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WHEN RECORDED RETURN TO:
Jess A. Pinkerton, Esq.
McKenna Long & Aldridge LLP
303 Peachtree Street, Suite 5300
Atlanta, Georgia 30308

MORTGAGE, ASSIGNMENT AND SECURITY AGREEMENT

(Pelham, AL)

THIS INSTRUMENT, made and entered into as of the 23 day of December, 2009, by and between **MAYER PROPERTIES II, LLP**, an Alabama limited liability partnership, as mortgagor ("Borrower"), and **SUNTRUST BANK**, a Georgia banking corporation, as mortgagee ("Lender");

W I T N E S S E T H:

1.01 THAT FOR AND IN CONSIDERATION of the sum of $10.00 and other valuable considerations, the receipt and sufficiency whereof are hereby acknowledged, and in order to secure the indebtedness and other obligations of Borrower hereinafter set forth, Borrower does hereby mortgage, grant, bargain, sell, convey, assign, transfer, pledge, and set over unto Lender, with power of sale, the following described property (collectively, the "Premises"): (a) all those certain tracts, pieces or parcels of land (and any easements or other rights or interests in land) more particularly described in Exhibit "A" hereto (the "Land"); (b) all buildings, structures and improvements of every nature whatsoever now or hereafter situated on, under or above the Land (the "Improvements"); (c) all easements, rights-of-way, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights, minerals, flowers, shrubs, crops, trees, timber and other emblements now or hereafter located on the Land or under or above the same or any part or parcel thereof, and all estates, rights, titles, interests, tenements, hereditaments and appurtenances, reversions and remainders whatsoever, in any way belonging, relating or appertaining to the Property or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Borrower (together with the Land and the Improvements, the "Property"; the Property, together with the property referred to in Subsection 1.01(f)(ii) hereinbelow, being hereinafter referred to as the "Project"); (d) all right, title and interest of Borrower in any and all leases, rental agreements and arrangements of any sort for or resulting in the giving of value to

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Borrower for the use of the Project or any portion thereof, now or hereafter affecting the Project or any portion thereof, whether the user enjoys the Project or any portion thereof as tenant for years, invitee, licensee, tenant at sufferance or otherwise, and irrespective of whether such leases, rental agreements and arrangements be oral or written, and including any and all extensions, renewals and modifications thereof (the "Leases") and guaranties of the performance of obligations of any tenants or lessees thereunder (the "Tenants"), together with all income, rents, issues, profits and revenues from the Leases (including all tenant security deposits and all other tenant deposits, whether held by Borrower or otherwise, and all other deposits and escrow funds relating to any Leases) and all insurance proceeds paid in lieu thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of Borrower of, in and to the same; provided, however, that although this Instrument contains (and it is hereby agreed that this Instrument contains) a present, current, unconditional and absolute assignment of all of said income, rents, issues, profits and revenues, Borrower and Lender have agreed that so long as there shall exist no "Default" (as hereinafter defined) Borrower shall have a revocable license to collect routine rental payments and revenues which do not relate to periods more than one month after collection, it being agreed that Lender shall be entitled at all times to possession of all other income, rents, issues, profits and revenues (including deposits), and it being further agreed that upon the occurrence of a "Default" (as hereinafter defined) hereunder such license shall be automatically revoked without the necessity of further action by Lender and Lender shall be entitled to receive all such income, rents, issues, profits and revenues and Lender may apply any or all such income, rents, issues, profits and revenues received by Lender as provided in Section 3.02(f) hereof; (e) all items referred to below in Subsections 1.01(f)(ii) through 1.01(f)(x) which are other than personal property subject to the provisions of Article 9 of the Uniform Commercial Code as in effect in the applicable jurisdiction (the "UCC"); and (f) all assets of Borrower related to the ownership or operation of the Property, including accounts (including health-care receivables), chattel paper (whether tangible or electronic), deposit accounts, documents, general intangibles (including payment intangibles and software), goods (including inventory, equipment, fixtures and accessions), instruments (including promissory notes), investment property, letter-of-credit rights, letters of credit, money, supporting obligations, as-extracted collateral, timber to be cut and all proceeds and products of anything described or referred to above in this Subsection 1.01(f), in each case as such terms are defined under the UCC from time to time, including all of the following:

(i) any and all items referred to in the foregoing Subsections 1.01(a) through 1.01(d) which are described generally in the foregoing portion of this Subsection 1.01(f), and

(ii) all right, title and interest of Borrower in all furnishings, furniture, fixtures, machinery, apparatus, equipment, fittings, appliances, building supplies and materials, vehicles (excluding Borrower's personal automobiles), chattels, goods, consumer goods, farm products, inventory, warranties, chattel paper, documents, accounts, general intangibles, trade names, trademarks, servicemarks, logos (including any names or symbols by which the Property is known) and goodwill related thereto, and all other articles of personal property of every kind and nature whatsoever, tangible or intangible, now, heretofore or hereafter arising out of or related to the ownership of the Property, or acquired with proceeds of any loan

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secured by this Instrument, or located in, on or about the Property, or used or intended to be used with or in connection with the construction, use, operation or enjoyment of the Property, and

(iii) all right, title and interest of Borrower in, to and under all franchise agreements, management contracts, service contracts, utility contracts, leases of equipment, documents and agreements relating to the construction of any Improvements (including any and all construction contracts, architectural contracts, engineering contracts, designs, plans, specifications, drawings, surveys, tests, reports, bonds and governmental approvals) and all other contracts, licenses and permits now or hereafter affecting the Project or any part thereof and all guaranties and warranties with respect to any of the foregoing (the "Contracts"), and

(iv) all right, title and interest of Borrower in any insurance policies or binders now or hereafter relating to the Project, including any unearned premiums thereon, and

(v) all right, title and interest of Borrower in any and all awards, payments, proceeds and the right to receive the same, either before or after any foreclosure hereunder, as a result of any temporary or permanent injury or damage to, taking of or decrease in the value of the Project by reason of casualty, condemnation or otherwise, and

(vi) all right, title and interest of Borrower in all utility, escrow and all other deposits (and all letters of credit, certificates of deposit, negotiable instruments and other rights and evidence of rights to cash) now or hereafter relating to the Project or the purchase, construction or operation thereof, and

(vii) all right, title and interest of Borrower in all cash funds, deposit accounts, certificates of deposit, negotiable instruments and other rights and evidence of rights to cash, now or hereafter created under or held by Lender pursuant to any of the "Loan Documents" (as hereinafter defined), including any account into which any portion of the "Indebtedness" (as hereinafter defined) may be disbursed by Lender, and

(viii) all documents and agreements in favor of Borrower in connection with any of the foregoing, and

(ix) all claims and causes of action arising from or otherwise related to any of the foregoing, and all rights and judgments related to any legal actions in connection with such claims or causes of action, and all cash (or evidences of cash or of rights to cash) or other property or rights thereto relating to such claims or causes of action, and

(x) all extensions, additions, improvements, betterments, renewals and replacements, substitutions, or proceeds of any of the

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foregoing; and all inventory, accounts, chattel paper, documents, instruments, equipment, fixtures, farm products, consumer goods, general intangibles and other property of any nature constituting proceeds acquired with proceeds of any of the property described hereinabove; all of which foregoing items are hereby declared and shall be deemed to be a portion of the security for the indebtedness and obligations herein described, a portion of the above described collateral being located upon the Land.

For purposes of this Instrument, the term "Loan Documents" shall mean this Instrument, the "Note" (as hereinafter defined), that certain Loan Agreement (the "Loan Agreement") dated as of even date herewith between Borrower and Lender and acknowledged by Mayer Electric Supply Company, Inc. ("Guarantor"), that certain Unconditional Guaranty of Payment and Performance (the "Guaranty") dated as of even date herewith by Guarantor in favor of Lender, any agreement regarding environmental activity or conditions ("Environmental Agreement") pertaining to the Premises or any portion thereof and certain other properties of the Borrower, and any other documents to or of which Lender is a party or beneficiary now or hereafter evidencing, securing, guarantying, modifying or otherwise relating to said Indebtedness or the Premises; and the term "Loan" shall mean the loan contemplated by the Loan Documents.

1.02 TO HAVE AND TO HOLD the Premises and all parts, rights, members and appurtenances thereof, to Lender, its successors and assigns forever; and Borrower covenants that Borrower is lawfully seized and possessed of the Premises as aforesaid and has good right to convey the same, that the same are unencumbered except for those matters expressly set forth in Exhibit "B" hereto, and Borrower does warrant and will forever defend the title thereto against the claims of all persons whomsoever, except as to the matters set forth on Exhibit "B".

1.03 THIS INSTRUMENT is given to secure the payment of the following described indebtedness (collectively, the "Indebtedness"): (a) the debt evidenced by that certain Real Estate Note dated of even date herewith, made by Borrower to the order of Lender in the principal amount of FIVE MILLION THIRTY-SIX THOUSAND TWO HUNDRED-FIFTY and NO/100 DOLLARS ($5,036,250), with the final payment being due on or before December 31, 2014, together with any and all renewals, modifications, consolidations, replacements and extensions thereof (the "Note"); (b) any and all additional advances made or costs or expenses incurred by Lender to protect or preserve the Premises or the security interest created hereby, or for taxes, assessments or insurance premiums as hereinafter provided, or for performance of any of Borrower's obligations hereunder, or for any purpose referred to in Section 2.08 hereof, or for any other purpose provided herein (whether or not the original Borrower remains the owner of the Premises at the time such advances are made or costs or expenses incurred); and (c) any and all other indebtedness now or hereafter owing by Borrower to Lender, however and whenever incurred or evidenced, whether express or implied, direct or indirect, absolute or contingent, or due or to become due, and all renewals, modifications, consolidations, replacements and extensions thereof. The foregoing Indebtedness includes all interest on the principal portion thereof and all charges, prepayment premiums, reimbursements and other payments of any kind provided for in the Loan Documents.

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1.04 SHOULD THE INDEBTEDNESS BE PAID according to the tenor and effect thereof when the same shall become due and payable, and should Borrower perform all covenants herein contained when and as required hereunder and under the other Loan Documents, then this Instrument shall be satisfied and the estate, right, title and interest of Lender in the Property shall cease, and upon payment to Lender of all costs and expenses incurred for the preparation of the release hereinafter referenced and all recording costs if allowed by law, Lender shall release this Instrument and the lien hereof by proper instrument.

ARTICLE 2 - COVENANTS AND AGREEMENTS

2.01 Payment of Indebtedness. Borrower shall pay the Note according to the tenor thereof and the remainder of the Indebtedness promptly as the same shall become due.

2.02 Taxes, Liens and Other Charges. Borrower shall pay, on or before the due date thereof, all (a) taxes, assessments, and other charges of every character whatsoever now or hereafter levied on, assessed, placed or made against, or creating a lien upon, the Indebtedness, the Premises, this Instrument, or any other Loan Document, or any interest of Lender in the Indebtedness, the Premises or the Loan Documents, subject, however, to Borrower's right to contest such taxes, assessments and charges pursuant to and in accordance with Section 7(e) of the Loan Agreement; (b) premiums on policies of insurance now or hereafter covering the Premises, and any and all other insurance policies now or hereafter collaterally pledged to Lender; (c) ground rentals or other lease rentals, if any, payable by Borrower; (d) utility charges, whether public or private; and (e) penalties and interest on any of the foregoing. Borrower will promptly pay any tax arising out of the passage of any law, order, rule or regulation, subsequent to the date hereof, in any manner changing or modifying the laws now in force governing the taxation of deeds to secure debt or security agreements, or debts secured thereby, or the manner of collection thereof. Borrower shall promptly deliver to Lender upon demand receipts showing timely payment in full of all of the above items, subject, however, to Borrower's right to contest such taxes, assessments and charges pursuant to and in accordance with Section 7(e) of the Loan Agreement.

2.03 Insurance and Condemnation.

(a) Borrower shall procure for, deliver to and maintain for the benefit of Lender during the term of this Instrument, original, fully paid insurance policies issued by such insurance companies, in such amounts, form and substance, insuring such parties (including Borrower and any contractor performing work upon the Premises) and with such expiration dates as are acceptable to Lender, providing "all risk" permanent real and personal property and "all risk" builders risk (for improvements completed or under construction, respectively), public liability (insuring Borrower and any contractor performing work on the Premises), worker's compensation, rent loss, and such other coverage as Lender may from time to time require, naming Lender as mortgagee and loss payee with respect to all property insurance and as an additional insured with respect to all liability insurance except worker's compensation. Borrower shall cause any builder's risk insurance covering any improvements to the Premises to be replaced by permanent insurance promptly upon completion of such improvements and without any lapse in coverage. At least thirty (30) days prior to the expiration date of each policy maintained pursuant to this section, a renewal or replacement thereof satisfactory to

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Lender shall be delivered to Lender, together with receipts evidencing the payment of all premiums required to keep such insurance in effect for the full term of such policy. At the request of Lender, Borrower shall provide evidence satisfactory to Lender that all such insurance is in effect. If the Premises or any part thereof is damaged by fire or any other cause, Borrower will give immediate written notice thereof to Lender.

(b) Borrower shall notify Lender immediately upon obtaining knowledge of the institution, or the proposed, contemplated or threatened institution, of any action for the taking through condemnation (which term when used in this Instrument shall include any damage or taking by any governmental or quasi-governmental authority and any transfer by private sale in lieu thereof) of the Premises or any part thereof.

(c) Lender shall be entitled to all compensation, awards and other payments arising from any casualty, condemnation or damage to the Premises or any portion thereof and to give receipts and acquittances therefor, and is hereby authorized, at its option, to adjust or compromise any casualty, condemnation or damage claim or cause of action, to commence, appear in and prosecute, in its own or in Borrower's name, any action or proceeding relating to any casualty, condemnation or damage claim or cause of action, and to settle or compromise any claim or cause of action in connection therewith. Each insurance company, condemning authority or other party is hereby authorized and directed to make payment for all such claims and causes of action directly to Lender, instead of to Borrower and Lender jointly. In the event any insurance company, condemning authority or other party fails to disburse directly and solely to Lender but disburses instead either solely to Borrower or to Borrower and Lender jointly, Borrower agrees immediately to endorse and transfer such payments to Lender. Upon the failure of Borrower to endorse and transfer such payments as aforesaid, Lender may execute such endorsements or transfers for and in the name of Borrower and Borrower hereby irrevocably appoints Lender as Borrower's agent and attorney-in-fact so to do. Lender shall not be responsible for any failure to collect any insurance proceeds, any condemnation award or any other payment relating to the Premises, regardless of the cause of such failure. After deducting from any condemnation, insurance or other proceeds received by Lender all expenses of Lender incurred in the collection and administration of such sums, including attorney's fees, Lender may apply the net proceeds or any part thereof, at its option, to any one or more of the following: (i) the payment of the Indebtedness, whether or not due and in whatever order Lender elects, (ii) the repair, replacement or restoration of the Damaged Premises (as defined below) or any part thereof to the equivalent of its original condition or to a condition approved by Lender (the "**Restoration**"), and (iii) any other purposes for which Lender is entitled to advance funds under this Instrument, all without affecting the security interest created by this Instrument; and any balance of such moneys not applied by Lender as aforesaid shall be paid to Borrower or the person or entity lawfully entitled thereto. For purposes hereof, the "Damaged Premises" shall mean that certain individual parcel of real property constituting part of the Property that has been affected by any casualty, condemnation or damage. To the extent Lender, in accordance with the terms hereof, determines to apply insurance or condemnation proceeds to Restoration, Lender shall do so in accordance with Lender's then-current policies relating to the, as applicable, restoration of casualty damage on similar properties or restoration or rebuilding of properties that have been the subject of a partial condemnation. Lender shall exercise its option to apply insurance proceeds or condemnation proceeds to Restoration of the Damaged Premises up to the amount of net proceeds of such insurance or condemnation held by Lender after deducting from

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such proceeds all of Lender's expenses incurred in the collection and administration of such sums, including reasonable attorney's fees, if all of the following conditions are met: (1) no Default or Event of Default has occurred and is continuing; (2) in the case of casualty, less than thirty percent (30%) of the Improvements located on the Damaged Premises has been damaged, or in the case of a taking, less than twenty percent (20%) of the Improvements located on the Damaged Premises has been taken and does not materially impair access or parking; (3) Lender determines, in its discretion, that there will be sufficient funds to complete the Restoration (including, without limitation, by means of a deposit of any shortfall by Borrower with Lender prior to the commencement of the Restoration or promptly upon Lender's determination that such a shortfall exists); (4) Lender determines, in its discretion, that the rental income from the Damaged Premises after completion of the Restoration will be sufficient to meet all operating costs and other expenses and loan repayment obligations relating to the Damaged Premises and that the debt service coverage ratio for the Damaged Premises after Restoration will be the same as on the closing date of the Loan and the ratio of the loan to value after Restoration will be the same as on the closing date of the Loan; (5) Lender determines, in its discretion, that (A) the Restoration will be completed before the earlier of (i) one year before the Maturity Date of the Note or (ii) one year after the date of the loss or casualty and (B) rent loss insurance or business interruption insurance will cover all payments due under the Loan during the completion of the Restoration; (6) upon Lender's request, Borrower provides Lender evidence of the availability during and after the Restoration of the insurance required to be maintained by Borrower; and (7) Borrower provides Lender with written notice within five (5) days after settlement of the aforesaid insurance or condemnation claim of its request to undertake a Restoration. In no event shall the provisions of this section be construed to extend the maturity date of the Note or to limit in any way any right or remedy of Lender in the event of a Default under the Loan Documents. Any excess of net proceeds over the amount necessary to complete such repair and restoration shall be applied, in the discretion of Lender, to the payment of the Indebtedness, whether or not due and in whatever order Lender elects, or to any other purposes for which Lender is entitled to advance funds under the Loan Documents.

(d) In the event of the foreclosure of this Instrument or any other transfer of title to the Premises in extinguishment or partial extinguishment of the Indebtedness, all right, title and interest of Borrower in and to all insurance policies then in force (including any premiums paid in advance), all insurance proceeds, all condemnation proceeds and awards and all claims and judgments for damage to the Premises or any portion thereof shall pass to the purchaser or Lender, and said purchaser or Lender shall have the right to receive all awards, proceeds or payments relating thereto to the extent of any unpaid Indebtedness following such sale, with legal interest thereon, whether or not a deficiency judgment on this Instrument or the Note shall have been sought or recovered, and to the extent of reasonable counsel fees, costs and disbursements incurred by Lender in connection with the collection of such award, proceeds or payments.

2.04 Leases and Contracts. Borrower shall (a) fulfill, perform and observe each and every condition and covenant of landlord or lessor contained in each of the Leases and each and every condition and covenant of Borrower or owner of the Premises contained in the Contracts; (b) give prompt notice to Lender of any claim of default or notice of any event or condition which, with notice or passage of time or both, would constitute a default under any of the Leases or the Contracts, whether given by or given to Borrower, together with a complete copy of any

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notice expressing such claim; (c) at no cost or expense to Lender, enforce, short of termination, the performance and observance of each and every condition and covenant of each of the parties under the Contracts and the Leases; (d) appear in and defend any action against any one or more of Borrower, Lender, and the Premises arising out of, or in any manner connected with, any of the Leases or the Contracts, or the obligations or liabilities of any party thereto or any guarantor thereof; and (e) furnish to Lender upon demand copies of all Leases and Contracts. Borrower shall not, without the prior written consent of Lender, enter into new Leases in excess of 2,500 square feet or Contracts having aggregate payments in excess of $10,000.00 or which cannot be terminated on 30 days notice or less without payment of any termination fee or penalty. Borrower shall not, without the prior written consent of Lender, (i) modify any Leases or Contracts; (ii) terminate or accept the surrender of any Leases or Contracts; (iii) waive or release any other party from the performance or observance of any obligation or condition under any Leases or Contracts; or (iv) give any consent to any assignment or sublease by any Tenant under any of the Leases; provided however that the forgoing restrictions shall not apply to leases with unrelated third party tenants, in the normal course of business in a manner which is consistent with sound and customary leasing and management practices for similar properties in the community in which the Property is located. Borrower shall not, without the prior written consent of Lender, permit the prepayment of any rents under any of the Leases for more than one month prior to the accrual thereof or assign its interest in, to or under any Contracts or Leases or the rents, issues and profits from the Leases or from the Premises to any person or entity other than Lender. Borrower shall take no action which will cause or permit the estate of any Tenant under any of the Leases to merge with the interest of Borrower in the Premises or any portion thereof. Borrower shall and does hereby authorize and direct each and every present and future Tenant of all or any part of the Premises to pay all rent (and any other sums due the landlord under the Lease) to Lender and to perform all other obligations of that Tenant for the direct benefit of Lender, as if Lender were the landlord under the Lease with that Tenant, immediately upon receipt of a demand by Lender to make such payment or perform such obligations, it being acknowledged that no such demand by Lender shall constitute or be deemed to constitute any assumption by Lender of any obligations of the landlord under such Lease. No Tenant shall have any responsibility to ascertain whether such demand is permitted hereunder or whether a Default shall have occurred. Borrower hereby waives any right, claim or demand it may now or hereafter have against any such Tenant by reason of such payment of rent or other sums or performance of obligations to or for Lender; and any such payment or performance to or for Lender shall discharge the obligations of the Tenant to make such payment or performance to or for Borrower. Borrower shall and does hereby authorize and direct each and every present and future party to any Contract (a "Contract Party") to make all payments to Lender and to perform all obligations of that Contract Party for the direct benefit of Lender, as if Lender were the Borrower or owner of the Premises under the Contract with that Contract Party, immediately upon receipt of a demand by Lender to make such payments or perform such obligations, it being acknowledged that no such demand by Lender shall constitute or be deemed to constitute any assumption by Lender of any obligations of the Borrower or owner of the Premises under such Contract. No Contract Party shall have any responsibility to ascertain whether such demand is permitted hereunder or whether a Default shall have occurred. Borrower hereby waives any right, claim or demand it may now or hereafter have against any such Contract Party by reason of such payment or performance of obligations to or for Lender; and any such payment or

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performance to or for Lender shall discharge the obligations of the Contract Party to make such payment or performance to or for Borrower.

2.05 Operation, Care and Inspection of Premises. Borrower shall operate the Premises at all times for such purposes as it is currently being operated or such other purposes as may be approved by Lender in writing. Borrower shall maintain the Premises in good condition and repair, shall not commit or suffer any waste to the Premises or do or suffer to be done anything which would increase the risk of casualty to the Premises or any part thereof or which would result in the cancellation of any insurance policy carried with respect to the Premises. Borrower shall comply promptly with all applicable laws, rules, ordinances, regulations, judgments, governmental determinations, restrictive covenants and easements affecting the Premises or any part thereof (the "Requirements") and shall cause the Premises to comply at all times and in all respects with all Requirements, and shall at all times operate the Premises, and perform any construction of any portion thereof, in all respects in accordance with all Requirements. Without implying any limitation upon the foregoing, Borrower shall obtain all permits and approvals of governmental agencies and authorities which are required in connection with the ownership, use, occupancy, repair, restoration or construction of the Premises as soon as the same are required. Borrower shall promptly repair, restore or replace, to the extent and in a manner satisfactory to Lender, any part of the Premises which may be damaged by fire or other casualty or which may be affected by any condemnation proceeding, provided that Lender thereafter makes available to Borrower (pursuant to a procedure satisfactory to Lender) any net insurance or condemnation proceeds actually received by Lender in connection with such casualty loss or condemnation, to the extent such proceeds are required to defray the expense of such restoration, repair or replacement; provided, however, that the insufficiency of or delay in receipt by Borrower of any such net proceeds shall in no way relieve Borrower of its obligation to promptly restore, repair or replace. Lender and any persons authorized by Lender shall have the right at all reasonable times to inspect the Premises, any improvements existing or being constructed thereon and all materials used or to be used in such improvements; provided, however, that nothing contained herein shall be deemed to impose upon Lender any obligation to undertake such inspections or any liability for the failure to detect or failure to act with respect to any defect which was or might have been disclosed by such inspections. Notwithstanding anything to the contrary herein, no part of the Premises now or hereafter conveyed as security under this Instrument shall be removed, demolished or materially altered without the prior written consent of Lender.

2.06 Security Agreement.

(a) This Instrument is hereby made and declared to be a security agreement encumbering each and every item of personal property included herein as a part of the Premises, in compliance with the provisions of the UCC as enacted in the jurisdiction applicable thereto. The remedies for any violation of the covenants, terms and conditions of the security agreement contained in this Instrument shall be as prescribed herein, or as prescribed by general law, or as prescribed by the applicable UCC, all at Lender's election in the discretion of Lender. Upon request or demand by Lender, Borrower shall at its expense assemble all personal property which is a part of the Premises, and with respect to which such request or demand is made, and make the same available to Lender at a convenient place upon the Land (or within Improvements upon the Land, as may be appropriate for the protection of such personal property) acceptable to Lender. Any notice of sale, disposition or other action by Lender with respect to personal

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property which is a part of the Premises sent to Borrower in accordance with the provisions hereof relating to communications at least ten (10) days prior to such action shall constitute adequate and reasonable notice to Borrower of such action. Borrower agrees that all property used in connection with the production of income from the Premises or adapted for use therein or which is described or reflected in this Instrument, is, and at all times and for all purposes and in all proceedings, legal or equitable, shall be, regarded as part of the real estate conveyed hereby and that the filing of any financing statement or statements in the records normally having to do with personal property shall not in any way affect such agreement; provided, however, that Lender may determine in its discretion that certain items of such property constitute personal property and are subject to remedies available with respect to personal property. The mention in any financing statement or statements of rights in and to (a) the proceeds of any insurance policy, or (b) any award in eminent domain proceedings for a taking or for loss of value, or (c) any payment for damage to or losses associated with the Premises, or (d) Borrower's interest as lessor in any present or future lease or rights to income growing out of the use and/or occupancy of the Premises, whether pursuant to a Lease or otherwise, shall not in any way limit any of the rights of Lender as determined by this Instrument or affect the priority of Lender's security interest granted hereby or by any other recorded document, it being understood and agreed that such mention in such financing statement or statements is solely for the protection of Lender in the event any court shall at any time hold with respect thereto, that notice of Lender's priority of interest, to be effective against all persons or against a particular class of persons, must be filed in the applicable UCC records. Except with respect to rental payments to the extent specifically provided herein to the contrary, Lender shall have the right of possession of all cash, securities, instruments, negotiable instruments, documents, certificates and any other evidences of cash or other property or evidences of rights to cash or other property which are now or hereafter a part of the Premises, and Borrower shall promptly deliver the same to Lender without further notice from Lender. Borrower hereby irrevocably agrees that Lender may, at the option of Lender, give notice from time to time to any one or more persons or entities who may have or owe or be expected thereafter to have or owe any payment or other property of any nature which is or may become a part of the Premises, of the security interest of Lender therein or of the right, if any, of Lender to possession thereof; and, where Lender has such a right of possession, Lender may demand of such persons or entities delivery of any such payment or other property directly to Lender. If Lender shall at its option so request, Borrower will join in any such notices with Lender. The name of the "Secured Party" (which is Lender) and the address of the "Secured Party" from which information concerning the security interest may be obtained, are as set forth in Section 4.06, hereof; and a statement indicating the types, or describing the items, of collateral is set forth hereinabove.

(b) Borrower hereby warrants and represents that:

(i) Mayer Properties II, LP is the correct legal name of the Borrower (including, without limitation, punctuation and spacing) indicated on the public record of the Borrower's jurisdiction of organization which shows the Borrower to be organized.

(ii) The Borrower is a limited partnership organized under the laws of the State of Alabama and its organizational/control number is 400-583.

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(iii) The Borrower's mailing address is 3405 4th Avenue South, Birmingham, Alabama 35222.

(iv) The federal tax identification number of Borrower is 63-0880114.

(v) The information set forth below correctly sets forth all names and tradenames that Borrower has used within the last five years, and also correctly sets forth the locations of all of the chief executive offices of Borrower over the last five years.

Tradenames: none
Chief Executive Offices: 3405 4th Avenue South, Birmingham, Alabama 35222

(c) The Borrower hereby covenants and agrees that:

(i) Borrower shall not merge or consolidate into, or transfer any of the Premises to, any other person or entity without the prior written consent of Lender.

(ii) Borrower shall not change its name unless it has given Lender thirty (30) days' prior written notice thereof and executed or authorized, at the request of Lender, such additional financing statements to be filed in such jurisdictions as Lender may deem necessary or desirable in its sole discretion.

(iii) Borrower shall, at any time and from time to time, take such steps as Lender may reasonably request for Lender (A) to obtain an acknowledgment, in form and substance reasonably satisfactory to Lender, of any bailee having possession of any of the Premises, stating that the bailee holds possession of such Premises on behalf of Lender, (B) to obtain "control" of any investment property, deposit accounts, letter-of-credit rights, or electronic chattel paper (as such terms are defined by Revised Article 9 of the UCC with corresponding provisions thereof defining what constitutes "control" for such items of collateral), with any agreements establishing control to be in form and substance reasonably satisfactory to Lender, and (C) otherwise to insure the continued perfection and priority of the Lender's security interest in any of the Premises and of the preservation of its rights therein. If Borrower shall at any time acquire a "commercial tort claim" (as such term is defined in Revised Article 9 of the UCC with respect to the Premises or any portion thereof) Borrower shall promptly notify Lender thereof in writing, providing a reasonable description and summary thereof, and shall execute a supplement to this Instrument in form and substance acceptable to Lender granting a security interest in such commercial tort claim to Lender.

(d) Borrower hereby authorizes Lender, its counsel or its representative, at any time and from time to time, to file financing statements, amendments and continuations that describe or relate to the Premises or any portion thereof in such jurisdictions as Lender may deem necessary or desirable in order to perfect the security interests granted by Borrower under this Instrument or any other Loan Document, and such financing statements may contain, among other items as Lender may deem advisable to include therein, the federal tax identification number of Borrower, and may describe the property covered by such financing

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statements as "all assets of Borrower," "all personal property of Borrower" or words of similar effect.

2.07 Further Assurances; After-Acquired Property. Borrower shall execute and/or deliver (and pay the costs of preparation and recording thereof) to Lender, upon reasonable request, any further instrument or instruments deemed by Lender in its reasonable discretion to be desirable to evidence, reaffirm, correct, perfect, continue or preserve the obligations of Borrower under the Note or the other Loan Documents, the collateral at any time securing or intended to secure the Indebtedness, and the first and prior legal lien and interest of Lender to all or any part of the Premises, whether now owned or hereafter acquired by Borrower. Upon any failure of Borrower so to do, Lender may make, execute, record, file, re-record and/or re-file any and all such instruments for and in the name of Borrower, and Borrower hereby irrevocably appoints Lender the agent and attorney-in-fact of Borrower to do so. The lien of this Instrument and the lien created hereby will automatically attach, without further act, to all after-acquired property attached to or used in the operation of the Premises or any part thereof.

2.08 Expenses. Borrower will pay or reimburse Lender, upon demand therefor, for all reasonable costs and expenses of any kind (including fees of attorneys, auditors, appraisers, consultants and inspectors) paid or incurred by Lender relating to the Indebtedness or the Loan Documents, including those paid or incurred in connection with the commitment, negotiation, documentation, preparation, closing, disbursement, administration or modification of the Indebtedness or any one or more of the Loan Documents, or in connection with the collection of any insurance or other proceeds or enforcement of any rights of Lender under or relating to this Instrument or the other Loan Documents (other than collection of the Indebtedness after maturity), including the costs of any suits or proceedings or disputes of any kind in which Lender is made or appears as a party plaintiff or defendant or which are, in the judgment of Lender, expedient to preserve or protect its interest in the Premises (including condemnation, insolvency, bankruptcy or probate proceedings, administrative proceedings, proceedings relating to enforcement of laws or regulations, forfeiture proceedings, arbitration and other alternate dispute resolution proceedings, any other proceedings similar or alternative to any of the foregoing, and appeals at all levels of appeal, whether before or after entry of judgment or other determination). Borrower will pay any and all interest and charges owing on account of the Indebtedness or any one or more of the Loan Documents, including any interest or charges arising on account of failure or delay in payment of any of the items referred to in this provision. In addition, Borrower shall pay to Lender, upon demand, all costs and expenses (including attorneys' fees and fees of auditors, appraisers, consultants and inspectors) in connection with the collection of the Indebtedness, or any portion thereof, after maturity (whether in due course or by acceleration). All such costs, expenses, penalties and interest paid or incurred by Lender shall be added to the Indebtedness and shall be secured by this Instrument.

2.09 [Intentionally Omitted].

2.10 Conveyance or Encumbrance. Except as expressly permitted in the Loan Agreement, Borrower shall not encumber, pledge, convey, transfer or assign any or all of its interest in the Premises, or execute or consent to any instrument or matter which might affect the title to the Premises or which might effect a change in any one or more of the Requirements or acquire any portion of the personal property covered by this Instrument subject to any charge or

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lien, without the prior written consent of Lender, which consent shall be given or withheld by Lender at its discretion; and, if Borrower is a corporation, partnership, limited liability company or other artificial entity, except as expressly permitted in the Loan Agreement, there shall be no encumbrance, pledge, conveyance, transfer or assignment of any legal or beneficial interest whatsoever in Borrower (or in any partner, member or component entity at any tier in the structure of Borrower) without such prior written consent of Lender.

2.11 Hazardous Substances.

(a) As used in this Instrument, the following terms shall have the meanings set forth below in this Subsection 2.11(a):

Affected Property. Any property other than the Premises which is affected by any Environmental Activity.

Environmental Activity. Any actual, proposed or threatened use, storage, holding, existence, release, emission, discharge, generation, processing, abatement, removal, disposition, handling or transportation of any Hazardous Substance from, to, upon, in, under or above the Premises or otherwise relating to the Premises or the Use of the Premises, or any Use of the Premises which affects any Wetlands, or any other activity or occurrence that causes or would cause any of the foregoing to exist or occur.

Environmental Requirements. All "Superfund" or "Super Lien" laws relating to any Hazardous Substance or Environmental Activity, and all other present and future federal, state and local laws, statutes, authorizations, judgments, decrees, concessions, grants, franchises, agreements, ordinances, codes, rules, regulations, orders and other governmental restrictions and requirements regulating, relating to or imposing liability or a standard of conduct concerning the environment or any Hazardous Substance or Environmental Activity including, without limitation, the following, as the same may be amended from time to time, and all regulations promulgated thereunder or in connection therewith: The Alabama Water Pollution Control Act (ALA. CODE § 22-22-1 et seq.); The Alabama Environmental Management Act (ALA. CODE § 22-22A-1 et seq.); The Alabama Waterworks and Water Supplies Act (ALA. CODE § 22-23-30 et seq.); The Alabama Solid Wastes Disposal Act (ALA. CODE § 22-27-1 et seq.); The Alabama Air Pollution Control Act (ALA. CODE § 22-28-1 et seq.); The Alabama Hazardous Wastes Management and Minimization Act (ALA. CODE § 22-30-1 et seq.); The Alabama Hazardous Substance Cleanup Fund (ALA. CODE § 22-30A et seq.); The Alabama Fees for Disposal of Hazardous Waste or Substances Act (ALA. CODE § 22-30B-1 et seq.); The Alabama Underground Storage Tank Trust Fund Act (ALA. CODE § 22-35-1 et seq.); The Alabama Underground Storage Tank and Wellhead Protection Act (ALA. CODE § 22-36-1 et seq.); The Alabama Lead Ban Act (ALA. CODE § 22-37-1 et seq.); and The Alabama Asbestos Contractor Accreditation Act (ALA. CODE § 22-39-4 et seq.); Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. § 9601 et seq. ("CERCLA"); Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq.; Clean Air Act, 42 U.S.C. §§ 7401-7671(q); Water Pollution Control Act (commonly referred to as the Clean Water Act), 33 U.S.C. § 1251 et seq.; Federal Insecticide, Fungicide, and Rodenticide Act, as amended by the Federal Environmental Pesticide Control Act of 1972 and by the Federal Pesticide Act of 1978, 7 U.S.C. § 136 et seq.; Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; Safe Drinking Water Act, 42 U.S.C. § 300(f) et seq.; Occupational Safety and Health Act, 29 U.S.C. § 651 et seq.; National Environmental Policy Act, 42 U.S.C. § 4321 et seq.; Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801 et seq.; Refuse Act of 1899, 33 U.S.C. §§ 407 et seq.; and Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. §§ 11001-11050.

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Hazardous Substance. Any substance which is a "hazardous substance" (as defined in CERCLA), or any other substance or material defined, designated, classified or considered as hazardous, toxic, radioactive or dangerous waste, hazardous, toxic, radioactive or dangerous material, or a hazardous, toxic, radioactive or dangerous substance under any Environmental Requirement.

Indemnitees. Lender and each of its predecessors, successors and assigns, and each past, present and future, direct and indirect, parent, subsidiary and affiliated entity of each of the foregoing, and each past, present and future employee, agent, attorney-in-fact, attorney-at-law, representative, officer, director, shareholder, partner, participant and joint venturer of each of the foregoing, and each heir, executor, administrator, successor and assign of each of the foregoing; references in this paragraph to "any" of such parties shall be deemed to mean "any one or more" of such parties; and references in this sentence to "each of the foregoing" shall mean and refer cumulatively to each party referred to in this sentence up to the point of such reference. If an Indemnitee ceases to bear with respect to another Indemnitee, the relationship described above which defines such Indemnitee as such, such Indemnitee shall nevertheless remain an Indemnitee hereunder.

Proximate Property. Property other than the Premises located in such proximity to the Premises that the Premises might be affected by Related Activity existing or occurring with respect to such other property.

Related Activity. Any Use, activity, condition, circumstance or state of facts existing or occurring other than with respect to the Premises which would, if existing or occurring with respect to the Premises, constitute an Environmental Activity.

Use. Use, ownership, development, construction, maintenance, management, operation or occupancy.

Wetlands. Areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, or any other real property designated pursuant to any Environmental Requirement for regulation or protection on account of permanent or temporary presence therein or thereon of water or of plant or animal life associated with hydric conditions.

(b) Borrower certifies, represents and warrants to Lender that it has duly investigated the present and past uses of all portions of the Premises, and Borrower has employed an environmental consultant to make due inquiry of the appropriate governmental agencies and offices having jurisdiction over the Premises and the Environmental Requirements applicable to the Premises, as to whether the Premises or any Proximate Property is or has been the location of any Wetlands or the site of storage of or contamination by any Hazardous Substances or the subject of any other Environmental Activity or Related Activity.

(c) Borrower certifies, represents and warrants to Lender that Borrower has given no release or waiver of liability that would waive or impair any claim based on any Environmental Activity to a previous owner of the Premises or to any party who may be potentially responsible for the Premises; and that Borrower has made no promises of indemnification regarding any Environmental Activity to any party other than Lender; and that Borrower has no liability, absolute or contingent, to any party other than Lender, in connection with any Environmental Activity.

(d) Borrower certifies, represents and warrants to Lender that: (i) to the best of Borrower's knowledge, information and belief, Borrower and all portions of the Premises are in compliance in all material respects with all applicable Environmental

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Requirements; and (ii) no investigations, inquiries, orders, hearings, actions or other proceedings by or before any governmental agency are pending or, to the best knowledge of the Borrower, threatened in connection with any Environmental Activity or alleged Environmental Activity; and (iii) Borrower has no knowledge, after due investigation, of the presence of any Hazardous Substances upon, in, under or above the Premises; and (iv) Borrower has no knowledge, after due investigation, of any facts or circumstances existing upon, in, under or above the Premises or relating to the Premises which may violate any applicable Environmental Requirement; and (v) to the best of Borrower's knowledge, information and belief, after due investigation, the Use of the Premises for its intended purpose will not result in any Environmental Activity in violation of any applicable Environmental Requirements; and (vi) to the best knowledge of Borrower, after due inquiry, there is no Related Activity upon, in, under or above any Proximate Property; and (vii) Borrower has not engaged in any Environmental Activity and, to the best knowledge of the Borrower, after due investigation, no Environmental Activity has otherwise occurred, and no notice, order, directive, complaint or other communication, written or oral, has been made or issued by any governmental agency or other person or entity alleging the occurrence of any Environmental Activity in violation of any Environmental Requirements; and (viii) to the best of Borrower's knowledge, information and belief, after due investigation, there are no underground storage tanks or other underground storage receptacles for Hazardous Substances, whether closed or in use, on the Premises; and (ix) Borrower has obtained and will at all times continue to obtain and maintain all licenses, permits or other governmental or regulatory approvals or consents, if any, necessary to comply with all Environmental Requirements relating to the Premises or any Environmental Activity, and Borrower is and shall continue at all times to be in compliance with said licenses, permits, approvals or consents; and (x) to the best knowledge of Borrower, no other property now or previously owned by Borrower is under investigation with respect to, or is or has been in violation of any Environmental Requirement; and (xi) to the best of Borrower's knowledge, information and belief, after due investigation, no portion of the Premises constitutes Wetlands.

(e) Borrower shall at all times, at its sole expense, comply in all material respects with all applicable Environmental Requirements relating to the Premises or the use of the Premises, and Borrower shall not engage in or otherwise permit the occurrence of any Environmental Activity in violation of any applicable Environmental Requirement. In the event that any Hazardous Substance shall be found to exist upon, in, under or above the Premises (or, by reason of any Environmental Activity, upon, in, under or above any Affected Property), Borrower shall cause all such Hazardous Substances to be removed from all portions of the Premises (or such Affected Property, or both, as the case may be) in a manner complying in all respects with all Environmental Requirements, and Borrower shall promptly settle and pay any and all claims against Borrower or the Premises relating thereto.

(f) Borrower shall immediately notify Lender if Borrower becomes aware of (i) the presence of any Hazardous Substances or other environmental problem or liability with respect to the Premises, any Affected Property or any Proximate Property; or (ii) any lien, action or notice resulting from violation or alleged violation of, or action pursuant to, any Environmental Requirement as the same pertains to the Premises, or any other property now or previously owned by Borrower, or any Affected Property, or any Proximate Property; or (iii) the institution of any investigation, inquiry or proceeding concerning Borrower or the Premises or any Affected Property pursuant to any Environmental Requirement, or (iv) the discovery of

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any occurrence, condition or state of facts which would render any representation contained in this Section 2.11 incorrect in any respect if made at the time of such discovery.

(g) Borrower shall indemnify, defend and save and hold harmless each Indemnitee from and against any and all claims, demands, defenses, set-offs, counterclaims, damages, disbursements, losses, judgments, liens, liabilities, penalties, objections, injuries, fines, litigation, lawsuits and other proceedings and costs and expenses (including attorneys' fees and disbursements, and the reasonable charges of such Indemnitee's internal legal counsel, including fees in appellate and bankruptcy proceedings) which accrue against or are incurred by such Indemnitee and arise directly or indirectly from or out of or in any way connected with (i) the failure of any certification, representation or warranty contained in this Section 2.11 to be true and correct in all respects; or (ii) the presence of any Hazardous Substance upon or within the Premises or, by reason of any Environmental Activity, upon or within any Affected Property; or (iii) the occurrence of any Environmental Activity; or (iv) any failure of the Premises to comply at all times in all respects with all applicable Environmental Requirements; or (v) any failure of Borrower or any other person or entity to comply with all applicable Environmental Requirements relating to the Premises or the Use of the Premises; or (vi) any investigation, inquiry, order, hearing, action or other proceeding by or before any governmental agency in connection with any actual or alleged Environmental Activity; or (vii) the occurrence of any Related Activity; or (viii) the violation of any Environmental Requirement in connection with any other property owned by Borrower, which occurrence or violation gives or may give rise to any rights whatsoever in any party whatsoever with respect to the Premises; or (ix) any failure of Borrower to perform any covenant set forth in this Section 2.11; or (x) any claim, demand or cause of action, or any action or other proceeding, whether meritorious or not, brought or asserted against any Indemnitee which directly or indirectly relates to, arises from or is based on any of the matters described in clauses (i) through (ix) of this section or any allegation of such matters. The foregoing indemnity is in no way conditioned upon fault on the part of Borrower or upon any other event, occurrence, matter or circumstance, except as specifically set forth above in this section. The foregoing indemnity shall specifically not include any such loss, damage or liability relating to Hazardous Substances which were initially placed on, in or under the Property (1) after foreclosure or other taking of title to the Property by Lender or another purchaser at foreclosure, or (2) as a direct result of the gross negligence or willful misconduct of Lender (unless resulting through acts or omissions of Borrower or its affiliates).

(h) Borrower and Lender contemplate that liability may arise hereunder after repayment of the Loan, and that liability may arise hereunder prior to repayment of the Loan and remain unpaid after repayment of the Loan, and (without implying any different result with respect to other provisions of this Instrument) it is specifically agreed that this Section 2.11 (including the indemnity provided hereby) shall survive the repayment of the Loan, the foreclosure of this Instrument, the transfer of the Premises, and all other events relating to the Loan or the Premises, except as set forth in the 2.11(g) above. Borrower hereby acknowledges and agrees that the benefits of this Section 2.11 (including said indemnity) shall continue in favor of Indemnitees notwithstanding any transfer or assignment hereof by the Indemnitees or any of them, and shall also run to transferees and assignees hereof as additional Indemnitees. Any transferee or assignee of this Instrument is hereby put on notice that this Section 2.11 continues in effect in favor of all transferring or assigning Indemnitees, and that the rights acquired by such transferee or assignee shall be rights in common with all other Indemnitees, and any instrument

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of transfer or assignment hereof shall be deemed to reserve such rights whether or not specifically set forth therein.

ARTICLE 3 - DEFAULT AND REMEDIES

3.01 Defaults. The term "Default," wherever used in this Instrument, shall mean an "Event of Default" under the Loan Agreement and any one or more of the following events: (a) the assertion of any claim of priority to this Instrument, by title, lien or otherwise in any legal or equitable proceeding; or (b) all or any substantial portion of the Premises shall be taken through condemnation or through forfeiture proceedings, or any portion of the Premises shall be damaged by or taken through condemnation or through forfeiture proceedings and the value of the Premises shall, in the discretion of Lender, be materially diminished, either temporarily or permanently; or (c) the institution of any proceeding seeking the forfeiture of the Premises or any portion thereof or any interest therein as a result of any criminal or quasi-criminal activity by Borrower (or any person so related to Borrower or the Premises that the Premises or any portion thereof or any interest therein might be forfeited on account of the activity of such person) which is not dismissed or waived to the reasonable satisfaction of Lender within fifteen (15) days after the occurrence thereof; or (d) the failure of this Instrument to grant to Lender a valid, binding and enforceable first lien on in and to the Premises, including the personal property of Borrower referred to herein, or the failure of any one or more of the Loan Documents to be legal, valid, binding upon and enforceable against all parties thereto (other than Lender), or the claim by any party (other than Lender) to any one or more of the Loan Documents that any one or more of the Loan Documents is not legal, valid, binding upon and enforceable against all parties thereto (other than Lender).

3.02 Rights of Lender Upon Default. If a Default shall have occurred, then the entire Indebtedness shall, at the option of Lender, immediately become due and payable without notice or demand, time being of the essence, and Lender, at its option, may do any one or more of the following (and, if more than one, either concurrently or independently, and in such order as Lender may determine in its discretion), all without regard to the adequacy or value of the security for the Indebtedness:

(a) Enter upon and take possession of the Premises without the appointment of a receiver, or an application therefor; at its option, operate the Premises; at its option, exclude Borrower and its agents and employees wholly therefrom; at its option, employ a managing agent of the Premises; and at its option, exercise any one or more of the rights and powers of Borrower to the same extent as Borrower could, either in its own name, or in the name of Borrower; and, with or without taking possession of the Premises, receive the rents, incomes, issues, profits and revenues of the Premises and of any business conducted at the Premises. Lender shall have no obligation to discharge any duties of a landlord to any Tenant or to incur any liability as a result of any exercise by Lender of any rights hereunder; and Lender shall not be liable for any failure to collect rents, issues, profits or revenues, nor liable to account for any rents, incomes, issues, profits or revenues unless actually received by Lender.

(b) Apply, as a matter of strict right, without notice and without regard to the solvency of any party bound for its payment, for the appointment of a receiver to take

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possession of and to operate the Premises and to collect and apply the incomes, rents, issues, profits and revenues thereof.

(c) Pay, perform or observe any term, covenant or condition of this Instrument and any of the other Loan Documents and all payments made or costs or expenses incurred by Lender in connection therewith shall be secured hereby and shall be, without demand, immediately repaid by Borrower to Lender with interest thereon at the default rate (that is, the interest rate with all default charges) provided in the Note. The necessity for any such actions and the amounts to be paid shall be determined by Lender in its discretion. Lender is hereby empowered to enter and to authorize others to enter upon the Premises or any part thereof for the purpose of performing or observing any such defaulted term, covenant or condition without thereby becoming liable to Borrower or any person in possession holding under Borrower. Borrower hereby acknowledges and agrees that the remedies set forth in this Subsection 3.02(c) shall be exercisable by Lender, and any and all payments made or costs or expenses incurred by Lender in connection therewith shall be secured hereby and shall be, without demand, immediately repaid by Borrower with interest thereon at the default rate, notwithstanding the fact that such remedies were exercised and such payments made and costs incurred by Lender after the filing by Borrower of a voluntary case or the filing against Borrower of an involuntary case pursuant to or within the meaning of the Bankruptcy Code, Title 11 U.S.C., or after any similar action pursuant to any other debtor relief law (whether statutory, common law, case law or otherwise) of any jurisdiction whatsoever, now or hereafter in effect, which may be or become applicable to Borrower, Lender, Guarantor, the Indebtedness or any of the Loan Documents.

(d) Immediately commence an action to foreclose this Instrument or to specifically enforce its provisions or any of the obligations pursuant to the statutes in such case made and provided and sell the Property or cause the Property to be sold in accordance with the requirements and procedures provided by said statutes in a single parcel or in several parcels at the option of Lender. If an event of default should occur as provided herein or in any of the other covenants, conditions herein contained or contained in any other instrument evidencing or securing the Indebtedness, Lender shall have the right to sell the Property at public outcry, in front of the Court House door of the county wherein the Property is located, to the highest bidder for cash, either in person or by auctioneer, after first giving notice of the time, place and terms of such sale by publication once a week for three successive weeks in some newspaper published in said county, and, upon the payment of the purchase money, the Lender or any person conducting said sale for Lender, is authorized and empowered to execute to the purchaser at said sale a deed to the Property so purchased in the name and on behalf of Borrower, and the certificate of the Lender appointing said auctioneer shall be prima facie evidence of his authority in the premises. At the foreclosure sale, the Property may be offered for sale and sold as a whole without first offering it in any manner or may be offered for sale and sold in any other manner Lender may elect. The proceeds of any foreclosure sale shall be applied as follows: (a) First, to the expenses of making the sale, including a reasonable attorney's fee for such services as may be necessary in the collection of the secured indebtedness, or the foreclosure of this Instrument; (b) Second to the repayment of any money, with interest thereon, which Lender may have paid, or become liable to pay, or which it may then be necessary to pay for taxes, insurance, assessments or like charges, liens, or debts, as hereinabove provided; (c) Third, to the payment and satisfaction of the Indebtedness secured hereby with interest to the date of sale; and (d) Fourth, the balance if any,

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shall be paid to those entitled by law to receive the same, after deducting any expense of ascertaining who is entitled to receive the same. At the option of the Lender, this Instrument may be foreclosed as provided by law or in equity in which event, a reasonable attorney's fee shall, among other costs and expenses, be allowed and paid out of the proceeds of the sale.

In the event foreclosure proceedings are filed by Lender, all expenses incident to such proceeding, including, but not limited to, attorneys' fees and costs, shall be paid by Borrower and secured by this Instrument and by all of the other Loan Documents securing all or any part of the indebtedness evidenced by the Note. The Indebtedness and all other obligations secured by this Instrument, including, without limitation, interest at the default rate (as set forth in the Note), any prepayment charge, fee or premium required to be paid under the Note in order to prepay principal (to the extent permitted by applicable law), attorneys' fees and any other amounts due and unpaid to Lender under the Loan Documents, may be bid by Lender in the event of a foreclosure sale hereunder.

(e) Proceed by a suit or suits in law or in equity or by any other appropriate proceeding or remedy (i) to enforce payment of the Note or the performance of any term, covenant, condition or agreement of this Instrument or any of the other Loan Documents or any other right or (ii) to pursue any other remedy available to Lender.

(f) Lender may apply any moneys and proceeds received by Lender as a result of the exercise by Lender of any right conferred under this Section 3.02 in such order as Lender in its discretion may elect against (i) all costs and expenses, including reasonable attorneys' fees, incurred in connection with the operation of the Premises, the performance of Borrower's obligations under the Leases and the collection of the rents thereunder; (ii) all costs and expenses, including reasonable attorneys' fees, incurred in the collection of any or all of the Indebtedness, including those incurred in seeking to realize on or to protect or preserve Lender's interest in any other collateral securing any or all of the Indebtedness; (iii) any or all unpaid principal on the Indebtedness; (iv) any other amounts owing under the Loan Documents; and (v) accrued interest and charges on any or all of the foregoing. The remainder, if any, shall be paid to Borrower or any person or entity lawfully entitled thereto.

(g) Borrower agrees to the full extent permitted by law, that in case of a Default on the part of Borrower hereunder, neither Borrower nor anyone claiming through or under it shall or will set up, claim or seek to take advantage of any appraisement, valuation, stay, extension, homestead, exemption or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Instrument, or the absolute sale of the Premises, or the final and absolute putting into possession thereof, immediately after such sale, of the purchasers thereat, and Borrower, for itself and all who may at any time claim through or under it, hereby waives to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the assets comprised in the security intended to be created hereby marshaled upon any foreclosure of the lien hereof. Borrower also hereby waives and renounces all homestead and exemption rights provided for by the Constitution and the laws of the United States and of any state, in and to the Property as against the collection of the obligations secured by this Instrument, or any part hereof.

ARTICLE 4 - GENERAL CONDITIONS

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4.01 No Waiver; Remedies Cumulative. No delay or omission by Lender to exercise any right, power or remedy accruing upon any Default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such Default, or acquiescence therein, and every right, power and remedy given by this Instrument to Lender may be exercised from time to time and as often as may be deemed expedient by Lender. No consent or waiver, express or implied, by Lender to or of any Default shall be deemed or construed to be a consent or waiver to or of any other Default. No delay, indulgence, departure, act or omission by Lender or any holder of the Note shall release, discharge, modify, change or otherwise affect the original liability under the Note or any other obligation of Borrower or any subsequent purchaser of the Premises or any part thereof, or any maker, surety or Guarantor, or preclude Lender from exercising any right, privilege or power granted herein or alter the security interest or lien hereof. Lender may at any time, without notice to or further consent from Borrower, surrender or substitute any property or other security of any kind or nature whatsoever securing the Indebtedness or release any Guarantor, and no such action will release Borrower's obligations hereunder or alter the effect hereof. No right, power or remedy conferred upon or reserved to Lender hereunder is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or under the other Loan Documents or now or hereafter existing at law, in equity or by statute.

4.02 Replacement of Note. In the event of loss, theft, destruction, total or partial obliteration, mutilation or inappropriate cancellation of the Note, or the placement of any inappropriate marking upon the Note, Borrower will execute and deliver, in lieu thereof, a replacement Note, identical in form and substance to the Note and dated as of the date of the Note and upon such execution and delivery all references in this Instrument to the Note shall be deemed to refer to such replacement Note.

4.03 Survival of Certain Agreements. Notwithstanding the repayment of the Indebtedness and the cancellation or transfer of the Loan Documents, or any foreclosure of, or sale under power contained in, this Instrument, or the acquisition by Lender of title to the Premises in lieu of foreclosure, or any other realization upon collateral securing the Indebtedness, all agreements of Borrower contained herein or in any of the other Loan Documents to pay the costs and expenses of Lender in connection with the Loan and all agreements of Borrower contained herein or in any of the other Loan Documents to indemnify and/or hold harmless Lender shall continue in full force and effect so long as there exists any possibility of expense or liability on the part of Lender.

4.04 No Obligation to Third Parties. The Loan Documents are made solely for the benefit of Lender. No tenant nor any party involved with the construction of any improvements on any part of the Premises nor any other party whatsoever shall have standing to bring any action against Lender as the result of the Loan Documents, or to assume that Lender will exercise any remedies provided herein, and no party other than Lender shall be deemed to be a beneficiary of any provision of the Loan Documents, any and all of which may be freely waived in whole or in part by Lender in its discretion at any time. Nothing contained in the Loan Documents shall be deemed to impose upon Lender any liability for the performance of any obligation of Borrower under any of the Leases or Contracts. Nothing contained in this Section

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4.04 is intended to deprive Borrower of the benefit of any express covenant by Lender in favor of Borrower contained in the Loan Documents.

4.05 Miscellaneous. The Loan Documents shall inure to the benefit of and be binding upon Borrower and Lender and their respective heirs, executors, legal representatives, successors, successors-in-title and assigns, subject to all restrictions on transfer herein or in the other Loan Documents. The Indebtedness and the Loan Documents (and any interest therein) are assignable by Lender, and any assignment of the Loan Documents by Lender shall operate to vest in the assignee all rights and powers conferred upon and granted to Lender by the Loan Documents; and, in the event of any such assignment of the entire interest of Lender in the Loan Documents, Lender shall be relieved of all obligations and liabilities under the Loan Documents; neither the Loan Documents nor the proceeds of the Loan may be assigned by Borrower without the prior consent of Lender, which may be given or withheld at the discretion of Lender. The Loan Documents may be changed, waived, discharged or terminated only by an instrument in writing signed by the party against whom enforcement of such change, waiver, discharge or termination is sought. The Loan Documents contain the entire agreement between Borrower and Lender relating to the Loan and supersede entirely any and all prior written or oral agreements with respect thereto; and Borrower and Lender hereto acknowledge and agree that there are no contemporaneous oral agreements with respect to the subject matter hereof. The relationship of Borrower and Lender is solely that of borrower and lender (and grantor and grantee of security) and nothing contained in the Loan Documents shall be construed to create an agency, partnership or joint venture between Borrower and Lender. All personal pronouns used in the Loan Documents whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles of articles and sections in the Loan Documents are for convenience only and in no way define, limit, amplify or describe the scope or intent of any provisions thereof. If more than one person or entity constitutes, collectively, Borrower or Guarantor, all of the provisions of the Loan Documents referring to Borrower or Guarantor shall be construed to refer to each such person or entity individually as well as collectively; and, if Borrower or Guarantor is a partnership or limited liability company, all of the provisions of the Loan Documents referring to Borrower or Guarantor (including Sections 2.10 and 3.01 hereof) shall be construed to apply to each of the general partners or members of Borrower or Guarantor and of any and all further tiers of general partners in the structures of Borrower or Guarantor. When anything is described or referred to in the Loan Documents in general terms and one or more examples or components of what has been described or referred to generally is associated with that description (whether or not following the word "including"), the examples or components shall be deemed illustrative only and shall not be construed as limiting the generality of the description or reference in any way. Wherever in the Loan Documents the approval or consent of Lender is required or permitted, or wherever a requirement of Lender or the standard of acceptability or satisfaction of Lender must be determined, such approval, consent or determination of Lender shall not be unreasonably exercised; provided, however, that wherever it is indicated that such approval, consent or determination is to be given or made at the option or in the discretion or judgment of Lender, then Lender may grant or withhold such approval or consent or make such determination without restriction in its sole and absolute discretion. If any provisions of the Loan Documents or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of each of the Loan Documents and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent

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permitted by law. Time is of the essence with respect to each and every covenant, agreement and obligation of Borrower under the Loan Documents. All exhibits referred to in the Loan Documents are by such reference incorporated into the Loan Documents as if fully set forth therein.

4.06 Communications. Unless and except as otherwise specifically provided herein, any and all notices, elections, approvals, consents, demands, requests and responses thereto ("Communications") permitted or required to be given under the Loan Documents shall be in writing, signed by or on behalf of the party giving the same, and shall be deemed to have been properly given and shall be effective upon the earlier of receipt thereof or deposit thereof in the United States mail, postage prepaid, certified with return receipt requested, to the other party at the address of such other party set forth hereinbelow or at such other address within the continental United States as such other party may designate by notice specifically designated as a notice of change of address and given in accordance herewith; provided, however, that the time period in which a response to any Communication must be given shall commence on the date of receipt thereof; and provided further that no notice of change of address shall be effective with respect to Communications sent prior to the time of receipt thereof. Receipt of Communications under the Loan Documents shall occur upon actual delivery (whether by mail, telecopy transmission, messenger, courier service, or otherwise) to any person who is Borrower or a corporate officer or general partner or member (having management authority) of Borrower (or of any corporation, partnership or limited liability company at any tier of ownership and management of Borrower) at any location where such person may be found, or to an officer, partner, member, agent or employee of Borrower or Lender, at the address (including division, mail code and floor, if provided) of such party set forth hereinbelow, subject to change as provided hereinabove. An attempted delivery in accordance with the foregoing, acceptance of which is refused or rejected, shall be deemed to be and shall constitute receipt; an attempted delivery in accordance with the foregoing by mail, messenger, or courier service (whichever is chosen by the sender) which is not completed because of changed address of which no notice was received by the sender in accordance with this provision prior to the sending of the Communication shall also be deemed to be and constitute receipt; and actual receipt of a Communication shall be deemed to have occurred, if the same has not previously occurred or been deemed to occur as provided in this Section, at the end of the third day following the date of deposit thereof in the United States mail, complying in all respects with the requirements of this Section. Any Communication, if given to Lender, must be addressed as follows, subject to change as provided hereinabove:

SunTrust Bank
25 Park Place, 23rd Floor
Atlanta, Georgia 30303
Attn: Nora Bryant

with a copy to:

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McKenna Long & Aldridge LLP
303 Peachtree Street, Suite 5300
Atlanta, Georgia 30308
Attn: Jess A. Pinkerton, Esq.

and, if given to Borrower, must be addressed as follows, subject to change as provided hereinabove:

Mayer Properties II, LLP
3405 4th Avenue South
Birmingham, Alabama 35222
Attn: Bryan Chauvin

with a copy to:

Denson N. Franklin, III
Bradley Arant Boult Cummings LLP
One Federal Place
1819 5th Avenue North
Birmingham, Alabama 35203

4.07 Indemnity. Borrower shall protect, defend, indemnify and save harmless Lender from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including attorneys' fees and expenses) imposed upon or incurred by Lender by reason of (a) any claim for brokerage fees or other such commissions relating to the Premises or the Indebtedness, or (b) the condition of the Premises, or (c) failure to pay recording, mortgage, intangibles or similar taxes, fees or charges relating to the Indebtedness or any one or more of the Loan Documents, or (d) the Loan Documents or any claim or demand whatsoever which may be asserted against Lender by reason of any alleged action, obligation or undertaking of Lender relating in any way to the Indebtedness or to any matter contemplated by the Loan Documents. In the event Lender incurs any liability, loss or damage arising out of or in any way relating to the Loan (including any of the matters referred to in this section), the amounts of such liability, loss or damage shall be added to the Indebtedness, shall bear interest at the interest rate specified in the Note (with default charges if not paid when due) from the date incurred until paid and shall be payable on demand.

4.08 Fixture Filing. To the extent permitted under applicable law, this Instrument shall be effective from the date of its recording as a financing statement filed as a fixture filing with respect to all goods constituting part of the Property which are or are to become fixtures. This Instrument shall also be effective as a financing statement covering minerals or the like (including oil and gas) and is to be filed for record in the real estate records of the county where the Property is situated. The mailing address of Borrower and the address of Lender from which information concerning the security interests may be obtained are set forth above.

4.09 Greater Estate. In the event that Borrower is the owner of a leasehold estate with respect to any portion of the Premises and Borrower obtains a fee estate in such portion of the

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Premises, then, such fee estate shall automatically, and without further action of any kind on the part of Borrower, be and become subject to the lien hereof.

4.10 Applicable Law. This Instrument will be governed by the substantive law of the State of Alabama without giving effect to its principles of choice of law or conflicts of law, except that if any portion of the Premises is now or hereafter located in another state, the laws of such other state shall govern as to the creation, priority and enforcement of security interests in that particular portion of the Premises. Should any obligation or remedy under this Instrument be invalid or unenforceable pursuant to the laws provided herein to govern, the laws of another state whose laws can validate and apply thereto shall govern.

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IN WITNESS WHEREOF, Borrower has executed this Instrument under seal, as of the day and year first above written.

BORROWER:

MAYER PROPERTIES II, LLP, an Alabama limited liability partnership

By: MP ExecFam LLC, an Alabama limited liability company

By: _____
Name: David L. Morgan
Title: Manager

By: Six-C, L.L.C., an Alabama limited liability company

By: _____
Name: Charles A. Collat Jr
Title: Manager

ACKNOWLEDGEMENT

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STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public, in and for said County in said State, hereby certify that David L. Morgan, whose name as Manager of MP EXECFAM LLC, an Alabama limited liability company, as partner of MAYER PROPERTIES II, LLP, is signed to the foregoing Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of the Agreement, he as such officer, and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand this 23 day of December, 2009.

Mary Lynn Cooper
Mary Lynn Cooper

Notary Public
My Commission Expires: 10/23/12

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public, in and for said County in said State, hereby certify that Charles A. Collat, Jr., whose name as Manager of SIX-C, L.L.C., an Alabama limited liability company, as partner of MAYER PROPERTIES II, LLP, is signed to the foregoing Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of the Agreement, he as such officer, and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand this ~~23~~ 23 day of December, 2009.

Mary Lynn Cooper
Mary Lynn Cooper

Notary Public
My Commission Expires: 10/23/12

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EXHIBIT "A"

DESCRIPTION OF THE LAND

Lots 5 and 6 Block 1, Part of Lot-1 Block 3 and part of vacated Sonya Lane according to the Eckmann Subdivision as recorded in Map Book 3, Page 144 in the Probate Office Shelby County, Alabama being more particularly described as follows:

Begin at the most Southerly corner of Lot 5 Block 1 of the Eckmann Subdivision; thence run in a Northwesterly direction along the Southwesterly line of Block One of said Eckmann Subdivision and its extension Northwesterly for a distance of 434.72 feet; thence turn an angle to the right of 89 degrees 59 minutes 5 seconds and run in a Northeasterly direction for a distance 202.21 feet to a point on the Southwesterly right of way line of U.S. Highway No. 31 South; thence turn an angle to the right of 90 degrees 0 minutes 57 seconds and run in a Southeasterly direction along the Southwesterly right of way line of U.S. Highway No. 31 South for a distance of 419.46 feet to the Southeast corner of Lot 5 Block 1 Eckmann Subdivision; thence turn an angle to the right of 85 degrees 40 minutes 1 seconds and run in a Southwesterly direction along the Southeasterly line of said Lot 5 for a distance of 202.78 feet to the point of beginning.

Situated in Shelby County, Alabama.

EXHIBIT "A"

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EXHIBIT "B"

PERMITTED ENCUMBRANCES

1. All taxes subsequent to the year 2010, a lien not yet due and payable.

2. Easements/Rights of Way granted to Alabama Power Company recorded in Deed Book 158, Page 109 and Deed Book 251, Page 773.