first and prior lien upon and security interest in all of the Premises.

9. **Miscellaneous.**

(a) This Agreement shall be governed by, and construed in accordance with, the laws of the State of Alabama.

(b) Any provision in this Agreement which may be unenforceable or invalid under any law shall be ineffective to the extent of such unenforceability or invalidity without affecting the enforceability or validity of any other provision hereof; provided, however, that if the assumption of the Loan Obligations by MGA Services set forth herein shall be unenforceable or invalid, then this Agreement shall be deemed null and void *ab initio*.

(c) Section headings are inserted for convenience of reference only and shall be disregarded in the interpretation of this Agreement. The provisions of this Agreement shall be construed without regard to the party responsible for the drafting and preparation hereof.

(d) Time is of the essence of this Agreement and the performance of each of the covenants and agreements contained herein and in the Loan Documents.

(e) This Agreement and the obligations of the parties hereunder shall be binding upon and enforceable against, and shall inure to the benefit of, the parties and their respective heirs, executors, administrators, successors and assigns.

No modification, amendment, waiver or release of any provision of this Agreement or of any right, obligation, claim or cause of action arising hereunder shall be valid or binding for any purpose whatsoever unless in writing and duly executed by the party against whom the same is sought to be asserted.

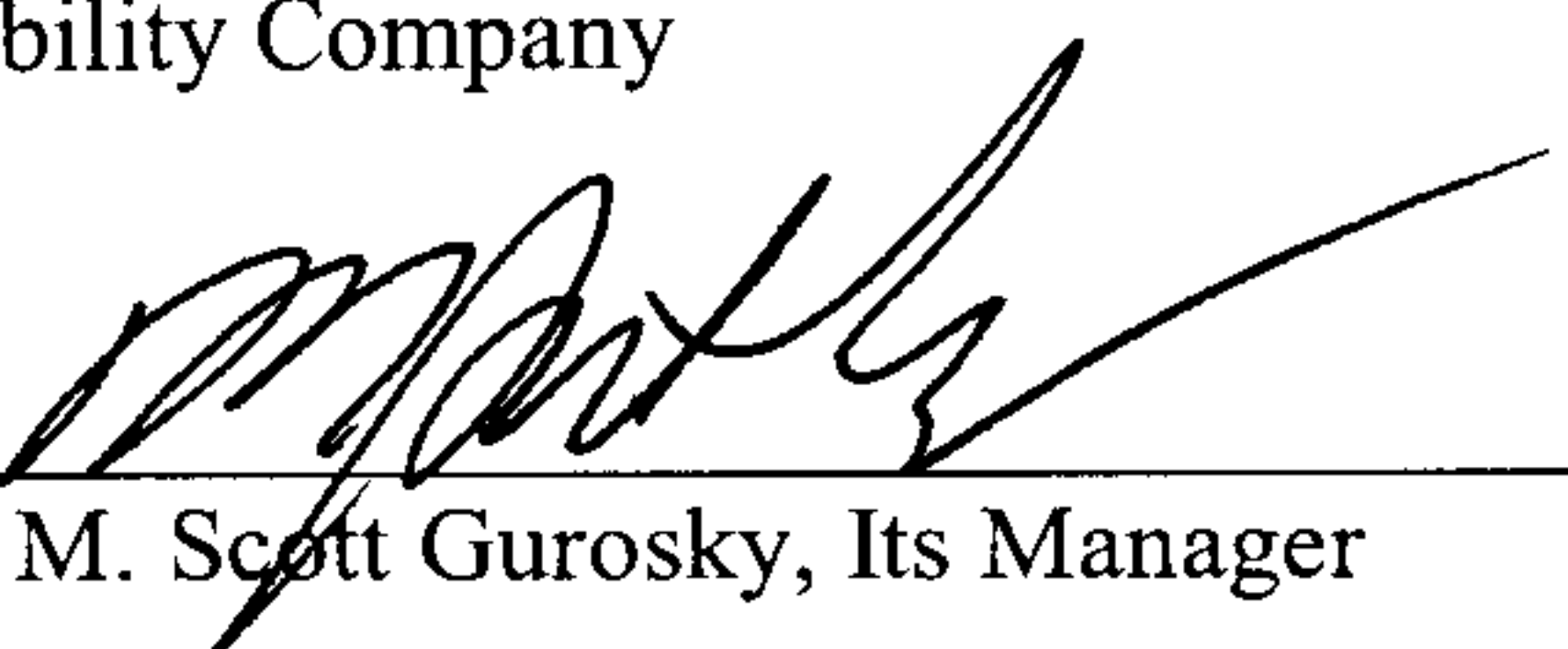
(f) This Agreement may be executed in any number of counterparts bearing the original signatures of one or more of the parties hereto, each of which shall constitute an original, but all of which, taken together, shall evidence but one and the same Agreement.

(g) THE PARTIES HERETO HEREBY MUTUALLY WAIVE ANY RIGHT TO A TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SETOFF, DEMAND, ACTION OR CAUSE OF ACTION ARISING OUT OF OR IN ANY WAY PERTAINING OR RELATING TO THIS AGREEMENT, ANY DEALINGS OF THE PARTIES HERETO WITH RESPECT TO THIS AGREEMENT, OR IN CONNECTION WITH ANY OF THE TRANSACTIONS RELATED HERETO OR CONTEMPLATED HEREBY, OR THE EXERCISE OF ANY PARTY'S RIGHTS OR REMEDIES HEREUNDER, IN ALL OF THE FOREGOING CASES WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. A COPY OF THIS PARAGRAPH MAY BE FILED WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED AGREEMENT AMONG THE PARTIES IRREVOCABLY TO WAIVE TRIAL BY JURY, AND THAT ANY DISPUTE OR CONTROVERSY WHATSOEVER BETWEEN THEM SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY. NONE OF THE PARTIES HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT IT WOULD NOT, IN THE EVENT OF SUCH DISPUTE OR CONTROVERSY, SEEK TO ENFORCE THE PROVISIONS OF THIS PARAGRAPH.

IN WITNESS WHEREOF, the parties have caused this instrument to be properly executed as of the day and year first above written.

**MGA SERVICES:**

**MGA SERVICES, LLC**, an Alabama Limited Liability Company

By:  [SEAL]  
M. Scott Gurosky, Its Manager

**LENDER:**

**FIRST COMMERCIAL BANK**, a State Bank

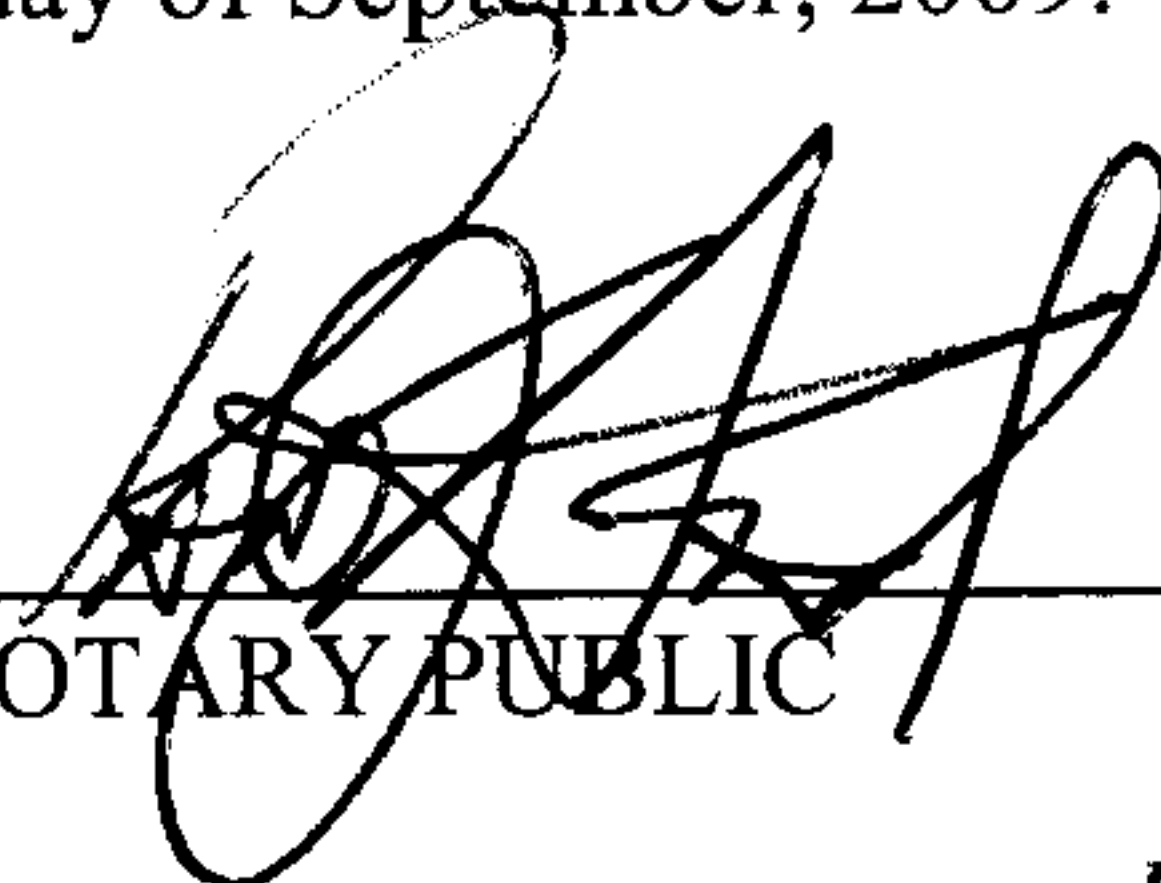
By:  [SEAL]  
David Bowman  
Its Vice President

20091001000373150 6/6 \$27.00  
Shelby Cnty Judge of Probate, AL  
10/01/2009 01:40:39 PM FILED/CERT

STATE OF ALABAMA )  
COUNTY OF JEFFERSON )

I, the undersigned Notary Public in and for said County, in said State, hereby certify that M. Scott Gurosky, whose name as Manager of **MGA SERVICES, LLC**, an Alabama Limited Liability Company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he as such Manager and with full authority, executed the same for and as the act of said limited liability company.

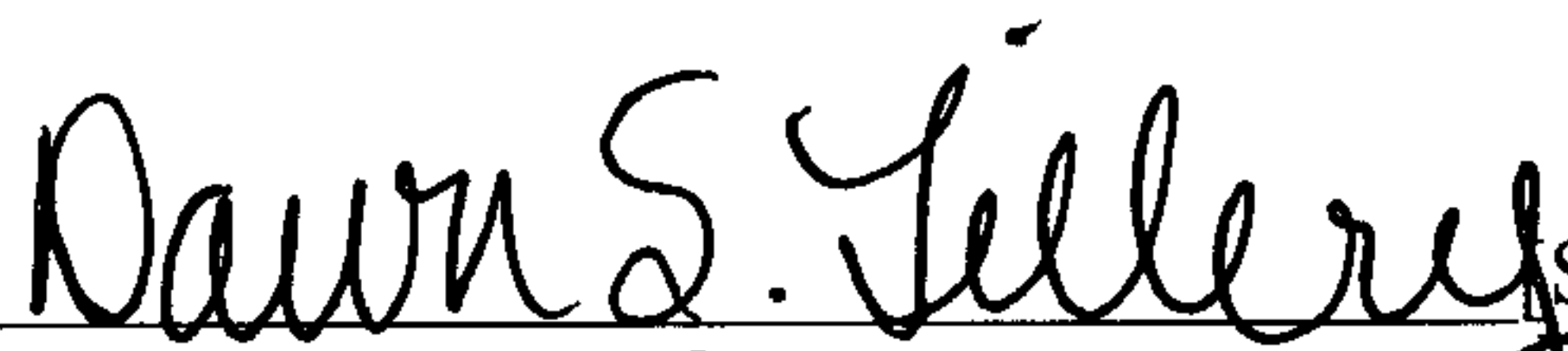
Given under my hand and official seal this 21 day of September, 2009.

  
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NOTARY PUBLIC  
My Commission Expires: 4/11/13  
[NOTARIAL SEAL]

STATE OF ALABAMA )  
COUNTY OF JEFFERSON )

I, the undersigned Notary Public in and for said County, in said State, hereby certify that David Bowman, whose name as Vice President of **FIRST COMMERCIAL BANK**, a State Bank, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said Bank.

Given under my hand and official seal, this 21 day of September, 2009.

  
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NOTARY PUBLIC  
My Commission Expires: July 14, 2012  
[NOTARIAL SEAL]

NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: July 14, 2012  
BONDED THRU NOTARY PUBLIC UNDERWRITERS