

the Beneficiary, be sold as a whole and it shall not be necessary to have present at the place of sale the Property or any part thereof.

With respect to the real and personal property hereinabove described this Deed of Trust shall constitute a security agreement between Mortgagor and Beneficiary. Beneficiary shall have all of the rights conferred on secured parties by the Uniform Commercial Code. Such rights shall be cumulative of all other rights of Beneficiary hereunder. It is expressly agreed that if on default Beneficiary should proceed to dispose of the Property, or any part thereof, in accordance with the provisions of the Uniform Commercial Code, ten (10) days' notice by Beneficiary to Mortgagor shall be deemed to be reasonable notice under any provisions of the Uniform Commercial Code requiring such notice; provided, however, that Beneficiary may at its option dispose of the Property, or any part thereof, in accordance with Beneficiary's rights and remedies pursuant to the other provisions of this Deed of Trust, in lieu of proceeding under the Uniform Commercial Code.

Some of the items of property described herein are goods that are or are to become fixtures related to the real estate described herein, and it is intended that as to those goods, this Deed of Trust shall be effective as a financing statement filed as a fixture filing from the date of its filing for record in the real estate records of the county first written above. The name of a record owner of said real estate is Mortgagor. Information concerning the security interest created by this instrument may be obtained from the Beneficiary, as secured party, at P .O. Box 640, Beeville, Texas 78104-0640.

This conveyance, however, is made in TRUST to secure payment of the following (the "Obligations"):

- (a) That certain promissory note of even date herewith executed by _____ whose mailing address is _____, described as follows, to-wit:

In the original principal sum of ONE HUNDRED, SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$175,000.00).

together with any and all renewals and extensions of the foregoing, regardless of the number of or length of time of such renewals and extensions, and regardless of whether or not Mortgagor joins in or executes an agreement relating to such renewals and extensions (referred jointly or severally herein as indebtedness).

- (b) The performance of Mortgagor's agreements, covenants and obligations under the Deed of Trust.

Should Mortgagor do and perform all of the covenants and agreements herein contained, and make prompt payment of said indebtedness as the same shall become due and payable, then this conveyance shall become null and void and of no further force and effect and shall be released at the expense of Mortgagor, by the holder thereof, herein called "Beneficiary".

Mortgagor covenants and agrees as follows:

That Mortgagor is lawfully seized of said Property, and has the right to convey the same; that said Property is free from all liens and encumbrances except as may herein be specifically set forth.

To protect the title and possession of said Property and to pay when due all taxes and assessments now existing or hereafter levied or assessed upon said Property, or the interest therein creates by this Deed of Trust, and to preserve and maintain the lien hereby created prior to all other liens except as may herein be specifically provided, and to not place or allow the creation or placement of any other liens on said Property without the prior written approval of Beneficiary.

To keep the improvements on said land, and any goods covered hereby, in good repair and condition, and nor to permit or commit any waste thereof; to keep all buildings occupied so as not to impair the insurance carried thereon.

To insure and keep insured all improvements now or hereafter created upon said land, and the goods covered hereby, against loss or damage by fire and windstorm, and any other hazard or hazards (including but not limited to flood insurance if in a special flood hazard area designated by HUD) as may be reasonably required from time to time by Beneficiary during the term of the indebtedness hereby secured, to the extent of the amount of the indebtedness hereby secured, or to the extent necessary to prevent Mortgagor from being a co insurer under the insurance policies, whichever is the greater, in such form and with such insurance company or companies as may be approved by Beneficiary, and to deliver to Beneficiary the policies of such insurance having attached to said policies such mortgage indemnity clause as Beneficiary shall direct; to deliver renewals of such policies to Beneficiary at least ten (10) days before any such insurance policies shall expire; any proceeds which Beneficiary may receive under any such policy, or policies, may be applied by Beneficiary at his own option, to reduce the indebtedness hereby secured, whether then matured or to mature in the future, and in such manner as beneficiary may elect, or beneficiary may permit Mortgagor to use said proceeds to repair or replace all improvements damaged or destroyed and covered by said policy.

That in the event Mortgagor shall fail to keep the improvements on the land hereby conveyed or the goods covered hereby in good repair and condition, or to pay promptly when due all taxes and assessments, as aforesaid, or to preserve the lien status as herein warranted on said Property, or to keep the buildings, improvements and goods insured, as aforesaid, or to deliver the policy, or policies, of insurance or the renewal thereof to beneficiary, as aforesaid, or to promptly, fully and timely observe or perform any covenant or obligation of Mortgagor contained herein (collectively referred to as "Failure"), then Beneficiary may after giving Mortgagor written notice of such Failure, and such Failure continues for a period of twenty days after notice of such Failure, make such repairs, pay such taxes and assessments, purchase any tax title thereon, remove any other liens, and prosecute or defend any suits in relation to the preservation of the lien status herein warranted on said Property, or insure and keep insured the improvements thereon in an amount not to exceed that above stipulated, or perform such other covenants and obligations. Mortgagor will reimburse Beneficiary for all amounts expended by Beneficiary to satisfy any Failure.

That in the event of default in the payment of said indebtedness when due or declared due, it shall thereupon, or at any time thereafter, be the duty of the Trustee, or the Trustee's successor or substitute as hereinafter provided, at the request of Beneficiary, (which request is hereby conclusively presumed), to enforce this trust; and after advertising the time, place and terms of the sale of the above-described and conveyed Property then subject to the lien hereof which is to be sold as directed by the Beneficiary, and mailing and filing notices as required by Section 51.002, Texas Property Code, as then amended (successor To Article 3810, Texas Revised Civil Statutes), and otherwise complying with that statute, the Trustee may sell the above-described Property then subject to the lien hereof, or such portions thereof as directed by Beneficiary, at public auction in accordance with such notices on the first Tuesday in any month between the hours of ten o'clock

A.M. and four o'clock P.M., to the highest bidder for cash, selling all of the Property as an entirety or in such parcels as the Trustee acting may elect, and, make due conveyance to the Purchaser or Purchasers, with general warranty binding Mortgagor, and Mortgagor's successors, heirs and assigns; and out of the money arising from such sale, the Trustee acting shall pay first all the expenses of advertising the sale and making the conveyance, including a reasonable commission nor to exceed three percent (3%) to the Trustee, which commission shall be due and owing in addition to the attorney's fees provided for in said note, and then to Beneficiary the full amount of principal, interest, attorney's fees and other charges due and unpaid on said note and all other indebtedness secured hereby, rendering the balance (except for any amounts required by law to be paid before payment to Mortgagor) of the sales price, if any, to Mortgagor, and Mortgagor's successors or assigns; and the recitals in the conveyance to the Purchaser or Purchasers shall be full and conclusive evidence of the truth of the matters therein stated and all prerequisites to said sale shall be presumed to have been performed, and such sale and conveyance shall be conclusive against Mortgagor and Mortgagor's successors or assigns. Mortgagor will remain' liable for any deficiency remaining after a sale or other disposition hereunder.

It is agreed that in the event a foreclosure hereunder should be commenced by the Trustee, or the Trustee's substitute or successor, beneficiary may at any time before the sale of said Property direct the said Trustee to abandon the sale, and may then institute suit for the collection of said note, and for the foreclosure of this Deed of Trust lien; it is further agreed that if Beneficiary should institute a suit for the collection thereof, and for a foreclosure of this Deed of Trust lien, that he may at any time before the entry of a final judgment in said suit dismiss the same, and require the Trustee, or the Trustee's substitute or successor, to sell the Property in accordance with the provisions of this Deed of Trust. Sale of a part or pared of the Property covered hereby shall not exhaust the power of sale, and sales may be made from time to time until all Property covered hereby is sold, or until all indebtedness secured hereby is paid in full.

Beneficiary, if it is the highest bidder, shall have the right to purchase at any sale of the Property and to have the amount for which such Property is sold credited on the debt then owing.

Beneficiary in any event is hereby authorized to appoint a substitute trustee, or a successor trustee, to act instead of the Trustee named herein without other formality than the designation in writing of a substitute or successor trustee; and the authority hereby conferred shall extend to the appointment of other successor or substitute trustees successively until the indebtedness hereby secured has been paid in full, or until said Property is sold hereunder, and each substitute and successor trustee shall succeed to all of the rights and powers of the original trustee named herein.

In the event any sale is made of the Property, or any portion thereof, under the terms of this Deed of Trust, Mortgagor, its successors, heirs and assigns, shall forthwith upon the making of such sale surrender and deliver possession of the Property so sold to the Purchaser at such sale, and in the event of their failure to do so they shall thereupon from and after the making of such sale be and continue as tenants at will of such Purchaser, and in the event of their failure to surrender possession of said Property upon demand, the Purchaser, and the Purchaser's successors, heirs and assigns, shall be entitled to institute and maintain an action for forcible detainer of said Property in the Justice of the Peace Court in the Justice Precinct in which such Property, or any part thereof, is situated.

It is further agreed that if Mortgagor, its successors, heirs or assigns, while the owner of the hereinabove described Property, should commit an act of bankruptcy, or authorize the filing of a voluntary petition in bankruptcy, or should an act of bankruptcy be committed and involuntary proceedings instituted or threatened, or should the Property be taken over by a receiver for Mort-

gagor, its successors or assigns, all indebtedness secured hereby shall, at the option of Beneficiary, immediately become due and payable, and the acting Trustee may then proceed to sell the Property under the provisions of this Deed of Trust.

It is agreed that an extension, or extensions, may be made of the time of payment of all, or any part, of the indebtedness secured hereby, and that any part of the Property may be released from this lien without altering or affecting the priority of the lien created by this Deed of Trust in favor of any junior encumbrance, mortgagee or purchaser, or any person acquiring an interest in the Property hereby conveyed, or any part thereof it being the intention of the parties hereto to preserve this lien on the land herein described and all improvements thereon, and that may be hereafter constructed thereon, first and superior to any liens that may hereafter be placed thereon, or that may be fixed, given or imposed by law thereon after the execution of this instrument notwithstanding any such extension of the time of payment, or the release of a portion of said Property from this lien.

In the event any portion of the indebtedness hereinabove described cannot be lawfully secured by the lien herein granted, it is agreed that the first payments made on said indebtedness shall be applied to the discharge of that portion of said indebtedness.

Beneficiary shall be entitled to receive any and all sums which may become payable to Mortgagor for the condemnation of the hereinabove described Property, or any part thereof, for public or quasi-public use, or by virtue of private sale in lieu thereof and any sums which may be awarded or become payable to Mortgagor for damages caused by public works or construction on or near the said Property. All such sums are hereby assigned to Beneficiary, who may, after deducting therefrom all expenses actually incurred, including attorney's fees, release same to Mortgagor or apply the same to the reduction of the indebtedness hereby secured, whether then matured or to mature in the future, or on any money obligation hereunder, as and in such manner as Beneficiary may elect. Beneficiary shall not be, in any event or circumstances, liable or responsible for failure to collect, or exercise diligence in the collection of, any such sums.

Nothing herein or in said note shall ever entitle Beneficiary, upon the arising of any contingency whatsoever, to receive or collect interest in excess of the highest rate allowable the laws of the State of Texas on the principal indebtedness hereby secured or on any money obligation hereunder and in no event shall Mortgagor be obligated to pay interest thereon in excess of such rate. To the extent permitted by applicable law, determination of the legal maximum amount of interest shall at all times be made by amortizing, prorating, allocating and spreading in equal parts during the period of the full stated term of the Note, all interest at any time contracted for, charged or received with respect to the Note and the indebtedness, so that the actual rate of interest with respect to the note and indebtedness is uniform throughout the stated term of the Note.

The terms "Beneficiary" and "Mortgagor" as used in this instrument include the heirs, executors or administrators, successors, representatives, receivers, trustees, and assigns of those parties. This instrument is binding upon the Mortgagor, the Mortgagor's successors and assigns (subject to the prohibition of assignment of the Property as set forth herein), and will inure to the benefit of the Trustee and the Trustee's successors and substitutes and Beneficiary and Beneficiary's successors and assigns.

Acceptance by Beneficiary of any payment in an amount less than the amount then due shall be deemed as acceptance on account only and the failure to pay the entire amount then due shall be and continue to be a default by Mortgagor; and at any time thereafter, and until the entire amount then due has been paid, Beneficiary shall be entitled to exercise all rights and remedies conferred it in this instrument or at law upon the occurrence of a default.

Beneficiary shall have the additional right, upon the commencement of any action to enforce the lien or security interest herein given, to have appointed by a court of competent jurisdiction, a receiver to take possession of the Property and to collect all rents, issues, income, and profits arising from or pertaining to the Property. This provision is a right created by this deed of trust and is cumulative of and is not to affect in any manner the right of Beneficiary to the appointment of a receiver under any applicable law or statute.

Mortgagor shall not be entitled to release of the liens hereof on any portion of the Property covered hereby (commonly known as “partial releases”) upon payment of a portion of the indebtedness secured hereby, and the Mortgagor shall be entitled to release of any Property covered only upon satisfaction in full of the entire indebtedness secured hereby.

Notwithstanding the provisions of Sections 51.003, 51.004, and 51.005 of the Texas Property Code (as the same may be amended from time to time), and to the extent permitted by law, Mortgagor agrees that Beneficiary shall be entitled to seek a deficiency judgment from Mortgagor and any other party obligated on the Note or the Obligations or guaranty of the Note or the Obligations equal to the difference between the amount owing on the Note or the Obligations and the amount for which the Property was sold pursuant to a judicial or nonjudicial foreclosure sale. Mortgagor expressly recognizes that this paragraph constitutes a waiver of the above cited provisions of the Texas Property Code which would otherwise permit Mortgagor and other persons against whom recovery of deficiencies is sought or guarantors independently (even absent the initiation of deficiency proceedings against them) to present competent evidence of the fair market value of the Property as of the date of foreclosure and offset against any deficiency the amount by which the foreclosure sale price is determined to be less than such fair market value. Mortgagor further recognizes and agrees that this waiver creates an irrebuttable presumption that the foreclosure sale price is equal to the fair market value of the Property for purposes of calculating deficiencies owed by Mortgagor, other parties indebted on the Note or the Obligations, guarantors, and others against whom recovery of a deficiency is sought. Alternatively, in the event this waiver is determined by a court of competent jurisdiction to be unenforceable, the following shall be the basis for the finder of fact’s determination of the fair market value of the Property as of the date of the foreclosure sale in proceedings governed by Chapter 51 of the Texas Property Code (as amended from time to time):

As Is Value. The Property shall be valued in an “as is” condition as of the date of the foreclosure sale, without any assumption or expectation that the Property will be repaired or improved in any manner before a resale of the Property after foreclosure.

Resale. The valuation shall be based upon an assumption that the foreclosure purchaser desires a resale of the Property for cash promptly (but no later than twelve months) following the foreclosure sale.

Costs. All reasonable closing costs customarily borne by the seller in a commercial real estate transaction should be deducted from the gross fair market value of the Property, including, without limitation, brokerage commissions, title insurance, a survey of the Property, tax prorations, attorney’s fees, and marketing costs.

Discounts. The gross fair market value of the Property shall be further discounted to account for any estimated holding costs associated with maintaining the Property pending sale, including, without limitation, utilities expenses, property management fees, taxes and assessments (to the extent not otherwise accounted for above), and other maintenance expenses.

Expert Opinion. Any expert opinion testimony given or considered in connection with a determination of the fair market value of the Property must be given by persons having at least five

years' experience in appraising property similar to the Property and who have conducted and prepared a complete written appraisal of the Property taking into consideration the factors set forth above.

Mortgagor assigns to Beneficiary absolutely, not as collateral, all present and future rent and other income and receipts from the Property. Mortgagor may as Beneficiary's licensee collect rent and other income and receipts as long as no Event of Default has occurred under the Note or this Deed of Trust. Mortgagor will apply all rent and other income and receipts to payment of the Note and performance of this Deed of Trust, but if the rent and other income and receipts exceed the amount then currently due under the Note and Deed of Trust, Mortgagor may retain the excess. If an Event of Default occurs under the Note or this Deed of Trust, Beneficiary may terminate Mortgagor's license to collect rent or other income. Beneficiary may then, as Mortgagor's agent, rent the Property if it is vacant and collect all rent and other income and receipts. Beneficiary neither has nor assumes any obligations as lessor or landlord with respect to any occupant of the Property. Beneficiary may exercise Beneficiary's rights and remedies under this paragraph without taking possession of the Property. Beneficiary shall apply all rent and other income and receipts collected under this paragraph first to expenses incurred in exercising Beneficiary's rights and remedies and then to the Obligations in the order determined by Beneficiary. Beneficiary is not required to act under this paragraph, and acting under this paragraph does not waive any of Beneficiary's other rights or remedies. If Mortgagor becomes a voluntary or involuntary bankrupt, Beneficiary's filing a proof of claim in bankruptcy will be tantamount to the appointment of a receiver under Texas law.

If, without Beneficiary's prior written consent, all or any part of the Property or any interest in the Property is sold or transferred (or if an ownership or a beneficial interest in Mortgagor is sold or transferred) in each case other than to an affiliate of Mortgagor, controlled by the Edward S. Hick, Jr. family and for which Edward S. Hicks, Sr. remains personally liable, then Beneficiary may, at its option, require immediate payment in full of all the Obligations, and Beneficiary may invoke any remedies permitted by this Deed of Trust.

With respect to any substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials" or "toxic substances" under any applicable federal, state or local laws, ordinances or regulations (including, without limitation, friable asbestos and asbestos deemed hazardous by federal or state regulations) (such substances collectively referred to in this Deed of Trust as "Hazardous Materials" and such laws, ordinances and regulations together with all rules, orders and permits pursuant thereto collectively referred to as "Hazardous Materials Laws"), Mortgagor covenants (a) to comply with all applicable Hazardous Materials Laws with respect to the manufacture, storage, transmission, presence, discharge and removal of Hazardous Materials at or from the Property, (b) not to locate nor allow location of any underground or above ground storage tanks on the Property, without Beneficiary's prior written consent, and (c) to notify Beneficiary promptly in writing of the commencement of any legal or regulatory proceedings relating to Hazardous Materials affecting the Property.

DATED the ____ day of _____, A.D., 1999.

By: _____

APPENDIX

STATE OF TEXAS §

§

COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 20____,
by _____.

Notary Public, State of Texas

(NOTARY SEAL)

After recording return to: _____

The Land, Improvements, Rights and Appurtenances are collectively called herein the “Property”.

This conveyance is made and accepted, however, subject to the following qualifications (the “Qualifications”):

** **[Exceptions.** Any and all restrictive covenants, easements, and mineral interests, if any, held or owned by others, relating to the Property described herein, but only to the extent they are still in effect and are shown of record in _____ County, Texas.]

or

** **[Exceptions.** Any and all restrictive covenants, easements, and mineral interests, if any, held or owned by others, listed in Exhibit B relating to the Property described herein, but only to the extent they are still in effect.]

** **Other Matters.** Visible and apparent, but unrecorded easements, if any; rights of parties in possession, if any; prescriptive rights; encroachments or overlapping of improvements; and discrepancies, conflicts or shortages in area or boundary lines; and lack of or impaired access.

Laws and Regulations. All laws and regulations affecting the Property, including zoning laws, platting laws, environmental laws and municipal and governmental ordinances and regulations, relating to the Property.

Taxes. The liens for all governmental assessments, standby fees and ad valorem taxes for the year 19__; the payment of which is hereby assumed by Grantees.

** The lien for subsequent assessments for prior years due to change in land usage or ownership.

“AS IS”. Other than the special warranty of title contained herein, Grantors sell the Property and Grantees purchase and accept the Property “AS IS”, and Grantees assume all risks thereof and acknowledge that GRANTORS MAKE NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, OF THE PROPERTY, OR ANY PART THEREOF.

** By acceptance hereof Grantees waive any and all such warranties, and acknowledge that in no event shall Grantors be liable for any consequential damages. Without limiting the generality of the foregoing, the conveyance of the Property is without any warranty relating to: (a) the condition of the Property or any element thereof, including, without limitation, warranties related to suitability for habitability, merchantability or fitness for a particular purpose; (b) the nature or quality of construction, structural design and engineering of the Property; (c) the quality of the labor and materials included in the Property; and (d) the soil conditions, drainage, utilities or other conditions existing at the Property with respect to any particular purpose, developmental potential or otherwise. Grantees expressly waive, to the extent allowed by law, any claims under federal, state or other law that Grantees might otherwise have against Grantors relating to the condition of the Property. Grantees further hereby acknowledge that Grantees are relying solely upon Grantees’ own physical inspection of the Property and not any statements, oral or written, which may have been made by Grantors or any of Grantors’ agents, employees or contractors, in consummating the conveyance of the Property. Grantees waive and release Grantors and Grantors’ heirs/successors and assigns from any liability to Grantees and Grantees’ heirs/successors and assigns, for the condition of the Property, known or unknown, present and future, including liabilities, if any, due to the existence, now or hereafter, of any hazardous materials or hazardous sub-

stances, on the Property and due to the existence, now or hereafter, of a violation, if any, of any Laws and Regulations.

**** Grantees agree to indemnify and hold Grantors and Grantors’ heirs/successors and assigns harmless from all claims and liabilities of every kind, known or unknown, fixed or contingent, asserted against Grantors or Grantors’ heirs/successors and assigns at any time after the date hereof, arising out of the ownership, construction, occupancy, operations, use and maintenance of the Property prior to the date hereof or after the date hereof, including arising out of the sole, joint or concurrent negligence (whether active or passive, gross negligence or strict liability) of Grantors or of Grantors’ heirs/successors and assigns, whether from the maintenance or supervision of the Property, the activities on the Property, the existence, now or hereafter of hazardous materials or substances on the Property, or due to a violation, now or hereafter, of any environmental laws, rules, regulations or ordinances, or otherwise.**

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantees, Grantees’ heirs/successors and assigns, forever; and Grantors hereby binds Grantors, Grantors’ heirs/successors and assigns, to warrant and forever defend all and singular the said premises unto Grantees, Grantees’ heirs/successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof

(the “general warranty of title”) subject to the Qualifications referenced herein.

****or****

by, through or under Grantors, but not otherwise (the “special warranty of title”), subject to the Qualifications referenced herein.

[TO RETAIN VENDOR’S LIEN:

**** BUT it is expressly agreed that the Vendor’s Lien, as well as the superior title in and to the above-described real property, is retained against the above-described real property and transferred to Lender until the above-described Promissory Note and all interest thereon are fully paid according to the face, tenor, effect and reading thereof, when this Deed shall become absolute.]**

DATED the ____ day of _____, 20__.

****or****

Executed as of the date of the acknowledgment of the respective person executing this Deed. This instrument may be executed in multiple counterparts.

GRANTORS:

By _____
 _____ (Name)
 _____ (Title)

GRANTORS:

By _____
 _____ (Name)
 _____ (Title)

APPENDIX

STATE OF TEXAS §

§

COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 20____,
by _____.

Notary Public, State of Texas

(NOTARY SEAL)

After recording return to: _____

**Real Estate Lien
Promissory Note**

\$200,000.00

Corpus Christi, Texas

October __, 2000

FOR VALUE RECEIVED, the undersigned _____ (together with his heirs, successors and assigns hereinafter called "Maker"), promises to pay to the order of _____ (together with any subsequent holder of this note hereinafter called "Payee"), at P. O. Box 23075, Corpus Christi, Texas 78403, (the "Office" of Payee), or such other place as Payee shall designate to Maker, the principal sum of TWO HUNDRED THOUSAND NO/100 DOLLARS (\$200,000.00), or so much as may be outstanding together with interest on the unpaid balance of each advance as set forth hereinafter.

1. *Interest Rate.* The unpaid principal balance hereof shall bear interest from the date of any advance hereunder at the rate of eight percent (8%) per annum prior to maturity.

Matured unpaid and past due principal and interest shall bear interest at a rate equal to the lesser of (a) Eighteen percent (18%) per annum, or (b) the maximum rate permitted by applicable law (the "*Highest Lawful Rate*") as hereinafter limited.

This Note shall be deemed to be a contract under the laws of the State of Texas and for all purposes shall be construed and enforced in accordance with the laws of the State of Texas and applicable Federal Laws. The Payee and the Maker further agree that, for purposes of determining the Highest Lawful Rate under Texas Law, the applicable rate ceiling shall be the weekly ceiling described in and compute in accordance with the Texas Finance Code, provided, however, that to the extent permitted by such Code, the Payee from time to time by notice from Payee to Maker may revise its election of such interest rate ceiling as such ceiling affects the then current or future balances outstanding hereunder.

Anything in this Note to the contrary notwithstanding, if the maturity of this Note is accelerated for any reason before the due date stated, or in the event of the voluntary prepayment by the Maker, including the pre-payment of interest and fees at the time of execution and delivery of this Note, or in any other event, earned interest may never exceed the Highest Lawful Rate as hereinafter defined, and any unearned interest otherwise payable under this Note which is in excess of the Highest Lawful Rate shall be cancelled automatically as of the date of such acceleration or prepayment or other such event and (if theretofore paid) shall, at the option of the Payee of this Note, be either refunded to the Maker or credited on the principal of this Note. Any interest computation under this Note shall be at not more than the Highest Lawful Rate upon the portion of the face amount hereof representing principal which remains unpaid from time to time, it being the intention of the parties hereto to conform strictly to the laws of the State of Texas and of the United States of America applicable to this Note and the loan made by Payee, and in the event that it should be held that interest under this Note is in excess of the Highest Lawful Rate, the interest chargeable hereunder shall be reduced to the Highest Lawful Rate.

All agreements between Payee and Maker are hereby expressly limited so that in no contingency or event whatsoever shall the amount paid, or agreed to be paid, to Payee for the use, forbearance, or detention of the money due under the note or under any other indebtedness secured hereunder exceed the maximum amount (herein called the "Highest Lawful Rate") permissible under applicable law. The term "applicable law" as used herein means (a) the law pertaining to the maximum rate of interest that is now in effect and (b) any law that comes into effect at any

time in the future allowing a higher maximum interest rate than the law now in effect. Maker agrees that any such later law allowing a greater Highest Lawful Rate shall be applied to the loans herein. If, from any circumstances whatsoever, fulfillment of any provision hereof at the time performance of such provision shall involve transcending the limit of validity, and if from any circumstances Payee should ever receive as interest an amount that would exceed the Highest Lawful Rate, such amount that would be excessive interest shall be applied to the reduction of the principal amount owing under the note and not the payment of interest. All sums paid or agreed to be paid to Payee for the use, forbearance, or detention of the indebtedness of Maker to Payee shall, to the extent permitted by law or contract, be amortized, prorated, allocated and spread in equal parts throughout the term hereof.

Interest on this Note shall be computed on a rate per annum based on a year of 365 or 366 days as the case may be and for the actual number of days (including the first but excluding the last day) elapsed.

If any payment on this Note shall become due on a day which is not a business day, such payment shall be made on the next succeeding business day and such extension of time shall, in such case, be included in computing interest in connection with such payment.

2. Payment. Principal and interest under this Note shall be due and payable on or before October __, 2002.

3. Security for Note. This Note is secured by a Deed of Trust of even date herewith, executed by _____, as Mortgagor to _____ as Trustee, upon a tract of real property described in Exhibit "A" attached hereto located in the state of Mississippi. Payee is entitled to the benefits of the Lien of the Deed of Trust and any other document or agreement given to secure payment of the indebtedness evidenced by this Note (together and as modified, renewed or extended the "Loan Agreements"). All of the agreements, conditions, covenants, warranties, representations, provisions and stipulations made by or imposed upon Maker under the Loan Agreements are made a part of this Note to the same extent and with the same force and effect as if they were fully recited herein, and Maker covenants and agrees to keep and perform the same or cause them to be kept and performed strictly in accordance with their terms.

4. Default. Maker covenants and agrees that: (1) if default is made in the payment of this Note when due, or (2) if default is made in the prompt and complete performance of the covenants and obligations contained in the Loan Agreements, or (3) if Maker or any endorser, surety or guarantor of this Note becomes insolvent or commits an act of bankruptcy or makes an assignment for benefit of creditors or authorizes the filing of or files a voluntary petition in bankruptcy or if involuntary bankruptcy proceedings are filed against Maker or any endorser, surety or guarantor of this Note, and said default described above continues for a period of 10 days after notice of such default is given by Payee to Maker, then Payee may, at its option, without other notice or demand, declare the entire unpaid balance of principal and accrued interest on this Note to be immediately due and payable, foreclose any liens and security interests securing payment of this Note, offset against the indebtedness evidenced by this Note any sums owed by Payee to the Maker and exercise any other rights available under the Loan Agreements, or at law or equity, all such rights being cumulative and exercisable concurrently or consecutively.

5. Waiver. Maker, sureties, guarantors, and endorsers of this Note severally waive all notices, demands for payment, presentments, presentations for payment, notices of intention to accelerate the maturity, notice of acceleration of maturity, notice of dishonor, diligence in collecting, grace, protest and notice of protest, and agree to all renewals, extensions, and partial payments before or after maturity without prejudice to the Payee. No extension of the time for payment of

this Note and the indebtedness secured by the herein-mentioned liens or renewal or partial payments before or after maturity shall operate to release, discharge, modify, change or affect the liability under this Note either in whole or in part or under any surety or guaranty instrument, of anyone not a party to such extension, renewals or partial payment arrangements.

Neither the failure by the Payee hereof to exercise, nor delay by the Payee hereof in exercising, the right to accelerate the maturity of this Note or any other right, power or remedy upon any default shall be construed as a waiver of such default or as a waiver of the right to exercise any such right, power or remedy at any time. No single or partial exercise by the Payee hereof of any right, power or remedy shall exhaust the same or shall preclude any other or further exercise thereto, and every such right, power, or remedy may be exercise at any time and from time to time. All rights and remedies provided for in this Note are cumulative of each other and of any and all other rights and remedies existing at law or in equity, and the Payee hereto shall, in addition to the rights and remedies provided herein, be entitled to avail itself of all such other rights and remedies as may now or hereafter exist at law or in equity for the collection of the indebtedness owing hereunder, and the resort to any right or remedy provided for hereunder or provided for by law or in equity shall not prevent the concurrent or subsequent employment of any other appropriate rights or remedies. Without limiting the generality of the foregoing provisions, the acceptance by the Payee hereof from time to time any payment under the Note which is past due or which is less than the payment in full of all amounts due and payable at the time of such payment, shall not (a) constitute a waiver or impair or extinguish the rights of the Payee hereof to accelerate the maturity of the Note or to exercise any other right, power, or remedy, or (b) constitute a waiver or the requirement of punctual payment and performance, or a novation in any respect.

6. Attorney's Fees. In the event default is made in the prompt payment of this Note when due or declared due, and the same is placed in the hands of an attorney for collection, or suit is brought on same, or proceedings are had in probate, bankruptcy, receivership, reorganization, arrangement, or other judicial proceedings, then Maker agree and promise to pay a reasonable amount in addition, as attorney's fees.

7. Prepayment Privilege. Maker shall have the right to prepay the principal of this Note, in whole or in part, at any time and from time to time prior to maturity without premium or penalty, and interest shall immediately cease on any amount so prepaid.

THIS PROMISSORY NOTE REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES.

THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

Effective the day and year first above written.

MAKER:
