

**CITY COUNCIL AGENDA ITEM COVER MEMO**

Agenda Item Number: \_\_\_\_\_

Meeting Type: Regular

Meeting Date: Feb 27, 2014

Action Requested By: Legal

Agenda Type: Resolution

Subject Matter:  
Remington Project Development Agreement.

**Exact Wording for the Agenda:**

Resolution authorizing the Mayor to execute an agreement among the City of Huntsville, Alabama; Madison County, Alabama; the Industrial Development Board of the City of Huntsville; and, Remington Outdoor Company, Inc.

**Note: If amendment, Please state title and number of the original**

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what council action will provide, allow and accomplish and; any other information that might be helpful.

Associated Cost: \_\_\_\_\_

Budgeted Item: Not Applicable

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: \_\_\_\_\_

Date: \_\_\_\_\_

RESOLUTION NO. 14- \_\_\_\_\_

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized to enter into a Development Agreement among the City of Huntsville, Madison County, Alabama, The Industrial Development Board of the City of Huntsville, and Remington Outdoor Company, Inc., on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "Project Development Agreement between the City of Huntsville, Alabama, Madison County, Alabama, The Industrial Development Board of the City of Huntsville, and Remington Outdoor Company, Inc.," consisting of Fifty-nine (59) pages, including Exhibits A - H, and the date of February 27, 2014, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, and an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

BE IT FURTHER RESOLVED that the Council hereby determines that the expenditure of public funds for the purposes herein specified and specified in the Project Development Agreement will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.

ADOPTED this the 27th day of February, 2014.

\_\_\_\_\_  
President of the City Council of  
the City of Huntsville, Alabama

APPROVED this the 27th day of February, 2014.

\_\_\_\_\_  
Mayor of the City of  
Huntsville, Alabama

## **PROJECT DEVELOPMENT AGREEMENT**

**THIS PROJECT DEVELOPMENT AGREEMENT** (the "Agreement") is hereby made and entered into on February 27, 2014 by and between the **CITY OF HUNTSVILLE, ALABAMA**, an Alabama municipal corporation (the "City"), **MADISON COUNTY, ALABAMA**, a political subdivision of the State of Alabama (the "County"), **THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF HUNTSVILLE**, a public corporation and instrumentality under the laws of the State of Alabama (the "IDB," and together with the City and the County, the "Local Authorities" and, individually, a "Local Authority"), and **REMINGTON OUTDOOR COMPANY, INC.**, a Delaware corporation (the "Company"). The City, the County, the IDB, and the Company are herein together sometimes referred to collectively as the "Parties" and, individually, as a "Party".

### **RECITALS**

**WHEREAS**, the Company is in the business of producing firearms and related products; and

**WHEREAS**, the Local Authorities have identified that certain parcel of real property, aggregating 144.9 acres, located at 100 Electronics Boulevard within the County and the City, as more specifically described in Exhibit "A" hereto (the "Project Site"), together with an approximately 843,715 square foot facility situated thereon and known as the "Old Chrysler Building" (the "Facility"), as a suitable location to renovate and equip for a manufacturing facility for the Company (the "Project"); and

**WHEREAS**, the Company expects that it will create up to 2,000 jobs, and invest not less than \$110,900,000, in connection with the Project; and

**WHEREAS**, the Local Authorities have determined that the location of the Project at the Project Site, through the provision of the incentives and agreements hereinafter set forth, would be in the best interest of the Local Authorities and the citizens of the City and the County by: (i) promoting, improving and expanding economic and industrial development; (ii) increasing the number and diversity of industrial jobs and related employment opportunities; (iii) enabling the local area to better retain, attract, and locate other industrial enterprises; (iv) expanding the overall tax base of the City and the County; and (v) enhancing the overall quality of life for the citizens of the City and the County; and

**WHEREAS**, the Local Authorities are willing to incentivize the Company to locate to the Project Site and perform its commitments hereunder by, among other things: (i) making available the Local Commitment (defined herein) to pay the costs of acquiring the Project Site and the Facility, and to pay a portion of the costs of renovating and equipping the Facility; (ii) making available the Additional Local Commitment (defined herein) to assist the Company in renovating and equipping the Facility; and (iii) causing the maximum allowable abatement of ad valorem taxes, sales and use taxes, and mortgage and recording taxes with respect to the Project, all as more particularly set forth and described herein; and

**WHEREAS**, although the IDB is committed to make available to the Company up to \$3,000,000 of the total incentives described in this Agreement (such commitment to be comprised of \$1,000,000 of the Local Commitment and the \$2,000,000 Additional Local Commitment), under a separate side agreement (which such side agreement does not impact any of the obligations of the Local Authorities to the Company under this Agreement), Madison County, Morgan County, Alabama, Limestone County, Alabama, the City of Athens, Alabama and The Limestone County Economic Development Partners, Inc. shall be obligated to make payments to the IDB aggregating \$3,000,000, to reimburse the IDB for the same; and

**WHEREAS**, in anticipation of the transactions herein described and in order to secure the Project Site and the Facility for the Project, the IDB obtained title to the Project Site and the Facility with proceeds of the IDB's short-term \$10,500,000 Limited Obligation Revenue Note, dated February 10, 2014, in the principal amount of \$10,500,000 (the "IDB Note") issued to Regions Bank; and

**WHEREAS**, to facilitate its request that the IDB acquire the Project Site and Facility prior to delivery of this Agreement with proceeds of the IDB Note, the Company agreed to guarantee the payment of the IDB Note, pursuant to that certain Guaranty Agreement and Agreement to Guarantee Financing dated February 10, 2014, by and between the Company and the IDB; and

**WHEREAS**, the IDB was organized by the City under Article 4, Chapter 54, Title 11 of the Code of Alabama 1975, as amended, for the purpose of acquiring, enlarging, improving, replacing, owning, leasing and disposing of properties for the purpose of promoting industry, developing trade and furthering the use of natural and human resources within the City by inducing, among other enterprises, manufacturing and industrial enterprises within the City; and

**WHEREAS**, the development of the Project at the Project Site will further assist in the expansion of economic developments that are critical to the sustained economic health and well-being of the City, the County, and the surrounding areas, and each of the City and the County accordingly find that providing financial assistance for the Project as described in this Agreement is being made under and in furtherance of any power and authority authorized by Amendment 772 to the Constitution of Alabama of 1901 (the "Alabama Constitution"), and the City and County have determined that the expenditure of public funds for the purposes herein specified will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.

**NOW, THEREFORE**, for and in consideration of the foregoing premises, the covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby covenant, agree and bind themselves as follows:

**ARTICLE I**  
**REPRESENTATIONS AND WARRANTIES**

**Section 1.1 Representations and Warranties of the Local Authorities.**

- (a) The City does hereby represent and warrant as follows:
- (i) The City, by action of its governing body, has duly authorized the execution, delivery and performance of this Agreement.
  - (ii) Neither the authorization, execution and delivery of, nor the performance of, this Agreement by the City, violates, constitutes a default under or a breach of (A) any agreement, instrument, contract, mortgage, ordinance, resolution or indenture to which the City is a party or to which the City or its assets or properties are subject; or (B) any law, judgment, decree, order, ordinance, rule, regulation, consent or resolution applicable to the City or any of its assets or properties.
  - (iii) There is not now pending nor, to the knowledge of the City, threatened, any litigation affecting the City which questions (A) the validity or organization of the City, (B) the members, titles or positions of the members of the governing body or the manner in which the officers of the City are selected, or (C) the subject matter of this Agreement.
- (b) The County does hereby represent and warrant as follows:
- (i) The County, by action of its governing body, has duly authorized the execution, delivery and performance of this Agreement.
  - (ii) Neither the authorization, execution and delivery of, nor the performance of, this Agreement by the County, violates, constitutes a default under or a breach of (A) any agreement, instrument, contract, mortgage, ordinance, resolution or indenture to which the County is a party or to which the County or its assets or properties are subject; or (B) any law, judgment, decree, order, ordinance, rule, regulation, consent or resolution applicable to the County or any of its assets or properties.

(iii) There is not now pending nor, to the knowledge of the County, threatened, any litigation affecting the County which questions (A) the validity or organization of the County, (B) the members, titles or positions of the members of the governing body or the manner in which the officers of the County are selected, or (C) the subject matter of this Agreement.

(c) The IDB does hereby represent and warrant as follows:

(i) The IDB, by action of its governing body, has duly authorized the execution, delivery and performance of this Agreement.

(ii) Neither the authorization, execution and delivery of, nor the performance of, this Agreement by the IDB, violates, constitutes a default under or a breach of (A) any agreement, instrument, contract, mortgage, ordinance, resolution or indenture to which the IDB is a party or to which the IDB or its assets or properties are subject; or (B) any law, judgment, decree, order, ordinance, rule, regulation, consent or resolution applicable to the IDB or any of its assets or properties.

(iii) There is not now pending nor, to the knowledge of the IDB, threatened, any litigation affecting the IDB which questions (A) the validity or organization of the IDB, (B) the members, titles or positions of the members of the governing body or the manner in which the officers of the IDB are selected, or (C) the subject matter of this Agreement.

**Section 1.2 Representations and Warranties of the Company.** The Company hereby makes the following representations and warranties:

(a) The Company is duly organized and validly existing as a corporation under the laws of the State of Delaware and has duly authorized its execution, delivery and performance of this Agreement.

(b) Neither the execution and delivery of this Agreement, nor the performance hereof, by the Company requires any consent of, filing with or approval of, or notice to, or hearing with any person or entity (including, but not limited to, any governmental or quasi-governmental entity), except for such consents, filings, notices and hearings described herein, or already held or maintained.

(c) Neither the authorization, execution and delivery of, nor the performance of, this Agreement by the Company, violates, constitutes a default under or a breach of (i) the Company's certificate of incorporation or other organizational documents of the Company, (ii) any agreement, instrument, contract, mortgage or indenture to which the Company is a party or to which the Company or its assets are subject, or (iii) any judgment, decree, order, ordinance, regulation, consent or resolution applicable to the Company or any of its assets.

(d) There is not now pending nor, to the knowledge of the Company, threatened, any litigation affecting the Company which questions the validity or organization of the Company, or any of the representations and warranties of the Company contained herein.

## **ARTICLE II**

### **OBLIGATIONS AND COMMITMENTS OF THE COMPANY**

**Section 2.1 Commencement of Construction and Commencement of Operations.** The Company acknowledges that the citizens of the City and the County anticipate the receipt of substantial economic benefit to their local economies in return for the investment of public money in the Project as herein set forth, and the Company agrees to diligently prosecute the renovation and equipping of the Project by Commencing Construction of the Facility not later than the date that is 6 months from the Project Site Possession Date, and Commencing Operations at the Facility not later than the date that is 15 months from the Project Site Possession Date.

**Section 2.2 Capital Commitment.** The Company will renovate and equip the Facility as it deems necessary and appropriate, in its sole discretion, so as to be suitable for the operation of the Project. In furtherance of the Project, the Company shall invest in the Facility not less than \$70,900,000 by the end of Project Year 3, and not less than \$110,900,000 by the end of Project Year 7 (the "Capital Commitment"). Up to \$20,000,000 of equipment and other capital assets transferred from outside the State of Alabama may, at the discretion of the Company, count toward satisfying the Capital Commitment.

**Section 2.3 Jobs Commitment.**

(a) The Company and its Affiliates agree to employ Full-Time Employees at the Facility at an average wage of at least \$19.50 per hour (through Project Year 3) and an average wage of at least \$20.19 per hour (from Project Year 4 through Project Year 11), exclusive of benefits, in accordance with the schedule attached hereto as Exhibit "B" (the "Jobs Commitment").

(b) For each Project Year, commencing with Project Year 2 through and including Project Year 11 (the "Jobs Commitment Period"), the Company shall certify that it has, or has not, met the Jobs Commitment for such Project Year by furnishing a certificate, signed by an executive officer of the Company, to the Local Authorities on or before the date that is 150 days following the end of such Project Year. Such certification shall be in the form of Exhibit "C" hereto and contain all reasonable supporting information and materials as would enable the Local Authorities to confirm the employment level (the "Certified Employment Level") and average wage (the "Certified Average Wage") so certified by the Company for

such Project Year, and for each of the first two months immediately thereafter with respect to Project Years 2 through 8. For each of Project Years 2 through 8, the Company's Certified Employment Level shall be equal to the number of Full-Time Employees employed at the Facility as of the end of such Project Year; provided, that if such employment level as of the last day of either of the first 2 months of the immediately succeeding Project Year is less than the employment level as of the end of such Project Year, then the Certified Employment Level for such Project Year shall be equal to the number of Full-Time Employees employed at the Facility as of the end of the month of such 2-month period in the immediately succeeding Project Year in which the number of Full-Time Employees employed at the Facility is the lowest. For each of Project Years 9 through 11, the Company's Certified Employment Level shall be determined based solely on a monthly average, by calculating the sum of the number of Full-Time Employees employed at the Facility on the last day of each month during the applicable Project Year, and dividing that sum by 12.

**Section 2.4 Additional Obligations and Commitments.**

(a) Any construction activities of the Company regarding the Project shall be conducted in compliance with all applicable laws, ordinances, rules and regulations of any governmental authority, including, without limitation, all applicable licenses, permits, building codes, restrictive covenants, zoning and subdivision ordinances and flood, disaster and environmental protection laws. The Company shall require any architect, general contractor, subcontractor or other business performing any work in connection with the Project to obtain all necessary permits, licenses and approvals to construct the same. It is understood and acknowledged that the City and the County will not waive any fees, access fees, or related expenses for any permits, licenses or approvals that must be obtained from the City, the County or any other governmental authority in connection with the Project.

(b) At all times during the Term of this Agreement, the Company shall be in material compliance with all applicable laws, ordinances, rules and regulations of the City and the County and, further, shall be current in payment of any and all taxes, fees, and other charges imposed by the City, the County and all local government entities.

(c) The Company shall pay all costs associated with the insuring of and the maintenance, upkeep and repair of the Facility during the Company Note Period. During the Company Note Period, the Company shall provide liability, casualty, wind and fire insurance for the Facility in the amounts and types customarily carried for its other firearms manufacturing facilities, and shall seek to add the City and the IDB as additional insureds on each policy.

**ARTICLE III  
LOCAL AUTHORITIES INCENTIVES**

**Section 3.1 Local Commitment.**

(a) In consideration of the Company locating manufacturing operations to the Project Site, making the capital investment to renovate and equip the Facility, and hiring employees at the levels, and for the minimum average wages, as set forth in this Agreement, the

Local Authorities shall make available to the Company the sum of \$12,500,000 (the "Local Commitment"), to pay for the costs of acquiring the Project Site and Facility, and to assist the Company in paying for a portion of the Facility renovation costs. Funding for the Local Commitment shall be provided by the Local Authorities as follows:

- (i) City: \$9,500,000
- (ii) County: \$2,000,000
- (iii) IDB: \$1,000,000

(b) On or before the Outside Date (defined herein), the City and the County shall remit their respective share of the Local Commitment to the IDB. The IDB shall use such funds, together with the IDB's \$1,000,000 commitment, to redeem, pay and retire the IDB Note and pay for any closing costs and other reasonable legal fees and costs (whether incurred by the IDB or the City) associated with the acquisition by the IDB of the Project Site and Facility and the conveyance of the Project Site and the Facility to the Company. The balance remaining of the Local Commitment (the "Local Commitment Balance") shall be paid as described in Section 3.1(c) below.

(c) Within 30 days of the execution of this Agreement, the IDB shall convey the Project Site and Facility to the Company by statutory warranty deed, the form of which is attached hereto as Exhibit "D" (the "Deed"), for \$100.00. As soon as practicable after the Project Site and Facility are conveyed to the Company in accordance with this Section 3.1(c), the IDB shall pay the Local Commitment Balance to the Company, to be used by the Company to pay capital costs to renovate and equip the Facility ("Capital Costs"). The Company shall submit to the Local Authorities reasonable supporting documentation which demonstrates that the Local Commitment Balance was expended by the Company on Capital Costs.

(d) Title to the Project Site and the Facility shall be conveyed to the Company subject only to those certain title exceptions listed in Exhibit "E" attached hereto (the "Permitted Exceptions"). The Deed shall be accompanied by an owner's policy of title insurance in the amount of \$10,500,000, paid by the IDB and issued by a title company reasonably acceptable to the Company, naming the Company as owner, containing the endorsements listed in Exhibit "F" attached hereto (the "Permitted Endorsements"), and insuring title to the Project Site and Facility, subject only to the Permitted Exceptions.

### **Section 3.2 Additional Local Commitment.**

(a) In consideration of the Company undertaking the Project, the IDB shall make available the sum of \$2,000,000 (the "Additional Local Commitment"), to be expended by the Company on Capital Costs. The Company understands, acknowledges and agrees that the obligation to pay the Additional Local Commitment is the obligation of the IDB, and shall not be the obligation of the City or the County. The Company shall submit to the Local Authorities reasonable supporting documentation which demonstrates that the Additional Local Commitment was expended by the Company for Capital Costs.

(b) The Additional Local Commitment shall be payable to the Company in 4 installments, as follows:

(i) A \$500,000 payment shall be made available within 90 days after the Company furnishes to the Local Authorities a certificate (the form of which to be similar to the form on Exhibit "C" used for the Jobs Commitment certifications), signed by an executive officer of the Company, certifying that the Company has employed at least 250 Full-Time Employees at an average wage of at least \$19.50 per hour, exclusive of benefits, for a period of at least 3 consecutive calendar months, together with all supporting information and materials as would enable the Local Authorities to confirm the employment levels and average wage so certified by the Company; and

(ii) A \$500,000 payment shall be made available within 90 days after the Company furnishes to the Local Authorities a certificate (the form of which to be similar to the form on Exhibit "C" used for the Jobs Commitment certifications), signed by an executive officer of the Company, certifying that the Company has employed at least 500 Full-Time Employees at an average wage of at least \$19.50 per hour, exclusive of benefits, for a period of at least 3 consecutive calendar months, together with all supporting information and materials as would enable the Local Authorities to confirm the employment levels and average wage so certified by the Company; and

(iii) A \$500,000 payment shall be made available within 90 days after the Company furnishes to the Local Authorities a certificate (the form of which to be similar to the form on Exhibit "C" used for the Jobs Commitment certifications), signed by an executive officer of the Company, certifying that the Company has employed at least 750 Full-Time Employees at an average wage of at least \$20.19 per hour, exclusive of benefits, for a period of at least 3 consecutive calendar months, together with all supporting information and materials as would enable the Local Authorities to confirm the employment levels and average wage so certified by the Company; and

(iv) A \$500,000 payment shall be made available within 90 days after the Company furnishes to the Local Authorities a certificate (the form of which to be similar to the form on Exhibit "C" used for the Jobs Commitment certifications), signed by an executive officer of the Company, certifying that the Company has employed at least 1,000 Full-Time Employees at an

average wage of at least \$20.19 per hour, exclusive of benefits, for a period of at least 3 consecutive calendar months, together with all supporting information and materials as would enable the Local Authorities to confirm the employment levels and average wage so certified by the Company.

**Section 3.3 Tax Abatements.** To the maximum extent allowable under Alabama law, the IDB will cause the abatement for the Project of: (a) non-educational real and personal ad valorem taxes, said abatement to last for the maximum statutory period allowed by law; (b) state and local non-educational sales and use taxes on tangible personal property and taxable services incorporated into the Project, said abatements to end at the end of Project Year 6, when the entire Project shall be deemed to have been placed in service; and (c) deed, mortgage and all other similar recording taxes with respect to the Project, whenever such taxes become due and payable.

**Section 3.4 Zoning.** For the duration of the Company Note Period, the City and the County shall not electively alter, amend or change the applicable zoning classification for the Project Site in any way without the Company's prior written consent, in its sole discretion.

**Section 3.5 SIDA Grant.** The IDB shall, if requested by the Company, complete and submit an application to the State Industrial Development Authority ("SIDA") to provide a site preparation grant related to the Project through the Alabama Site Preparation Grant program in an amount up to \$150,000 (the "SIDA Grant"). The Company shall cooperate in assistin ; the IDB with the preparation of the SIDA Grant application. Any reasonable legal fees or costs incurred by or on behalf of the IDB in obtaining the SIDA Grant shall be paid by the Company. Upon receipt of the SIDA Grant the same shall be remitted by the IDB to the Company, less reasonable legal fees and any other costs incurred by the IDB in obtaining the same.

#### ARTICLE IV

#### **RECAPTURE OF THE LOCAL COMMITMENT BY THE LOCAL AUTHORITIES**

**Section 4.1 Company Note.** To secure the full and timely performance by the Company of the Jobs Commitment, the Company shall issue a \$12,500,000.00 promissory note, to the City, in the form and on the terms, of the promissory note which is attached hereto as Exhibit "G" (the "Company Note"). The Company Note shall be dated of even date with the Deed.

**Section 4.2 Mortgage.** Payment of the Company Note shall be secured by a first-priority mortgage (the "Mortgage," the form of which is attached hereto as Exhibit "H"), granted by the Company for the benefit of the City, encumbering the Facility and the Project Site, and any fixtures attached thereto but specifically excluding any personal property of the Company. The Company shall not cause or permit the imposition or creation of any lien (other than the lien for ad valorem taxes not yet due and payable) upon the Facility or the Project Site that has priority over the Mortgage (a "Prohibited Encumbrance"), without first obtaining the City's

written consent. The Company hereby covenants and agrees to cause any Prohibited Encumbrance to be removed within 90 days of the creation thereof.

**Section 4.3 Non-Relocation and Reinstatement.** The Company hereby understands, acknowledges and agrees that the commitments of the Local Authorities herein stated are being made primarily to realize the growth in employment including, without limitation, the creation of jobs as herein described at the Facility, and that such objectives would not be fully realized should the Company close or relocate substantially all of its operations from the Project Site during the Company Note Period. If, for any reason whatever, the Company closes the Facility or relocates substantially all of its operations conducted at the Facility to a location outside the corporate limits of the City, then any Company Payments (as defined in the Company Note) that have been previously forgiven shall be reinstated as provided in the Company Note.

**Section 4.4 Applicable Share.** Each Local Authority shall be entitled to receive its Applicable Share of any payment received by the City under the Company Note for failure by the Company to meet the Jobs Commitment or for closing the Project as set forth in the Company Note. For any Local Authority, its "Applicable Share" shall be a percentage determined by dividing the portion of the Local Commitment that it contributed by \$12,500,000. Nothing contained in this Section 4.4 shall obligate the Company to make any payment under the Company Note to any Party other than the City, and failure of the City to pay any other Local Authority its Applicable Share shall not give rise to any claim or action against the Company for such amount.

## **ARTICLE V** **CONDITIONS PRECEDENT**

**Section 5.1 Conditions Precedent to the Obligations and Commitments of the Local Authorities.** Anything in this Agreement to the contrary notwithstanding, the Local Authorities shall not be obligated to make available the Local Commitment or the Additional Local Commitment to the Company, and the IDB shall have no obligation to convey the Project Site and the Facility to the Company, until:

(a) The Local Authorities shall have received the Company's executed counterpart of this Agreement, the Company Note, and the Mortgage, duly executed by a duly authorized officer of the Company; and

(b) The State of Alabama shall have executed and delivered to the Company the Project Agreement by and between the State and the Company respecting the Project (the "State Project Agreement").

**Section 5.2 Conditions Precedent to the Company's Obligations.** Anything in this Agreement to the contrary notwithstanding, the Company shall not be obligated to perform its other obligations hereunder, until:

- (a) Each Local Authority shall have delivered to the Company an executed counterpart of this Agreement duly executed by its respective duly authorized officer; and
- (b) The IDB shall have delivered to the Company the Deed; and
- (c) The State of Alabama shall have executed and delivered to the Company the State Project Agreement.

In the event that all of the conditions set forth in this Section 5.2 shall not have occurred by June 30, 2014 (the "Outside Date"), then this Agreement shall terminate and be of no further force and effect, without any liability of any Party hereto to the other, unless the same is extended per written instrument executed by the Mayor, acting on behalf of the City, the Chairman or Secretary of the IDB, acting on behalf of the IDB, the Chairman of the Madison County Commission, acting on behalf of the County, and George Kollitides (or any other authorized officer), acting on behalf of the Company, in which case the "Outside Date" shall be the last day of such extension. The said Mayor and said Chairman are hereby authorized and directed to execute any such extension up through and including December 31, 2014.

## **ARTICLE VI**

### **EVENTS OF DEFAULT AND REMEDIES**

#### **Section 6.1 Events of Default by the Local Authorities.**

(a) Any one or more of the following shall constitute an event of default by the Local Authorities under this Agreement (a "Local Authorities Event of Default") (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(i) the IDB shall fail to deliver the Deed to the Company as required under this Agreement;

(ii) the IDB shall fail to pay the Company either the Local Commitment Balance or the Additional Local Commitment when due hereunder;

(iii) the dissolution or liquidation of the IDB, or the filing by the IDB of a voluntary petition in bankruptcy, or the IDB seeking of or consenting to or acquiescing in the appointment of a receiver of all or substantially all of its property, or the adjudication of the IDB as a bankrupt, or any assignment by the IDB for the benefit of its creditors, or the entry by the IDB into an agreement of composition with its creditors, or if a petition or answer is filed by the IDB proposing the adjudication of the IDB as a bankrupt or its reorganization, arrangement or debt readjustment under any present or future federal bankruptcy code or any similar federal or state law in any court, or if any such

petition or answer is filed by any other person and such petition or answer shall not be stayed or dismissed within 60 days; or

(iv) failure by any Local Authority to perform or observe any of its agreements or covenants contained in this Agreement, which failure shall have continued for a period of 30 calendar days after written notice thereof from the Company, unless (A) the Company shall agree in writing to an extension of such period prior to its expiration, or (B) during such 30-day period or any extension thereof, the Local Authority has commenced and is diligently pursuing appropriate corrective action.

(b) If a Local Authorities Event of Default occurs, the Company shall have available to it all rights and remedies, both legal and equitable, provided by law (including without limitation specific performance or mandamus); provided, however, the Company shall not be entitled to any punitive, incidental or consequential damages, whether arising at law, in equity or otherwise.

#### **Section 6.2 Events of Default by the Company.**

(a) Any one or more of the following shall constitute an event of default by the Company under this Agreement (a "Company Event of Default") (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(i) at any time prior to the completion by the Company of its obligations and commitments hereunder, the Company is dissolved or liquidated, or the filing by the Company of a voluntary petition in bankruptcy, or the Company seeking or consenting to or acquiescing in the appointment of a receiver of all or substantially all of its property, or the adjudication of the Company as a bankrupt, or any assignment by the Company for the benefit of its creditors, or the entry by the Company into an agreement of composition with its creditors, or if a petition or answer is filed by the Company proposing the adjudication of the Company as a bankrupt or its reorganization, arrangement or debt readjustment under any present or future federal bankruptcy code or any similar federal or state law in any court, or if any such petition or answer is filed by any other person and such petition or answer shall not be stayed or dismissed within 60 days; or

(ii) failure by the Company to perform or observe any of its agreements or covenants contained in this Agreement, which failure shall have continued for a period of 30 calendar days after

written notice thereof from the Local Authorities, unless (1) the Local Authorities shall agree in writing to an extension of such period prior to its expiration, or (2) during such 30-day period or any extension thereof, the Company has commenced and is diligently pursuing appropriate corrective action; or

(iii) an event of default under the Company Note.

(b) During any period after the Local Authorities have provided written notice to the Company specifying the existence of a Company Event of Default and during which the Company has failed to cure said Company Event of Default to the reasonable satisfaction of the Local Authorities, the Local Authorities shall not be required to make available the Local Commitment or the Additional Local Commitment to the Company or perform any other obligation hereunder. If a Company Event of Default exists, the Local Authorities' only remedy under this Agreement is to exercise the rights of the City under the Company Note and the Mortgage, and the Local Authorities recognize and agree that the sole recourse against the Company shall be the Company's interest in the Project Site and Facility. Nothing contained in this Agreement or in the Company Note or Mortgage shall give rise to any claim against the Company for a deficiency or other monetary amount beyond the proceeds obtained from the City exercising its rights against the Project Site and Facility as set out in the Mortgage.

**Section 6.3 Remedies Subject to Applicable Law.** All rights, remedies and powers provided in this Article VI may be exercised only to the extent the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article VI are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that the same will not render this Agreement invalid or unenforceable.

## **ARTICLE VII** **MISCELLANEOUS PROVISIONS**

**Section 7.1 Severability; Enforceability.** If any term or provision hereof shall be determined by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such provision shall be severed from this Agreement and shall not affect the validity of the remainder of this Agreement.

**Section 7.2 Term.** Unless sooner terminated in accordance with the terms hereof the initial term of this Agreement shall expire on the last day of Project Year 11 (the "Term").

**Section 7.3 Entire Agreement.** This Agreement contains the entire agreement of the Parties regarding the transactions described herein, and there are no representations, oral or written, relating to the transactions described herein which have not been incorporated herein. Any agreement hereafter made shall be ineffective to change, modify, or discharge this Agreement in whole or in part unless such agreement is in writing, and is signed by the Party against whom enforcement of any change, modification, or discharge is sought.

**Section 7.4 Counterparts; Assignment.**

(a) This Agreement may be executed in two or more counterparts, each of which shall constitute but one and the same agreement.

(b) This Agreement is not assignable, except that the Company shall have the right at any time to assign all its rights and obligations in and to the Project and to transfer this Agreement or any part thereof to (i) any financially solvent Affiliate of the Company that agrees to assume the assigned obligations of the Company in and to the Project, or (ii) to any party permitted by the last sentence of this Section 7.4(b), and if so assigned, the Company and the assignee shall be responsible for the performance of the obligations of the assignee under this Agreement, unless specifically excused there from by the City, to be expressed in writing and signed by the Mayor of the City. The Company agrees to provide the Local Authorities with prior written notice of any change of Control of the Company that occurs during the Term. To the extent that such change of Control results from a merger, consolidation, statutory share exchange, or similar form of corporate transaction or the sale or other disposition of all or substantially all of the Company's assets, then the Company agrees to cause the successor entity to execute an agreement assuming all of the Company's obligations under this Agreement.

**Section 7.5 Binding Effect; Governing Law.** This Agreement shall inure to the benefit of, and shall be binding upon, the Parties hereto and their respective successors and assigns. This Agreement shall be governed exclusively by, and construed and interpreted in accordance with, the laws of the State of Alabama.

**Section 7.6 Notices.**

(a) All notices, demands, consents, certificates or other communications hereunder shall be in writing, shall be sufficiently given and shall be deemed given when delivered personally to the Party or to an officer of the Party to whom the same is directed, or mailed by registered or certified mail, postage prepaid, or sent by overnight courier, addressed as follows:

(i) If to the City:

The City of Huntsville  
308 Fountain Circle  
8<sup>th</sup> Floor  
Huntsville, AL 35801  
Attn: City Attorney

(ii) If to the County:

Madison County, Alabama  
100 Northside Square  
Huntsville, AL 35801  
Attn: County Commission Chairman

(iii) If to the IDB:

The Industrial Development Board of the City of Huntsville  
c/o Chamber of Commerce of Huntsville/Madison County  
225 Church Street  
Huntsville, AL 35801  
Attn: Chairman

(iv) If to the Company:

Corry Doyle  
SVP Finance, Treasurer  
Remington Arms Company, LLC  
870 Remington Drive  
P.O. Box 700  
Madison, North Carolina 27025-0700  
336.548.8857

With a copy to:

Jonathan K. Sprole, Esq.  
General Counsel  
Remington Arms Company, LLC  
300 First Stamford Place  
Building 300  
Stamford, Connecticut 06902  
203.276.3638

And with a copy to:

Julie Sears  
Assistant Secretary  
Remington Arms Company, LLC  
870 Remington Drive  
P.O. Box 700  
Madison, North Carolina 27025-0700  
336.548.8648

And with a copy to:

Daniel M. Wilson, Esq.  
Maynard, Cooper & Gale, P.C.  
655 Gallatin Street  
Huntsville, Alabama 35801  
256.512.0102

(b) Any such notice or other document shall be deemed to be received as of the date delivered, if delivered personally, or as of 3 days after the date deposited in the mail, if mailed, or the next business day, if sent by overnight courier.

**Section 7.7 Liabilities of the Local Authorities.** Any provision hereof to the contrary notwithstanding, the Parties agree and acknowledge that the obligations and commitments of the Local Authorities as set forth herein are limited by the limitations imposed by the Alabama Constitution.

**Section 7.8 Survival of Covenants.** The covenants in this Agreement shall not terminate until they have been fully performed or have expired by their terms.

**Section 7.9 No Waiver.** No consent or waiver, express or implied, by any Party hereto to any breach or default by any other Party in the performance by such other Party of its obligations and commitments hereunder shall be valid unless in writing, and no such consent or waiver to or of one breach or default shall constitute a consent or waiver to or of any other breach or default in the performance by such other Party of the same or any other obligations or commitments of such Party hereunder. Failure on the part of any Party to complain of any act or failure to act of any other Party or to declare such other Party in default, irrespective of how long such failure continues, shall not constitute a waiver by such Party of its rights hereunder. The granting of any consent or approval in any one instance by or on behalf of any Party hereto shall be construed to be a waiver or limit the need for such consent in any other or subsequent instance.

**Section 7.10 Venue.**

(a) Subject to the provisions of Sections 6.1 and 6.2 of this Agreement, whenever any Party hereto shall default in the performance of any of its obligations or commitments under this Agreement, the other Parties hereto may take whatever legal proceeding (including actions for damages or for specific performance to the extent provided by law) as shall be necessary or desirable to enforce any agreement or condition contained herein or any other obligation of the defaulting Party imposed by law. The Parties hereto recognize, and will not object to, an action for specific performance.

(b) Each of the Parties irrevocably submits to the jurisdiction of the Alabama state courts sitting in Madison County, Alabama (collectively, the "Courts") over any suit, action or proceeding arising out of or relating to this Agreement or any transaction undertaken in connection therewith (an "Agreement Action"); and waives, to the fullest extent permitted by law, any objection or defense that such Party may now or hereafter have based on improper venue, lack of personal jurisdiction, inconvenience of forum or any similar matter in any Agreement Action brought in any of the Courts.

**Section 7.11 No Partnership or Joint Venture.** Nothing contained in this Agreement shall constitute or be construed to be a partnership or joint venture among the Parties and their respective permitted successors and assigns.

**Section 7.12 Headings.** The headings in the Sections in this Agreement are for convenience of reference only and shall not form a part hereof.

**Section 7.13 No Third-Party Beneficiaries.** This Agreement is intended only for the benefit of the signing Parties hereto, and neither this Agreement, nor any of the rights, interest, obligations or commitments hereunder, is intended for the benefit of any other person or third-party.

**Section 7.14 Attorneys' Fees.** If any Party shall be required to enforce this Agreement through the filing of any legal action, in addition to any other amounts due as provided herein, the prevailing Party shall be entitled to recover it's reasonable attorneys' fees and costs.

**Section 7.15 Press Releases.** Except for purposes of the authorization, ratification or other approval of this Agreement by the City, the County or the IDB and any public notices required by law to be published in connection therewith, no Party shall make any public disclosure or issue any press releases pertaining to this Agreement without having first obtained the written consent of the other Parties, except for communication as may be legally required, and in no event on not less than 3 business days prior written notice to the other Parties (unless such notice is prohibited by law).

## **ARTICLE VIII** **DEFINITIONS**

All initially capitalized terms not otherwise defined herein shall have the following meanings:

**"Affiliate"** of any specified entity shall mean any other entity directly or indirectly Controlling or Controlled by or under direct or indirect common Control with, or which directly or indirectly owns voting securities of an entity directly or indirectly Controlled by, such specified entity.

**"Commence Construction"** or **"Commencement of Construction"** means the Project Site Possession Date has occurred and physical work is being performed consistently, using appropriate equipment and manpower to develop, renovate, construct and equip the Project and install necessary infrastructure to accomplish the objectives of the Project.

**"Commence Operations"** or **"Commencement of Operations"** shall mean that operations at the Project as described in the Recitals have commenced and that the Facility is producing firearms or related products in commercial quantities, or is performing related services.

**"Company Note Period"** shall mean the period of 132 months from the date of issuance of the Company Note, or such other period of time as the Company Note is outstanding.

**"Control"** when used with respect to any entity means the power to direct the management and policies of such entity, directly or indirectly, whether through the ownership of

voting securities, by contract or otherwise; and the terms “Controlling” and “Controlled” have meanings correlative to the foregoing.

“Force Majeure” shall mean matters outside the control of the Company (excluding unfavorable economic conditions), consisting of (a) either enacted federal or State of Alabama laws or severe weather conditions, in either case, that prevent the use of the Facility in a manner necessary for the Company to perform its operations therein, or (b) riots, strikes, acts of God, man-made or natural disasters, civil insurrection, or acts of terrorism.

“Full-Time Employee” shall mean a person (expressly excluding unskilled temporary labor, construction workers and individuals employed by entities providing temporary workers): (a) who is being paid directly by the Company or an Affiliate of the Company and is employed at the Facility for not less than 36 hours per work week; (b) who has a primary residence in Alabama, Franklin County, Tennessee, Giles County, Tennessee or Lincoln County, Tennessee, or who is subject to Alabama State income tax withholdings, (c) who the Company or an Affiliate of the Company identifies as its employee to the U.S. Internal Revenue Service, the Alabama Department of Revenue or the Tennessee Department of Revenue on returns or reports filed with the foregoing; and (d) who is eligible to participate under such benefit plans as are generally applicable to employees holding positions of like kind and character within either the Company or an Affiliate of the Company within the United States of America.

“Project Site Possession Date” shall mean the date of the Deed.

“Project Year” shall mean each 12-month period beginning on the first day of the calendar month after the Project Site Possession Date and ending on the last day of the calendar month 12 months thereafter. If the Project Site Possession Date is the first day of the month, Project Year 1 shall commence on the Project Site Possession Date.

“Vested Principal” shall mean at the end of each Project Year, as follows:

<b>Project Year</b>	<b>Vested Principal</b>
Project Year 1	\$0
Project Year 2	\$0
Project Year 3	\$0
Project Year 4	\$0
Project Year 5	\$0
Project Year 6	\$3,125,000
Project Year 7	\$6,250,000
Project Year 8	\$9,375,000
Project Year 9	\$12,500,000
Project Year 10	\$12,500,000
Project Year 11	\$12,500,000

[EXECUTION TO FOLLOW ON NEXT FOLLOWING PAGE]

**IN WITNESS WHEREOF**, the City, the County, the IDB and the Company have each caused this Agreement to be duly executed in its name, under seal, and the same attested, all by officers thereof duly authorized thereunto, and have caused this Agreement to be dated the date and year first above written.

**"CITY":**

**CITY OF HUNTSVILLE, ALABAMA**

ATTEST:

\_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Mayor

(SEAL)

**"COUNTY":**

**MADISON COUNTY, ALABAMA**

ATTEST:

\_\_\_\_\_  
County Clerk

By: \_\_\_\_\_  
Chairman

(SEAL)

**"IDB":**

**THE INDUSTRIAL DEVELOPMENT  
BOARD OF THE CITY OF  
HUNTSVILLE**

ATTEST:

\_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
Chairman

(SEAL)

**"COMPANY":**

**REMINGTON OUTDOOR COMPANY,  
INC., a Delaware corporation**

\_\_\_\_\_  
By: George Kollitides  
Its: Chairman and CEO

**STATE OF ALABAMA            )**  
**:**  
**COUNTY OF MADISON        )**

I, the undersigned authority, a Notary Public in and for said State at Large, hereby certify that Tommy Battle, whose name, as Mayor of the City of Huntsville, a municipal corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that being informed of the contents of this instrument, he, as such officer, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

GIVEN under my hand and official seal this \_\_\_\_\_ day of February, 2014.

**(SEAL)**

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

**STATE OF ALABAMA**            )  
  :  
**COUNTY OF MADISON**        )

I, the undersigned authority, a Notary Public in and for said State at Large, hereby certify that Dale Strong, whose name, as Chairman of the County Commission of Madison County, a political subdivision of the State of Alabama, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that being informed of the contents of this instrument, he, in such capacity, executed the same voluntarily for and as the act of said political subdivision on the day the same bears date.

GIVEN under my hand and official seal this \_\_\_\_\_ day of February, 2014.

**(SEAL)**

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

**STATE OF ALABAMA            )**  
**:**  
**COUNTY OF MADISON        )**

I, the undersigned authority, a Notary Public in and for said State at Large, hereby certify that W.F. Sanders, Jr., whose name, as Chairman of The Industrial Development Board of the City of Huntsville, a public corporation and instrumentality under the laws of the State of Alabama, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that being informed of the contents of this instrument, he, as such officer, executed the same voluntarily for and as the act of said corporation and instrumentality on the day the same bears date.

GIVEN under my hand and official seal this \_\_\_\_\_ day of February, 2014.

(SEAL)

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_



## **EXHIBIT A**

### **PROJECT SITE**

All that part of Sections 32 and 33, Township 4 South, Range 2 West, and Sections 4 and 5, Township 5 South, Range 2 West in the City of Huntsville, Madison County, Alabama, particularly described as beginning at a point on the eastern right-of-way of Wall Triana Highway that is located North 87 degrees 20 minutes 17 seconds West 1805.86 feet from the Southeast corner of said Section 32; thence from the true point of beginning North 02 degrees 20 minutes 17 seconds East 32.10 feet; thence North 16 degrees 25 minutes 47 seconds East 41.34 feet to a point on a curve to the right having a radius of 643.77; thence leaving said Wall Triana Highway right-of-way along the arc of said curve the chord bearing and distance of which is South 73 degrees 42 minutes 40 seconds East 304.52 feet to end of said curve; thence South 60 degrees 01 minutes 43 seconds East 189.58 feet to a point of beginning of a curve to the left having a radius of 746.14 feet; thence along the arc of said curve a chord bearing and distance of which is South 74 degrees 28 minutes 39 seconds East 372.38 feet to the end of said curve; thence South 1 degree 04 minutes 17 seconds West 12.52 feet; thence South 88 degrees 55 minutes 43 seconds East 372.38 feet to the point of beginning of a curve to the left having a radius of 385.30; thence along the arc of said curve a chord bearing and distance of which is North 64 degrees 49 minutes 09 seconds East 340.79 feet to end of said curve; thence North 38 degrees 34 minutes 19 seconds East 372.05 feet; thence South 89 degrees 00 minutes 51 seconds East 1011.56 feet; thence South 02 degrees 28 minutes 55 seconds West 949.93 feet; thence South 84 degrees 19 minutes 35 seconds East 357.44 feet; thence South 10 degrees 44 minutes 18 seconds West 541.75; thence South 05 degrees 45 minutes 33 seconds East 509.70 feet; thence South 38 degrees 54 minutes 18 seconds West 684.46 feet; thence South 49 degrees 12 minutes 07 seconds West 320.64 feet; thence South 02 degrees 14 minutes 15 seconds West 101.95 feet; thence North 87 degrees 47 minutes 03 seconds West 1832.91 feet to the eastern right-of-way of Wall Triana Highway; thence along the eastern right-of-way of said Wall Triana Highway by the following bearings and distances: North 09 degrees 36 minutes 29 seconds East 845.40 feet, North 03 degrees 25 minutes 41 seconds East 215.01 feet, North 02 degrees 19 minutes 11 seconds East 688.97 feet, North 06 degrees 14 minutes 23 seconds West 99.73 feet, and North 02 degrees 20 minutes 17 seconds East 770.15 feet, to the true point of beginning and containing 144.917 acres, more or less.

**EXHIBIT B**

**JOBS COMMITMENT**

	<b>Project Year 1</b>	<b>Project Year 2</b>	<b>Project Year 3</b>	<b>Project Year 4</b>	<b>Project Year 5</b>	<b>Project Year 6</b>	<b>Project Year 7</b>	<b>Project Year 8</b>	<b>Project Year 9</b>	<b>Project Year 10</b>	<b>Project Year 11</b>
<b>Cumulative Full-Time Employees at the Facility</b>	0	280	680	1,018	1,258	1,498	1,698	1,868	1,868	1,868	1,868
<b>Minimum Average Hourly Wage</b>	0	\$19.50	\$19.50	\$20.19	\$20.19	\$20.19	\$20.19	\$20.19	\$20.19	\$20.19	\$20.19

**EXHIBIT C**

**JOBS COMMITMENT**

	<b>Project Year 1</b>	<b>Project Year 2</b>	<b>Project Year 3</b>	<b>Project Year 4</b>	<b>Project Year 5</b>	<b>Project Year 6</b>	<b>Project Year 7</b>	<b>Project Year 8</b>	<b>Project Year 9</b>	<b>Project Year 10</b>	<b>Project Year 11</b>
<b>Cumulative Full-Time Employees at the Facility</b>	0	280	680	1,018	1,258	1,498	1,698	1,868	1,868	1,868	1,868
<b>Minimum Average Hourly Wage</b>	0	\$19.50	\$19.50	\$20.19	\$20.19	\$20.19	\$20.19	\$20.19	\$20.19	\$20.19	\$20.19

**EXHIBIT D**  
**FORM OF DEED**

**FORM OF DEED**

**THIS INSTRUMENT PREPARED BY:**

Daniel M. Wilson, Esq.  
MAYNARD, COOPER & GALE, P.C.  
655 Gallatin Street  
Huntsville, AL 35801

STATE OF ALABAMA    )  
                                  :  
COUNTY OF MADISON    )

**STATUTORY WARRANTY DEED**

**KNOW ALL MEN BY THESE PRESENTS**

That for an in consideration of Ten Dollars and other good and valuable consideration to the undersigned Grantor in hand paid by the Grantee herein, the receipt and sufficiency of which is hereby acknowledged, **THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF HUNTSVILLE**, an Alabama public corporation (herein referred to as the "Grantor") does hereby grant, bargain, sell and convey unto **REMINGTON OUTDOOR COMPANY, INC.**, a Delaware corporation (herein referred to as the "Grantee"), the following described real estate situated in Madison County, Alabama (the "Property"), together with all and singular rights, privileges, tenements, hereditaments and appurtenances pertaining thereto, described as follows:

All that part of Sections 32 and 33, Township 4 South, Range 2 West, and Sections 4 and 5, Township 5 South, Range 2 West in the City of Huntsville, Madison County, Alabama, particularly described as beginning at a point on the eastern right-of-way of Wall Triana Highway that is located North 87 degrees 20 minutes 17 seconds West 1805.86 feet from the Southeast corner of said Section 32; thence from the true point of beginning North 02 degrees 20 minutes 17 seconds East 32.10 feet; thence North 16 degrees 25 minutes 47 seconds East 41.34 feet to a point on a curve to the right having a radius of 643.77; thence leaving said Wall Triana Highway right-of-way along the arc of said curve the chord bearing and distance of which is South 73 degrees 42 minutes 40 seconds East 304.52 feet to end of said curve; thence South 60 degrees 01 minutes 43 seconds East 189.58 feet to a point of beginning of a curve to the left having a radius of 746.14 feet; thence along the arc of said curve a chord bearing and distance of which is South 74 degrees 28 minutes 39 seconds East 372.38 feet to the end of said curve; thence South 1 degree 04 minutes 17 seconds West 12.52 feet; thence South 88 degrees 55 minutes 43 seconds East 372.38 feet to the point of beginning of a curve to the left having a radius of 385.30; thence along the arc of said curve a chord bearing and distance of which is North 64 degrees 49 minutes 09 seconds East 340.79 feet to end of said curve; thence North 38 degrees 34 minutes 19 seconds East 372.05 feet; thence South 89 degrees 00 minutes 51 seconds East 1011.56 feet; thence South 02 degrees 28 minutes 55 seconds West 949.93 feet; thence South 84 degrees 19 minutes 35 seconds West 357.44 feet;

thence South 10 degrees 44 minutes 18 seconds West 541.75; thence South 05 degrees 45 minutes 33 seconds East 509.70 feet; thence South 38 degrees 54 minutes 18 seconds West 684.46 feet; thence South 49 degrees 12 minutes 07 seconds West 320.64 feet; thence South 02 degrees 14 minutes 15 seconds West 101.95 feet; thence North 87 degrees 47 minutes 03 seconds West 1832.91 feet to the eastern right-of-way of Wall Triana Highway; thence along the eastern right-of-way of said Wall Triana Highway by the following bearings and distances: North 09 degrees 36 minutes 29 seconds East 845.40 feet, North 03 degrees 25 minutes 41 seconds East 215.01 feet, North 02 degrees 19 minutes 11 seconds East 688.97 feet, North 06 degrees 14 minutes 23 seconds West 99.73 feet, and North 02 degrees 20 minutes 17 seconds East 770.15 feet, to the true point of beginning and containing 144.917 acres, more or less.

**TO HAVE AND TO HOLD** to the said Grantee, its successors and assigns forever, subject to the conditions and limitations herein set forth.

Subject to easements, restrictions, matters and rights of way of record set forth on Appendix 1 attached hereto.

**IN WITNESS WHEREOF**, Grantor has hereunder caused this instrument to be executed by Chairman to be attested by the Secretary of its Board of Directors on this the \_\_\_\_ day of February, 2014.

**THE INDUSTRIAL DEVELOPMENT BOARD  
OF THE CITY OF HUNTSVILLE**

By: \_\_\_\_\_  
W.F. Sanders, Jr.  
Its: Chairman

ATTEST:

[SEAL}

\_\_\_\_\_  
Donald C. Cherry, Jr., Secretary of The Industrial  
Development Board of The City of Huntsville

STATE OF ALABAMA    )  
                                  :  
COUNTY OF MADISON    )

I, the undersigned Notary Public in and for said County in said State, hereby certify that **W.F. Sanders, Jr.**, whose name as Chairmen of **THE INDUSTRIAL DEVELOPMENT**

**BOARD OF THE CITY OF HUNTSVILLE**, an Alabama public corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said public corporation.

Give under my hand and official seal of office this \_\_\_\_ day of February, 2014.

[NOTARY SEAL]

\_\_\_\_\_  
Notary Public  
My commission expires \_\_\_\_\_

STATE OF ALABAMA    )  
                                  :  
COUNTY OF MADISON    )

I, the undersigned Notary Public in and for said County in said State, hereby certify that **Donald C. Cherry, Jr.**, whose name as Secretary of **THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF HUNTSVILLE**, an Alabama public corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said public corporation.

Give under my hand and official seal of office this \_\_\_\_ day of February, 2014.

[NOTARY SEAL]

\_\_\_\_\_  
Notary Public  
My commission expires \_\_\_\_\_

## **Appendix 1**

### **Permitted Exceptions**

1. Ad valorem taxes for the tax year 2014 which are not yet due and payable and subsequent years.

2. The Huntsville-Madison County Airport Authority Building Site Development Standards and the Avigation and Hazard Easement as respectively referenced in Exhibits "B" and "C" in that certain Statutory Warranty Deed from The Huntsville-Madison County Airport Authority (the "Airport Authority") to Chrysler Group, LLC, dated February \_\_\_\_, 2014, and recorded in the Office of the Judge of Probate of Madison County, Alabama (the "Probate Records"), as Instrument No. 201402\_\_\_\_\_.

3. All rules, regulations and restrictions of general application adopted by The Huntsville-Madison County Airport Authority pursuant to the statutory authority granted under Section 4-3-47 of the *Code of Alabama (1975)*, as amended, as now exist and may hereinafter be adopted, which shall be reasonably required for the safe operation and continuing development of Huntsville International Airport.

4. Utility and Drainage Easement recorded in the Probate Records at Deed Book 569, Pages 648-650, and Deed Book 616, Pages 541-544.

5. Right-of-way and easements granted from The Huntsville-Madison County Airport Authority and Chrysler Motors Corporation, to the City of Huntsville, recorded in the Probate Records in Deed Book 693, Pages 121-130.

6. Easement granted to the City of Huntsville, Alabama, recorded in the Probate Records in Deed Book 991, Pages 205-208.

7. Easement granted to the City of Huntsville, Alabama, recorded in the Probate Records in Deed Book 991, Pages 209-212.

8. Easement granted to the City of Huntsville, Alabama, recorded in Deed Book 991, Pages 213-216.

Easement granted to the Water and Wastewater Board of the City of Madison, Alabama, recorded in the Probate Records in Deed Book 1015, Pages 475-480

## **EXHIBIT E**

### **PERMITTED EXCEPTIONS**

1. Ad valorem taxes for the tax year 2014 which are not yet due and payable and subsequent years.

2. The Huntsville-Madison County Airport Authority Building Site Development Standards and the Avigation and Hazard Easement as respectively referenced in Exhibits "B" and "C" in that certain Statutory Warranty Deed from The Huntsville-Madison County Airport Authority (the "Airport Authority") to Chrysler Group, LLC, dated February 14, 2014, and recorded in the Office of the Judge of Probate of Madison County, Alabama (the "Probate Records"), as Instrument No. 20140214000075760.

3. All rules, regulations and restrictions of general application adopted by The Huntsville-Madison County Airport Authority pursuant to the statutory authority granted under Section 4-3-47 of the *Code of Alabama (1975)*, as amended, as now exist and may hereinafter be adopted, which shall be reasonably required for the safe operation and continuing development of Huntsville International Airport.

4. Utility and Drainage Easement recorded in the Probate Records at Deed Book 569, Pages 648-650, and Deed Book 616, Pages 541-544.

5. Right-of-way and easements granted from The Huntsville-Madison County Airport Authority and Chrysler Motors Corporation, to the City of Huntsville, recorded in the Probate Records in Deed Book 693, Pages 121-130.

6. Easement granted to the City of Huntsville, Alabama, recorded in the Probate Records in Deed Book 991, Pages 205-208.

7. Easement granted to the City of Huntsville, Alabama, recorded in the Probate Records in Deed Book 991, Pages 209-212.

8. Easement granted to the City of Huntsville, Alabama, recorded in Deed Book 991, Pages 213-216.

9. Easement granted to the Water and Wastewater Board of the City of Madison, Alabama, recorded in the Probate Records in Deed Book 1051, Pages 475-480.

## **EXHIBIT F**

### **PERMITTED ENDORSEMENTS**

1. ALTA Endorsement Form 3.1-06 (Zoning-Completed Structures)
2. ALTA Form 9.2-06 – Restrictions, Encroachments, Minerals (Improved Land)
3. ALTA Form 17-06 – Access and Entry
4. ALTA Endorsement 18-06 (Single Tax Parcel)
5. ALTA Endorsement Form 25.1-06 (Same as Portion of Survey)
6. Utility Access Endorsement

## EXHIBIT G

### FORM OF COMPANY NOTE

**\$12,500,000.00**

February \_\_\_\_, 2014  
Huntsville, Alabama

**FOR VALUE RECEIVED**, the undersigned, **REMINGTON OUTDOOR COMPANY, INC.**, a Delaware corporation (the "Company"), hereby promises to pay the **CITY OF HUNTSVILLE**, a municipal corporation organized under the laws of the State of Alabama (the "City"), at 308 Fountain Circle, Huntsville, Alabama, or at such other place as the City may direct, in lawful money of the United States of America constituting legal tender in payment of all debts and dues, public and private, together with interest thereon calculated at the rate and in the manner set forth herein, the principal amount of up to **TWELVE MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$12,500,000.00)**, in ten (10) equal annual installments of \$1,250,000 (each, a "Principal Installment"), on the dates set forth below (such principal amount is subject to forgiveness and reinstatement as herein provided), with all principal from time to time outstanding hereunder to bear interest at a per annum rate of 5.00%. This Promissory Note (this "Note") is being issued and delivered by the Company to the City pursuant to that certain Project Development Agreement dated February 27, 2014 (the "Development Agreement"), by and among the City, the Company, Madison County, Alabama, and The Industrial Development Board of the City of Huntsville. Capitalized terms used and not otherwise defined in this Note shall have the meaning given to them in the Development Agreement. References to exhibits not otherwise attached to this Note shall mean the exhibits attached to the Development Agreement.

1. Principal and Interest. Each Principal Installment shall be payable on a date that is: (a) commencing with Project Year 2, 30 days from the date of the Company's certifications under Section 2.3(b) of the Development Agreement, but in no event later than 150 days after the end of each Project Year for Project Years 2 through 8, and (b) 90 days after the end of each Project Year for Projects Years 9 through 11 (each such date, a "Scheduled Payment Date"), together with all accrued and unpaid interest thereon (each such payment, a "Company Payment"); provided, however, for each Company Payment, if the Company fully satisfies the Jobs Commitment for the Project Year during the Jobs Commitment Period that immediately precedes the date on which such Company Payment is due, the Company Payment for such Project Year shall be fully forgiven (subject, however, to subsequent reinstatement as set forth in Section 2 below); and, provided further, that if the Company only partially satisfies the Jobs Commitment for the Project Year during the Jobs Commitment Period that precedes the date on which such Company Payment is due, the Company Payment for such Project Year shall be partially forgiven (subject, however, to subsequent reinstatement as set forth in Section 2 hereof) and the amount of such Company Payment shall be determined in accordance with the following:

- A. If the Jobs Commitment is not satisfied as a result of a shortfall in the cumulative Full-Time Employees at the Facility (an "Employee Shortfall"), then an amount equal to  $(\$1,250,000 + \text{accrued interest}) \times (1 - (\text{Certified Employment Level for the Project Year during the Jobs Commitment Period that precedes the$

date on which such Company Payment is due / Jobs Commitment listed on Exhibit B of the Development Agreement for the Project Year during the Jobs Commitment Period that precedes the date on which such Company Payment is due) (such payment, an “Employee Shortfall Payment”));

- B. If the Jobs Commitment is not satisfied as a result of the failure of the Company to achieve the Minimum Average Hourly Wage listed on Exhibit B (a “Wage Shortfall”), then an amount equal to  $(\$1,250,000 + \text{accrued interest}) \times (1 - (\text{the Certified Average Wage achieved by the Company for the Project Year during the Jobs Commitment Period that precedes the date on which such Company Payment is due} / \text{the required Minimum Average Hourly Wage listed on Exhibit B of the Development Agreement for the Project Year during the Jobs Commitment Period that precedes the date on which such Company Payment is due}))$  (such payment, a “Wage Shortfall Payment”));
- C. If the Jobs Commitment is not satisfied as a result of both an Employee Shortfall and a Wage Shortfall, then the Company Payment shall be the greater of the Employee Shortfall Payment or the Wage Shortfall Payment (but not both). Under no circumstance shall any Company Payment exceed the amount of \$1,250,000, plus accrued interest.

2. Reinstatement. (a) If, for any reason whatever, the Company closes the Facility or relocates substantially all operations conducted at the Facility to a location outside the corporate limits of the City prior to the end of the Company Note Period, then any Company Payments that have been previously forgiven hereunder, less any Vested Principal as of the Reinstatement Date (said difference, the “Reinstatement Amount”), shall be automatically reinstated as of the date of such closure or relocation (the “Reinstatement Date”), and shall become due and payable as outstanding principal hereunder. Any Reinstatement Amounts shall bear interest at a rate of 5.00% per annum from the Reinstatement Date. The Company may cause this Note to be deemed paid in full if, within 120 days from the Reinstatement Date, the Company:

- (i) pays the City an amount equal to \$12,500,000, less Vested Principal as of the Reinstatement Date, plus accrued interest on that portion of this payment constituting the Reinstatement Amount computed as aforesaid; provided, however, that if the closure or relocation of substantially all of its operations is the result of a Force Majeure event, then the amount due the City shall be the outstanding principal

balance of this Note on the Reinstatement Date (including without limitation the Reinstatement Amount and giving credit for any reduction to principal resulting from any Company Payments made by the Company pursuant to Sections 1.A., 1.B., or 1.C. above), plus accrued and unpaid interest; or

(ii) conveys title to the Project Site and Facility to the City free and clear of any and all liens of any kind or other matters affecting title except for the Permitted Exceptions or for such other title matters to which the City does not object, with the statutory warrant deed conveying title to the City being accompanied by an owner's policy of title insurance paid by the Company and issued by a title company reasonably acceptable to the City containing such endorsements as the City may reasonably request, and in an amount agreed to by the Company and the City equal to the estimated cost of the improvements made by the Company to the Project Site and Facility plus \$12,500,000.

(b) Should the Company fail to cause this Note to be deemed paid in full pursuant to options (i) or (ii) in paragraph (a) immediately above within 120 days following the Reinstatement Date, there shall immediately be owed as outstanding principal under this Note the sum of \$12,500,000, plus accrued interest thereon from the Reinstatement Date.

3. Prepayment. This Note shall be prepayable by the Company at any time during the Company Note Period upon not less than 5 business days' prior notice to the City (the date of prepayment, the "Prepayment Date") at and for a price equal to \$12,500,000, plus accrued interest to the Prepayment Date, less any Vested Principal as of such Prepayment Date.

4. Additional Provisions Regarding Interest. Interest on all principal amounts outstanding from time to time hereunder shall be calculated on the basis of a 360-day year applied to the actual number of days upon which principal is outstanding commencing on the first day of Project Year 2 (and taking into account any principal amounts forgiven as provided herein), by multiplying the product of the principal amount and the applicable rate set forth herein by the actual number of days elapsed and dividing by 360.

5. Events of Default. Upon the occurrence of any one or more of the following events ("Events of Default"):

(a) default in the payment of the principal of or interest on this Note, as and when due and payable, and the continuance of such default for a period of ten (10) business days after receipt of written notice of such default from the City; or

(b) the occurrence of an Event of Default under the Development Agreement;

then, or at any time thereafter during the continuance of any such event, the City may, with or without notice to Company, cause all forgiven Company Payments (or portions thereof) hereunder to be reinstated as outstanding principal and declare this Note to be immediately due and payable.

6. Waivers. The Company hereby waives demand, presentment for payment, notice of dishonor, protest and notice of protest and diligence in collection or bringing suit and agrees that the City may accept partial payment, or release or exchange security or collateral, without discharging or releasing any unreleased collateral or the obligations evidenced hereby. The Company further waives any and all rights of exemption, both as to personal and real property, under the constitution or laws of the United States, the State of Alabama or any other state.

7. Attorneys' Fees. The Company agrees to pay reasonable attorneys' fees and costs incurred by the City in collecting or attempting to collect this Note, whether by suit or otherwise.

8. Miscellaneous. As used herein, the terms "Company" and "City" shall be deemed to include their respective successors, legal representatives and assigns, whether by voluntary action of the parties or by operation of law. This Note has been negotiated and is being executed and delivered in Huntsville, in the State of Alabama, or if executed elsewhere, shall become effective upon delivery by the Company to the City; provided, however, that the City shall have no obligation to give, nor shall the Company be entitled to receive, any notice of such acceptance for this Note to become a binding obligation of the Company. The Company hereby submits to jurisdiction in the State of Alabama. This Note shall be governed by and be construed in accordance with the laws of the State of Alabama governing interest, and the laws of the State of Alabama shall apply to this Note and to this transaction. This Note may not be modified except by written agreement signed by the Company and the City, or by their respective successors or assigns.

**IN WITNESS WHEREOF**, the Company has caused this Promissory Note to be executed, sealed and delivered as of the date first above written.

**COMPANY:**

**REMINGTON OUTDOOR COMPANY, INC.**  
a Delaware corporation

ATTEST:

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT H**  
**FORM OF MORTGAGE**

*This instrument prepared by and  
after recordation should be returned to:*

*J. Keith Windle  
Bradley Arant Boult Cummings LLP  
One Federal Place  
1819 Fifth Avenue North  
Birmingham, AL 35203-2104*

STATE OF ALABAMA )  
 )  
COUNTY OF MADISON )

## **MORTGAGE AND SECURITY AGREEMENT**

### **KNOW ALL BY THESE PRESENTS:**

That the undersigned, REMINGTON OUTDOOR COMPANY, a Delaware corporation (the "Mortgagor"), whose address is { \_\_\_\_\_ }, for and in consideration of the indebtedness as herein recited hereby GRANTS, BARGAINS, SELLS, CONVEYS, MORTGAGES, GRANTS A SECURITY INTEREST IN and WARRANTS to the CITY OF HUNTSVILLE, an Alabama municipal corporation, (the "Mortgagee"), whose address is 308 Fountain Circle, 8<sup>th</sup> Floor, Huntsville, Alabama 35801, its successors and assigns, forever, all and singular, all of the property described under (1) through (11) below (hereinafter referred to as the "Mortgaged Property"), subject to the matters set forth on Schedule B (the "Permitted Encumbrances") attached hereto and made a part hereof:

(1) All of Mortgagor's right, title and interest in and to certain real property (the "Real Estate") more particularly described in Schedule A attached hereto and made a part hereof;

(2) All of Mortgagor's title and interest in and to any and all buildings, constructions and improvements now or hereafter erected in or on the Real Estate, including all fixtures, constructions and improvements (whether now existing or hereafter attached to the Real Estate), all of which shall be deemed and construed to be a part of the realty;

(3) All right, title and interest of Mortgagor in and to all of the items incorporated as part of or attributed or affixed to any of the Real Estate or any other interest of Mortgagor, whether now owned or hereafter acquired, in, to or relating to the Real Estate, in such a manner that such items are no longer personal property under the law of the state where the property is situated;

(4) All rents, issues, profits, royalties, income and other benefits derived from the Real Estate (collectively, the "Rents"), now or hereafter existing or entered into;

(5) All interests, estates or other claims, both in law and in equity, that Mortgagor now has or may hereafter acquire in the Real Estate including, but not limited to all of Mortgagor's

interest in any and all options to purchase the Real Estate that Mortgagor may have or may hereafter acquire;

(6) All easements, rights-of-way and rights now owned or hereafter acquired by Mortgagor used in connection with or as a means of access to the Real Estate including all rights pursuant to any trackage agreement and all rights to the nonexclusive use of common drive entries, and all tenements, hereditaments and appurtenances of and to such easements rights-of-way and rights, and all water and water rights and shares of stock evidencing the same;

(7) All interests of Mortgagor as lessor or sublessor (and similar interests) in and to all leases or subleases covering all or any portion of the Real Estate, now or hereafter existing or entered into, and all right, title and interest of Mortgagor under such leases and subleases, including, without limitation, all cash or security deposits, advance rentals, and deposits or payments of similar nature;

(8) All right, title and interest now owned or hereafter acquired by Mortgagor in and to any greater estate in the Real Estate;

(9) All right, title and interest now owned or hereafter acquired by Mortgagor in and to any land lying within the right-of-way of any street, open or proposed, adjoining the Real Estate, and any and all sidewalks, alleys and strips and gores of land adjacent to or used in connection with the Real Estate;

(10) All rights and interests of Mortgagor in, to and under all plans, specifications, maps, surveys, studies, reports, permits, licenses, architectural, engineering and construction contracts, books of account, insurance policies and other documents, of whatever kind or character, relating to use, construction upon, occupancy, leasing, sale or operation of the Real Estate; and

(11) All of the estate, interest, right, title, other claim or demand, both in law and in equity, including claims or demands with respect to the proceeds of insurance, that Mortgagor now has or may hereafter acquire in the Real Estate, and other proceeds from sale or disposition of real or personal property hereby secured that Mortgagor now has or may hereafter acquire and any and all awards made for the taking by eminent domain, or by any proceeding or purchase in lieu of eminent domain, of the whole or any part of the Real Estate, including any award resulting from a change of grade of streets and any award for severance damages.

TO HAVE AND TO HOLD, said Mortgaged Property unto Mortgagee, its successors and assigns forever.

This Mortgage is made to secure and enforce the following described indebtedness, obligations and liabilities (herein called the "Secured Indebtedness"):

(i) Payment and performance of all obligations of the Mortgagor under that certain promissory note in the principal sum of Twelve Million Five Hundred Thousand Dollars (\$12,500,000.00) of even date herewith (the "Note"), executed by Mortgagor, payable to the order of Mortgagee, bearing interest as provided in the Note, and any and all renewals, extensions, modifications, substitutions or increases of the Note, or any part thereof;

(ii) Complete and full performance of each and every obligation, covenant, duty and agreement of the Mortgagor contained in this Mortgage;

(iii) Performance of all obligations of Mortgagor under any other instrument evidencing, securing or pertaining to the indebtedness evidenced by the Note, or evidencing any renewal or extension or modification or increase thereof, or any part thereof, and further, Mortgagor's punctual and proper performance of all of Mortgagor's covenants, obligations and liabilities under any other security agreement, mortgage, deed of trust, collateral pledge agreement, contract, assignment, loan agreement or any other instrument or agreement of any kind now or hereafter existing as security for, executed in connection with or related to the indebtedness evidenced by the Note, or any part thereof (such instruments and agreements are hereinafter sometimes collectively referred to as the "Loan Documents");

(iv) Payment of all funds hereafter advanced by Mortgagee to or for the benefit of Mortgagor, as contemplated by any covenant or provision herein contained or contained in any instrument or agreement securing the Secured Indebtedness.

All Secured Indebtedness shall be payable to Mortgagee at the Mortgagee's address specified above, or at such other address as may be designated by Mortgagee from time to time; and, unless otherwise provided in the instrument evidencing or creating such indebtedness, shall bear interest at the same rate per annum as the Note bears, from the date of accrual of such indebtedness until paid. If any Secured Indebtedness shall be collected by legal proceedings, whether through a probate or bankruptcy court or otherwise, or shall be placed in the hands of an attorney for collection after maturity, whether matured by the expiration of time or by any option given to the Mortgagee to mature same, Mortgagor agrees to pay Mortgagee's reasonable attorneys' and collection fees, whether suit be brought or not, and such fees shall be a part of the Secured Indebtedness. This Mortgage shall also secure all renewals, extensions, modifications, substitutions and increases of any of the Secured Indebtedness.

This instrument is intended to operate and is to be construed as a mortgage and a security agreement and is made under those provisions of existing laws of the State of Alabama.

This instrument is intended by Mortgagor and Mortgagee to serve as a fixture filing with respect to all goods and collaterals comprising part of the Mortgaged Property which are or are to become fixtures related to the Real Estate.

And for the purpose of further securing the payment of said Secured Indebtedness the Mortgagor covenants and agrees as follows:

(1) Mortgagor's Warranties of Title and Related Matters. Mortgagor covenants, represents and warrants to Mortgagee with respect to the Mortgaged Property that Mortgagor is lawfully seized in fee and possessed of the Mortgaged Property and has a good right to convey the same as aforesaid, that Mortgagor will warrant and forever defend the title against the lawful claims of all persons whomsoever, and that the Mortgaged Property is free and clear of all encumbrances, easements and restrictions, except the Permitted Encumbrances.

(2) [Reserved].

(3) Mortgagee's Right to Perform. Upon Mortgagor's failure to make any payment or perform any act required by the Note or the Loan Documents, then at any time thereafter, and without notice to or demand upon Mortgagor, Mortgagee may (but shall not be obligated to) make such payment or perform such act for the account of and at the expense of Mortgagor, and shall have the right to enter the Mortgaged Property for such purpose and to take all such action thereon as Mortgagee may deem necessary or appropriate.

(4) Organization and Power. Mortgagor is a duly organized corporation validly existing and in good standing under the laws of the State of Delaware and the transaction contemplated hereby is within Mortgagor's powers, has been duly authorized by all requisite corporate action and is not in contravention of the certificate of formation or operating agreement of Mortgagor. Mortgagor has provided to Mortgagee a true, correct and complete copy of Mortgagor's certificate of formation and operating agreement and all modifications and amendments thereof.

(5) Existence of Mortgagor. Mortgagor will preserve and keep in full force and effect its existence until payment in full of the Secured Indebtedness.

(6) Insurance. The Mortgagor shall keep or cause to be kept the Mortgaged Property insured against loss or damage by fire, extended coverage perils, vandalism, malicious mischief, comprehensive general liability insurance, workmen's compensation coverage, and any such other hazards, casualties, or other contingencies as from time to time may be reasonably required by the Mortgagee in such manner and in such companies and amounts as may be reasonably required by the Mortgagee. All such policies shall name the Mortgagee as a named insured and provide that any losses payable thereunder shall (pursuant to loss payable clauses, in form and content acceptable to the Mortgagee, to be attached to each policy) be payable to the Mortgagee to the extent the Secured Indebtedness, and provide that the insurance provided thereby, as to the interest of the Mortgagee, shall not be invalidated by any act or neglect of the Mortgagor, nor by the commencement of any proceedings by or against the Mortgagor in bankruptcy, insolvency, receivership or any other proceeding for the relief of a debtor, nor by any foreclosure, repossession or other proceedings relating to the property insured, nor by any occupation of such property or the use of such property for purposes more hazardous than permitted in the policy. All such insurance shall be replacement cost coverage rather than actual cash value coverage. The Mortgagor shall cause duplicate originals of any and all such insurance policies to be deposited with the Mortgagee. At least thirty (30) days prior to the date the premiums on each such policy or policies shall become due and payable, the Mortgagor shall furnish to the Mortgagee evidence of the payment of such premiums. The Mortgagor will cause each insurer under each of the policies to agree (either by endorsement upon such policy or by letter addressed to the Mortgagee) to give the Mortgagee at least thirty (30) days' prior written notice of the cancellation of such policies in whole or in part or the lapse of any coverage thereunder. The Mortgagor agrees that the Mortgagor will not take any action or fail to take any action, which action or inaction would result in the invalidation of any insurance policy required hereunder. Mortgagor shall give immediate notice in writing to Mortgagee of any loss or damages to the Mortgaged Property caused by any casualty. If Mortgagor fails to keep the Mortgaged Property insured as above specified, the Mortgagee may at its option and sole discretion, insure the Mortgaged Property for its insurable value against loss by fire, wind and other hazards as

specified above for the sole benefit of the Mortgagee and may procure such insurance at the Mortgagor's expense.

Subject to the immediately following paragraph, the Mortgagee is hereby authorized to apply, at its option, the loss proceeds (less expenses of collection) on the Secured Indebtedness, in any order and amount, and whether or not due, or hold such proceeds as a cash collateral reserve against the Secured Indebtedness or apply such proceeds to the restoration of the Mortgaged Property, or to release the same to the Mortgagor, but no such application, holding in reserve or release shall cure or waive any default by the Mortgagor. In the event of foreclosure of this Mortgage or other transfer of title to the Mortgaged Property in extinguishment of the Secured Indebtedness, all right, title and interest of the Mortgagor in and to any insurance policies then in force shall pass to the purchaser or grantee. If the Mortgaged Property or any part thereof is located within an area that has been, or should such area at any time be, designated or identified as an area having special flood hazards by any governmental authority having jurisdiction, then Mortgagor will obtain such insurance as is required by such governmental authority in amounts required by Mortgagee.

Notwithstanding the foregoing, insurance proceeds collected by Mortgagee, after deducting therefrom any expenses incurred in the collection thereof, shall, if requested by Mortgagor in writing within thirty (30) days after the insurance proceeds covering such damage or destruction become available, be made available to Mortgagor for the purpose of paying the cost of rebuilding or restoring of the Mortgaged Property if (i) the Mortgaged Property is capable of being restored to substantially the same condition which existed immediately prior to the damage or loss, (ii) the insurance proceeds, together with all other funds which are to be provided by Mortgagee, are sufficient to restore the Mortgaged Property, and (iii) no Event of Default then exists hereunder (exclusive of such casualty). In the event that Mortgagee makes said proceeds available to Mortgagor to pay the cost of rebuilding or restoring the Mortgaged Property, such proceeds shall be made available in the manner and under the conditions that the Mortgagee may reasonably require to assure proper application of such proceeds. The Mortgaged Property shall be restored or rebuilt so as to be of at least equal value and substantially the same character as prior to such damage or destruction.

(7) Taxes and Assessments. Mortgagor will pay all taxes and assessments against or affecting the Mortgaged Property as the same shall become due and payable, and, if Mortgagor fails to do so, the Mortgagee may, but shall not be obligated to, pay them, together with all costs and penalties thereon, at Mortgagor's expense; provided, however, that Mortgagor may in good faith, in lieu of paying such taxes and assessments as they become due and payable, by appropriate proceedings, contest the validity thereof, and pending such contest Mortgagor shall not be deemed in default hereunder because of such nonpayment, if prior to delinquency of the asserted tax or assessment, Mortgagor furnishes the Mortgagee an indemnity bond, conditioned that such tax or assessment with interest, cost and penalties be paid as herein stipulated secured by a deposit in cash, or security acceptable to Mortgagee, or with surety acceptable to Mortgagee, in the amount of the tax or assessment being contested by Mortgagor, and a reasonable additional sum to pay all possible costs, interest and penalties imposed or incurred in connection therewith, and if Mortgagor promptly pays any amount adjudged by a court of competent jurisdiction to be due, with all costs, penalties and interest thereon, before such judgment becomes final; and provided further, that in any event, each such contest shall be concluded and the tax, assessment, penalties, interest and costs shall be

paid prior to the date such judgment becomes final or any writ or order is issued under which the Mortgaged Property may be sold pursuant to such judgment.

(8) **Condemnation.** All judgments, decrees and awards for injury or damage to the Mortgaged Property, and all awards pursuant to proceedings for condemnation thereof, are hereby assigned in their entirety to Mortgagee, who, subject to the immediately following paragraph, may apply the same to the Secured Indebtedness in such manner as it may elect; and Mortgagee is hereby authorized, in the name of Mortgagor, to execute and deliver valid acquittances for, and to appeal from, any such award, judgment or decree. Immediately upon its obtaining knowledge of the institution or the threatened institution of any proceedings for the condemnation of the Mortgaged Property, Mortgagor shall notify Mortgagee of such fact. Mortgagor shall then, if requested by Mortgagee, file or defend its claim thereunder and prosecute same with due diligence to its final disposition and shall cause any awards or settlements to be paid over to Mortgagee for disposition pursuant to the terms of this Mortgage. Mortgagee shall be entitled to participate in and to control same and to be represented therein by counsel of its own choice, and Mortgagor will deliver, or cause to be delivered, to Mortgagee such instruments as may be requested by it from time to time to permit such participation. In the event Mortgagee, as a result of any such judgment, decree, or award, believes that the payment or performance of any obligation secured by this Mortgage is impaired, Mortgagee may, without notice, declare all of the Secured Indebtedness immediately due and payable.

Notwithstanding the foregoing, condemnation proceeds collected by Mortgagee, after deducting therefrom any expenses incurred in the collection thereof, shall, if requested by Mortgagor in writing within thirty (30) days after the condemnation proceeds covering such damage or destruction become available, be made available to Mortgagor for the purpose of paying the cost of rebuilding or restoring of the Mortgaged Property if or to the ratable extent of (i) the Mortgaged Property is capable of being restored to a functionally similar condition which existed immediately prior to the condemnation, (ii) the condemnation proceeds, together with all other funds which are to be provided by Mortgagor, are sufficient for such purposes, and (iii) no Event of Default then exists hereunder (exclusive of such taking). In the event that Mortgagee makes said proceeds or portion thereof available to Mortgagor to pay the cost of rebuilding or restoring the Mortgaged Property, such proceeds shall be made available in the manner and under the conditions that the Mortgagee may reasonably require to assure proper application of such proceeds. The Mortgaged Property shall be restored or rebuilt so as to be of at least equal value and substantially the same character as prior to such damage or destruction.

(9) **Mortgagor's Interest in the Mortgaged Property.** If, while this Mortgage is in force, the interest of Mortgagor or the lien or security interest of Mortgagee in the Mortgaged Property hereby conveyed or any part thereof, shall be endangered or shall be attacked directly or indirectly, and if Mortgagor is not defending said attacks or otherwise protecting the lien or security interest of this Mortgage, Mortgagor hereby authorizes Mortgagee, without obligation and at Mortgagor's expense, to take all necessary and proper steps for the defense of such interest, including the employment of counsel, the prosecution or defense of litigation and the compromise or discharge of claims made against such interest.

(10) **Taxes on Note or Mortgage.** If at any time any law shall be enacted imposing or authorizing the imposition of any tax upon this Mortgage, or upon any rights, titles, liens or

security interests created hereby, or upon the Note, or any part thereof, Mortgagor shall immediately pay all such taxes; provided that, in the alternative, Mortgagor may, in the event of the enactment of such a law, and must, if it is unlawful for Mortgagor to pay such taxes and Mortgagor cannot legally reimburse Mortgagee for payment of such taxes, prepay the Note within sixty (60) days after demand for such prepayment by Mortgagee.

(11) [Reserved]

(12) Mortgagee's Expenses. If, in pursuance of any covenant or agreement contained herein or in any other instrument executed in connection with the loan evidenced by the Note or in connection with any other Secured Indebtedness, Mortgagee shall expend any money chargeable to Mortgagor or subject to reimbursement by Mortgagor under the terms of such covenant or agreement, Mortgagor will repay the same to Mortgagee immediately at the place where the Note or other Secured Indebtedness is payable, together with interest thereon at the rate of interest payable on account of the Note or such other Secured Indebtedness in the event of a default thereunder from and after the date of Mortgagee's making such payment. The sum of each such payment shall be added to the Secured Indebtedness and thereafter shall form a part of the same, and it shall be secured by this Mortgage and by subrogation to all the rights of the person or entity receiving such payment. The Mortgagee may make advances, but shall not be obligated to do so, for any of the following: (i) insurance, (ii) payment of taxes or any part thereof, (iii) repair, maintenance and preservation of the Mortgaged Property, or of any buildings or other structures thereon, including fixtures, (iv) for the discharge of any liens or encumbrances on the Mortgaged Property, (v) for perfecting the title thereto, (vi) for enforcing collection of the Secured Indebtedness, (vii) for any water, gas or electric charge imposed for any services rendered to the Mortgaged Property, (viii) for the protecting or preserving of any use being made of the Mortgaged Property, (ix) for advances to any trustee or receiver of the Mortgaged Property, and (x) for any additions or improvements to the Mortgaged Property or to any buildings or other structures thereon, including fixtures, considered desirable by Mortgagee while it or any receiver or trustee is in possession thereof. Mortgagee may make and is hereby authorized to pay any payment herein, according to any bill, statement or estimate without inquiry into the accuracy of the bill, statement or estimate or into the validity thereof. Mortgagee in making any payment herein authorized, relating to any apparent or threatened adverse title, lien, statement or lien, encumbrance, mortgage, claim or charge, shall be the sole judge of the legality or validity of same. Notwithstanding anything contained above, or in any Loan Document to the contrary, Mortgagee shall give Mortgagor written notice of its intention to expend or advance any money at least ten (10) days prior to such expenditure (except in the case of emergencies).

(13) Waste, Demolition, Replacement or Repair of Mortgaged Property. The Mortgagor shall cause the Mortgaged Property and every part thereof to be maintained, preserved, kept safe and in good repair, and in good working condition. The Mortgagor shall not commit or permit waste thereon. The Mortgagor shall not demolish the Mortgaged Property now or hereafter erected on the Real Estate without the express prior written consent of the Mortgagee. The Mortgagor shall comply with all laws and regulations of any governmental authority with reference to the Mortgaged Property and the manner and use of the same, and shall from time to time make all necessary and proper repairs, renewals, additions and restorations thereto so that the value and efficient use thereof shall be fully preserved and maintained. The Mortgagor will discharge all claims for labor performed and material furnished therefor, and will not suffer any lien of mechanics

or materialmen to attach to any part of the Mortgaged Property. The Mortgagor agrees not to remove any of the fixtures included in the Mortgaged Property without the express prior written consent of the Mortgagee and unless the same is immediately replaced with like property of at least equal value and utility.

Mortgagee and other persons authorized by Mortgagee shall have access to and the right to enter and inspect the Mortgaged Property at all reasonable times, and upon reasonable notice to Mortgagor, including monthly inspections if deemed necessary by Mortgagee. In the event Mortgagee finds that Mortgagor is not maintaining the Mortgaged Property as referenced herein, Mortgagee shall notify Mortgagor in writing of the needed repairs and Mortgagor shall have ten (10) business days to make satisfactory arrangements to bring the Mortgaged Property back to good condition. If after such time, satisfactory arrangements have not been made to bring the Mortgaged Property back to good condition as determined by the sole discretion of the Mortgagee, Mortgagee shall have the right to make the repairs required at the expense of the Mortgagor as previously enunciated in this Mortgage, or shall have the right, but not the obligation, to declare the Secured Indebtedness to be at once due and payable under the terms of this Mortgage.

(14) Other Agreements; Impairment. Mortgagor is not a party to any indenture, loan or credit agreement, or any lease or other agreement or instrument, or subject to any restriction which could have an adverse effect on the business, properties, assets, operations or conditions of Mortgagor or the ability of Mortgagor to carry out its obligations under this Mortgage, the Note or the Loan Documents. Mortgagor will not do, or omit to do, any act or thing which would impair the security of this Mortgage.

(15) Sale of Mortgaged Property. It shall be a default hereunder if all or any part of the Mortgaged Property (other than items which have become obsolete or worn beyond practical use and which have been replaced by adequate substitutes having a value equal to or greater than the replaced items when new) shall become vested in any party other than Mortgagor, whether by operation of law or otherwise without the prior written consent of Mortgagee. If Mortgagee should consent to any sale or conveyance of the Mortgaged Property (except goods and inventory in the ordinary course of business), Mortgagor will not sell all or any portion of the Mortgaged Property unless the purchaser, as a part of the consideration, shall either (a) expressly agree to assume the payment of the Secured Indebtedness or (b) expressly agree that the title and rights of such purchaser are and shall remain unconditionally subject to all of the terms of this Mortgage for the complete fulfillment of all obligations of the Mortgagor hereunder, and unless also, the deed shall expressly set forth such agreement of the purchaser. Mortgagor shall also not grant any easement whatever with respect to any of the Mortgaged Property without the joinder therein of Mortgagee, or rent or lease any of the Mortgaged Property for any purpose whatever for a period longer than one year without the prior written consent of Mortgagee. The provisions of this Paragraph (15) shall apply to any and all sales, transfers, conveyances, exchanges, leases, assignments or other dispositions by Mortgagor, its successors and assigns, and any subsequent owners of the Mortgaged Property, or any part thereof.

(16) Successors. If the ownership of the Mortgaged Property or any part thereof becomes vested in a person other than Mortgagor, Mortgagee may, without notice to Mortgagor, deal with such successor or successors in interest with reference to this Mortgage and to the Secured Indebtedness in the same manner as with Mortgagor without in any way vitiating or discharging

Mortgagor's liability hereunder or upon the Secured Indebtedness. No sale of the Mortgaged Property, and no forbearance on the part of Mortgagee, and no extension of the time for the payment of the Secured Indebtedness, given by Mortgagee, shall operate to release, discharge, modify, change or affect the original liability of Mortgagor or the liability of any guarantors or sureties of Mortgagor, either in whole or in part.

(17) Subsequent Easements. The purchaser at any foreclosure sale hereunder may disaffirm any easement granted, or rental, lease or other contract hereafter made, without the express written consent of Mortgagee or in violation of any provision of this Mortgage, and may take immediate possession of the Mortgaged Property free from, and despite the terms of, such grant of easement and rental or lease contract.

(18) [Reserved]

(19) Payment of Prior Lien. To the extent that proceeds of the Note are used to pay any outstanding lien, charge or encumbrance against or affecting the Mortgaged Property, such proceeds have been advanced by Mortgagee at Mortgagor's request, and Mortgagee shall be subrogated to all rights, interests and liens owned or held by any owner or holder of such outstanding liens, charges or encumbrances, irrespective of whether such liens, charges or encumbrances are released of record.

(20) Limitation on Interest. All agreements between Mortgagor and Mortgagee, whether now existing or hereafter arising and whether written or oral, are expressly limited so that in no contingency or event whatsoever shall the amount paid, or agreed to be paid, to Mortgagee for the use, forbearance, or detention of the money to be loaned pursuant to the Note or otherwise or for the performance or payment of any covenant or obligation contained herein, exceed the maximum amount permissible under applicable law (state or federal). If from any circumstance whatsoever fulfillment of any provision thereof at the time performance of such provision shall be due shall involve transcending the limit of validity prescribed by law, then, ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity, and if from any such circumstance Mortgagee shall ever receive anything of value as interest, or deemed interest under applicable law, under the Note or this Mortgage or otherwise 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 or on account of the other Secured Indebtedness and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of principal of the Note and such other Secured Indebtedness, such excess shall be refunded to Mortgagor. All sums paid or agreed to be paid to Mortgagee for the use, forbearance, or detention of the Secured Indebtedness shall, to the extent permitted by applicable law, be amortized, prorated, allocated and/or spread throughout the full term of such indebtedness until payment in full to the end that the rate of interest on account of such indebtedness never exceeds the maximum lawful rate at any time in effect and applicable to such indebtedness.

(21) Security Agreement and Financing Statement. With respect to any portion of the Mortgaged Property which constitutes fixtures governed by the Uniform Commercial Code of the State of Alabama (hereinafter called the "Code"), this Mortgage shall constitute a security agreement between Mortgagor, as the Debtor, and Mortgagee, as the Secured Party, and the Mortgagor hereby grants to Mortgagee a security interest in such portion of the Mortgaged Property, including any

proceeds thereof. Cumulative of all other rights of Mortgagee hereunder, Mortgagee shall have all of the rights conferred upon secured parties by the Code. Mortgagor hereby authorizes Mortgagee to execute and file, without Mortgagor's joinder, any and all financing statements or continuation statements necessary or desirable to perfect or maintain the validity and priority of Mortgagee's security interest. Mortgagor agrees that a copy of this Mortgage may be filed as a financing statement in any public office. Mortgagee may exercise any or all of the remedies of a secured party available to it under the Code with respect to such property, and it is expressly agreed that if upon default Mortgagee should proceed to dispose of such property in accordance with the provisions of the Code, ten (10) days' notice by Mortgagee to Mortgagor shall be deemed to be reasonable notice under any provision of the Code requiring such notice; provided, however, that Mortgagee may at its option dispose of such property in accordance with Mortgagee's rights and remedies with respect to the Real Estate pursuant to the provisions of this Mortgage, in lieu of proceeding under the Code.

Mortgagor shall give advance notice in writing to Mortgagee of any proposed change in Mortgagor's name, identity or structure and will execute and deliver to Mortgagee, prior to or concurrently with the occurrence of any such change, all additional financing statements that Mortgagee may require to establish and maintain the validity and priority of Mortgagee's security interest with respect to any Mortgaged Property described or referred to herein.

Some of the items of Mortgaged Property described herein are goods that are or are to become fixtures related to the Real Estate, and it is intended that, as to those goods, this Mortgage 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 in which the Mortgaged Property is situated. Information concerning the security interest created by this instrument may be obtained from Mortgagee, as secured party, at the address of Mortgagee stated above. The mailing address of the Mortgagor, as debtor, is as stated above.

(22) [Reserved].

(23) Litigation. There are no pending or threatened claims, actions or proceedings before any court or administrative or governmental agency that may, individually or collectively, adversely affect Mortgagor's interest in the Mortgaged Property. Mortgagor agrees that it will give notice to the Mortgagee of any litigation which the Mortgagor becomes involved in which might adversely affect Mortgagor's interest in the Mortgaged Property and will continue to thereafter provide to Mortgagee periodic statements of the status and progress of such litigation as may be requested by Mortgagee.

(24) Change of Zoning. Mortgagor covenants and agrees not to request or consent to any change in the zoning of or restrictive covenants affecting the Mortgaged Property without the prior written consent of the Mortgagee.

(25) Compliance with Laws. The Mortgaged Property, and the use thereof by Mortgagor shall comply with all laws, rules, ordinances, regulations, covenants, conditions, restrictions, orders and decrees of any governmental authority or court applicable to Mortgagor, the Mortgaged Property, and its use, and Mortgagor shall pay all fees or charges of any kind in connection therewith. Mortgagor will not use or occupy or allow the use or occupancy of the Mortgaged Property in any manner which violates any applicable law, rule, regulation or order or

which constitutes a public or private nuisance or which makes void, voidable or subject to cancellation any insurance then in force with respect thereto.

(26) Hold Harmless. Mortgagor will defend, at its own cost and expense, and hold Mortgagee harmless from, any proceeding or claim affecting the Mortgaged Property. All costs and expenses incurred by Mortgagor in protecting its interests hereunder, including all court costs and reasonable attorneys' fees, shall be borne by Mortgagor.

(27) Further Assurances. Mortgagor, upon the request of Mortgagee, will execute, acknowledge, deliver and record such further instruments and do such further acts as may be necessary, desirable or proper to carry out the purposes of any of the Note, Mortgage and Loan Documents and to subject to the liens and security interests created thereby any property intended by the terms thereof to be covered thereby, including specifically but without limitation, any renewals, additions, substitutions, replacements, improvements, or appurtenances to the Mortgaged Property.

(28) Consent. In any instance hereunder where Mortgagee's approval or consent is required or the exercise of Mortgagee's judgment is required, the granting or denial of such approval or consent and the exercise of such judgment shall be within the sole discretion of Mortgagee and Mortgagee shall not, for any reason or to any extent, be required to grant such approval or consent or exercise such judgment in any particular manner; provided, however, that Mortgagee agrees to consider such requests and otherwise exercise its judgment in a reasonable manner.

(29) No Partnership. Nothing contained herein is intended to create any partnership, joint venture or association between Mortgagor and Mortgagee, or in any way make Mortgagee a co-principal with Mortgagor with reference to the Mortgaged Property, and any inferences to the contrary are hereby expressly negated.

(30) Notices by Governmental Authority, Fire and Casualty Losses, Etc. Mortgagor shall timely comply with and promptly furnish to Mortgagee true and complete copies of any official notice or claim by any governmental authority pertaining to the Mortgaged Property. Mortgagor shall promptly notify Mortgagee of any fire or other casualty or any notice or taking of eminent domain action or proceeding affecting the Mortgaged Property.

(31) [Reserved].

(32) Recording and Filing. This Mortgage and all applicable Loan Documents and all amendments, supplements and extensions thereto and substitutions therefor shall be recorded, filed, rerecorded and refiled in such manner and in such places as Mortgagee shall reasonably request, and Mortgagor will pay all such recording, filing, rerecording and refiling fees, title insurance premiums, and other charges.

(33) Mineral Rights. Subject to existing rights of other parties holding mineral interests, without written consent of Mortgagee there shall be no drilling or exploring for, or extraction, removal or production of minerals from the surface or subsurface of the Mortgaged Property. The term "minerals" as used herein shall include, without limiting the generality of such term, oil, gas, casinghead gas, coal, lignite hydrocarbons, methane, carbon dioxide, helium, uranium and all other natural elements, compounds and substances, including sand and gravel.

(34) **Defeasance.** If the Mortgagor shall: (a) pay in full (i) all of the Secured Indebtedness including but not limited to all sums (principal, interest and charges) payable under the Note and any and all extensions and renewals of the same; and (ii) all sums becoming due and payable by the Mortgagor under the terms of this Mortgage and the Loan Documents, including but not limited to advances made by the Mortgagee pursuant to the terms and conditions of this Mortgage; and (b) have kept and performed each and every obligation, covenant, duty, condition and agreement herein imposed on or agreed to by the Mortgagor; then this conveyance and the grants and conveyances contained herein shall become null and void, and the Mortgaged Property shall revert to the Mortgagor, and the entire estate, right, title and interest of the Mortgagee will thereupon cease; and the Mortgagee in such case shall, upon the request of the Mortgagor and at the Mortgagor's cost and expense, deliver to the Mortgagor proper instruments acknowledging satisfaction of this Mortgage; otherwise, this Mortgage shall remain in full force and effect.

(35) **Events of Default.** The happening of any of the following events or conditions, or the happening of any other event of default as defined elsewhere in this Mortgage (hereinafter collectively referred to as "Events of Default") shall constitute a default under this Mortgage:

(a) the failure of Borrower to pay any amounts payable under the Note in accordance with the terms of the Note; or

(b) the occurrence of any other Event of Default as defined in the Note or any other Loan Document; or

(c) the occurrence of any "Company Event of Default" as defined in that certain Project Development Agreement dated \_\_\_\_\_, 2014 by and between Mortgagee, Madison County, Alabama, The Industrial Development Board of the City of Huntsville and Mortgagor (the "Development Agreement"); or

(d) if any statement, representation or warranty by Mortgagor contained herein or the in the Note, the Development Agreement or any other Loan Document or in any report, certificate or other instrument delivered to Mortgagee under or in connection with this Mortgage shall be untrue in any material respect at the time it was made; or

(e) the interest of the Mortgagee in the Mortgaged Property shall become endangered by reason of the enforcement of any prior lien or encumbrance thereon; or

(f) default shall be made in the prompt payment of any advances for insurance, maintenance, repairs, taxes, liens, inspections, assessments or any other advances made by the Mortgagee that are called for under this Mortgage; or

(g) if title to all or any part of the Mortgaged Property shall become vested in any party other than Mortgagor, except as permitted herein, whether by operation of law or otherwise without the prior written consent of the Mortgagee, which may be withheld arbitrarily in Mortgagee's sole discretion;

(h) if the holder of any lien or security interest on the Mortgaged Property institutes foreclosure or other proceedings for the enforcement of its remedies thereunder, or if there is any default under any such lien or security interest or the debt secured thereby.

(f) default shall be made in the due observance or performance of any other covenant, condition or agreement on the part of the Mortgagor to be observed or performed pursuant to the terms of this Mortgage and such default shall continue for as much as thirty (30) days after the Mortgagee has given Mortgagor written notice thereof (provided that if such default cannot be cured within such thirty (30) day period and Mortgagor shall have commenced to cure such default within such thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for so long as it shall require Mortgagor in the exercise of diligence to cure such default).

(36) Remedies of Mortgagee Upon Default.

(a) Acceleration of Indebtedness. Upon occurrence of an Event of Default or at any time thereafter, the Mortgagee may at its option and without demand or notice to the Mortgagor, declare all or any part of the Secured Indebtedness immediately due and payable whereupon all such Secured Indebtedness shall forthwith become due and payable without presentment, demand, protest, notice of intent to accelerate maturity, notice of acceleration of maturity or further notice of any kind, all of which are hereby expressly waived by the Mortgagor and the Mortgagee may immediately enforce payment of all such amounts and may exercise any or all of its rights and remedies under this Mortgage, the Note, and any of the other Loan Documents and applicable law.

(b) Operation of Property by Mortgagee. Upon the occurrence of an Event of Default, or at any time thereafter, in addition to all other rights herein conferred on the Mortgagee, the Mortgagee (or any person, firm or corporation designated by the Mortgagee) may, but shall not be obligated to, enter upon and take possession of any or all of the Mortgaged Property, exclude the Mortgagor therefrom, and hold, use, administer, manage and operate the same to the extent that the Mortgagor could do so, without any liability to the Mortgagor resulting therefrom; and the Mortgagee may collect, receive and receipt for all proceeds accruing from such operation and management, make repairs and purchase needed additional property, and exercise every power, right and privilege of the Mortgagor with respect to the Mortgaged Property.

(c) Judicial Proceedings; Right to Receiver. Upon the occurrence of an Event of Default, the Mortgagee, in lieu of or in addition to exercising the power of sale hereinafter given, may proceed by suit to foreclose its lien on, security interest in, and assignment of, the Mortgaged Property, to sue the Mortgagor for damages on account of or arising out of said default or breach, or for specific performance of any provision contained herein, or to enforce any other appropriate legal or equitable right or remedy. The Mortgagee shall be entitled, as a matter of right, upon bill filed or other proper legal proceedings being commenced for the foreclosure of this Mortgage, to the appointment by any competent court or tribunal, without notice to the Mortgagor or any other party, of a receiver of the rents, issues and profits of the Mortgaged Property, with power to lease and control the Mortgaged Property and with such other powers as may be deemed necessary.

(d) **Foreclosure Sale.** Upon the occurrence of any Event of Default, or at any time thereafter, this Mortgage shall be subject to foreclosure and may be foreclosed as now provided by law in case of past due mortgages, and the Mortgagee shall be authorized, at its option, whether or not possession of the Mortgaged Property is taken, after giving notice by publication once a week for three (3) consecutive weeks of the time, place and terms of each such sale, together with a description of the Mortgaged Property, by publication in a newspaper published in the county or counties wherein the Mortgaged Property or any part thereof is located, to sell the Mortgaged Property (or such part or parts thereof as the Mortgagee may from time to time elect to sell) in front of such county's main or front courthouse door, at public outcry, to the highest bidder for cash. The Mortgagee, its successors and assigns, may bid at any sale or sales had under the terms of this Mortgage and may purchase the Mortgaged Property, or any part thereof, if the highest bidder therefor. The purchaser at any such sale or sales shall be under no obligation to see to the proper application of the purchase money. At any foreclosure sale, any part or all of the Mortgaged Property, real, personal or mixed, may be offered for sale in parcels or en masse for one total price, the proceeds of any such sale en masse to be accounted for in one account without distinction between the items included therein or without assigning to them any proportion of such proceeds, the Mortgagor hereby waiving the application of any doctrine of marshaling or like proceeding. In case the Mortgagee, in the exercise of the power of sale herein given, elects to sell the Mortgaged Property in parts or parcels, sales thereof may be held from time to time, and the power of sale granted herein shall not be fully exercised until all of the Mortgaged Property not previously sold shall have been sold or all the Secured Indebtedness shall have been paid in full.

(e) **[Reserved]**

(f)

(g) **Foreclosure Deeds.** The Mortgagor hereby authorizes and empowers the Mortgagee or the auctioneer at any foreclosure sale had hereunder, for and in the name of the Mortgagor, to execute and deliver to the purchaser or purchasers of any of the Mortgaged Property sold at foreclosure good and sufficient deeds of conveyance or bills of sale thereto.

(h) **Application of Proceeds.** All payments received by the Mortgagee as proceeds of the Mortgaged Property, or any part thereof, as well as any and all amounts realized by the Mortgagee in connection with the enforcement of any right or remedy under or with respect to this Mortgage, shall be applied by the Mortgagee as follows: (i) to the payment of all necessary expenses incident to the execution of any foreclosure sale or sales or other remedies under this Mortgage, including reasonable attorneys' fees as provided herein, (ii) to the payment in full of any of the Secured Indebtedness that is then due and payable (including without limitation principal, accrued interest, advances and all other sums secured hereby) and to the payment of attorneys' fees as provided herein and in the Note, (iii) any other sums that might be due under this Mortgage, the Note, or the Loan Documents, which have not otherwise been contemplated in Paragraphs (37)(h)(i) and (37) h)(ii) above, and (iv) the remainder, if any, shall be paid to the Mortgagor or such other person or persons as may be entitled thereto by law, after deducting therefrom the cost of ascertaining their identity.

(i) **Multiple Sales.** Upon the occurrence of any Event of Default or at any time thereafter, the Mortgagee shall have the option to proceed with foreclosure, either through the

courts or by proceeding with foreclosure as provided for in this Mortgage, but without declaring the whole Secured Indebtedness due. Any such sale may be made subject to the unmatured part of the Secured Indebtedness, and such sale, if so made, shall not in any manner affect the unmatured part of the Secured Indebtedness, but as to such unmatured part of the Secured Indebtedness shall remain in full force and effect as though no sale had been made under the provisions of this paragraph. Several sales may be made under the provisions of this paragraph without exhausting the right of sale for any remaining part of the Secured Indebtedness whether then matured or unmatured, the purpose hereof being to provide for a foreclosure and sale of the Mortgaged Property for any matured part of the Secured Indebtedness without exhausting any power of foreclosure and the power to sell the Mortgaged property for any other part of the Secured Indebtedness, whether matured at the time or subsequently maturing.

(j) Waiver of Appraisement Laws. The Mortgagor waives, to the fullest extent permitted by law, the benefit of all laws now existing or hereafter enacted providing for (i) any appraisement before sale of any portion of the Mortgaged Property (commonly known as appraisement laws), or (ii) any extension of time for the enforcement of the collection of the Secured Indebtedness or any creation or extension of a period of redemption from any sale made in collecting the Secured Indebtedness (commonly known as stay laws and redemption laws).

(k) Prerequisites of Sales. In case of any sale of the Mortgaged Property as authorized by this Paragraph (36), all prerequisites to the sale shall be presumed to have been performed, and in any conveyance given hereunder all statements of facts, or other recitals therein made, as to the non-payment of any of the Secured Indebtedness or as to the advertisement of sale, or the time, place and manner of sale, or as to any other fact or thing, shall be taken in all courts of law or equity as prima facie evidence that the facts so stated or recited are true.

(37) Environmental Protection. Mortgagor does further represent, warrant and covenant as follows:

(a) To Mortgagor's knowledge, no Hazardous Materials (as hereinafter defined) have been, are, or will be while any part of the indebtedness secured by this Mortgage remains unpaid, contained in, treated, stored, handled, located on, discharged from, or disposed of on, or constitute a part of, the Mortgaged Property. As used herein, the term "Hazardous Materials" include without limitation, any asbestos, urea formaldehyde foam insulation, flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related or unrelated substances or materials defined, regulated, controlled, limited or prohibited in the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA), as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. Sections 6901, et seq.), the Clean Water Act, as amended (33 U.S.C. Sections 1251, et seq.), the Clean Air Act, as amended (42 U.S.C. Sections 7401, et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. Sections 2601, et seq.), and in the rules and regulations adopted and publications promulgated pursuant thereto, and in the rules and regulations of the Occupational Safety and Health Administration (OSHA) pertaining to occupational exposure to asbestos, as amended, or in any other federal, state or local environmental law, ordinance, rule, or regulation now or hereafter in effect;

(b) To Mortgagor's knowledge, no underground storage tanks, whether in use or not in use, are located in, on or under any part of the Mortgaged Property;

(c) To Mortgagor's knowledge, all of the Mortgaged Property complies and will comply in all respects with applicable environmental laws, rules, regulations, and court or administrative orders;

(d) To Mortgagor's knowledge, there are no pending claims or threats of claims by private or governmental or administrative authorities relating to environmental impairment, conditions, or regulatory requirements with respect to the Mortgaged Property;

(e) In the event of any spill or disposal of Hazardous Materials on the Mortgaged Property, whether or not the same originates or emanates from the Mortgaged Property or any such contiguous real estate, and/or if Mortgagor shall fail to comply with any environmental law or regulation, Mortgagee may, at its election, but without the obligation so to do, give such notices as may be required by law and/or cause any remedial work that may be necessary to be performed at the Mortgaged Property and/or take any and all other actions as Mortgagee shall deem necessary or advisable in order to remedy said spill or disposal of Hazardous Materials or cure said failure of compliance and any amounts paid as a result thereof, together with interest thereon at the default rate (as specified in the Note) from the date of payment by Mortgagee, shall be immediately due and payable by Mortgagor to Mortgagee and until paid shall be added to and become a part of the indebtedness secured hereby and shall have the benefit of the lien hereby created as a part thereof; and

(f) Mortgagor hereby agrees to indemnify and hold Mortgagee harmless from all loss, cost, damage, claim and expense incurred by Mortgagee on account of (i) the violation of any representation or warranty set forth in this Paragraph (38), (ii) Mortgagor's failure to perform any obligations set forth in this Paragraph (38), (iii) Mortgagor's or the Mortgaged Property's failure to fully comply with all environmental laws, rules and regulations, or with all occupational health and safety laws, rules and regulations, or (iv) any other matter related to environmental conditions on, under or affecting the Mortgaged Property. This indemnification shall survive payment of the indebtedness secured by this Mortgage, the exercise of any right or remedy hereunder or under any other loan document securing or evidencing said indebtedness, any subsequent sale or transfer of the Mortgaged Property, and all similar or related events or occurrences. Mortgagor shall give immediate oral and written notice to Mortgagee of its receipt of any notice of a violation of any law, rule or regulation covered by this Paragraph (38) or of any notice or other claim relating to the environmental condition of the Mortgaged Property, or of its discovery of any matter which would make the representations, warranties and/or covenants herein to be inaccurate or misleading in any respect.

(38) Notice and Addresses for Notices. All notices, requests, demands and other communications provided for hereunder shall be in writing and mailed or hand delivered to the applicable party at its address indicated on the first page of this Mortgage or at such other address as shall be designated by such party in a written notice to the other party thereto. Any such notice shall be deemed received three (3) days after properly posting and addressing and depositing said letter in the United States Mail, certified, return receipt requested.

(39) **Partial Release and Additional Security.** Any part of the Mortgaged Property may be released by the Mortgagee without affecting the lien, security interest and assignment hereof against the remainder. The lien, security interest and other rights granted hereby shall not affect or be affected by any other security taken for the same indebtedness or any part thereof. The taking of additional security, or the extension or renewal of the Secured Indebtedness or any part thereof, shall not release or impair the lien, security interest and other rights granted hereby, or affect the liability of any endorser, guarantor or surety, or improve the right of any permitted junior lienholder; and this Mortgage, as well as any instrument given to secure any renewal or extension of the Secured Indebtedness, or any part thereof, shall be and remain a first and prior lien, except as otherwise provided herein, on all of the Mortgaged Property not expressly released until the obligations and Secured Indebtedness are completely paid, performed and discharged.

(40) **Waiver.** To the extent that Mortgagor may lawfully do so, Mortgagor agrees that Mortgagor shall not assert and hereby expressly waives, any right under any statute or rule of law pertaining to the marshaling of assets, valuation and appraisal, the exemption of business or residential homestead, the administration of estates of decedents, dower and curtesy, the rights and remedies of sureties or other matter whatever to defeat, reduce or affect the right of Mortgagee, under the terms of this Mortgage, to sell the Mortgaged Property for the collection of the Secured - Indebtedness (without any prior or different resort for collection) or the right of Mortgagee, under the terms of this Mortgage, to the payment of such Secured Indebtedness out of the proceeds of sale of the Mortgaged Property in preference to every other person and claimant whatever (only reasonable expenses of such sale being first deducted).

(41) **No Waiver and Severability.** No waiver of any default on the part of Mortgagor or breach of any of the provisions of this Mortgage or of any other instrument executed in connection with the Secured Indebtedness shall be considered a waiver of any other or subsequent default or breach, and no delay or omission in exercising or enforcing the rights and powers herein granted shall be construed as a waiver of such rights and powers, and likewise no exercise or enforcement of any rights or powers hereunder shall be held to exhaust such rights and powers, and every such right and power may be exercised from time to time. If any provision of this Mortgage is held to be illegal, invalid or unenforceable under present or future laws effective while this Mortgage is in effect, the legality, validity and enforceability of the remaining provisions of this Mortgage shall not be affected thereby, and in lieu of each such illegal, invalid or unenforceable provision there shall be added automatically as a part of this Mortgage a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable. If any of the liens, security interests or assignment of rents created by this Mortgage shall be invalid or unenforceable, the unsecured portion of the Secured Indebtedness shall be completely paid prior to the payment of the remaining and secured portion of the Secured Indebtedness and all payments made on account of such indebtedness shall be considered to have been paid on and applied first to the complete payment of the unsecured portion of such indebtedness. Acceptance by the Mortgagee of any payment of less than the full amount due on the Secured Indebtedness shall be deemed acceptance on account only, and the failure of the Mortgagor to pay the entire amount then due shall be and continue to constitute an Event of Default, and at any time thereafter and until the entire amount due on the Secured Indebtedness has been paid, the Mortgagee shall be entitled to exercise all rights conferred on it by the terms of this Mortgage in case of the occurrence of an Event of Default.

(42) Remedies Cumulative. In addition to and notwithstanding and without modifying the other remedies provided herein and without limiting the rights of the Mortgagee to exercise such remedies, the Mortgagee is given the additional right to enforce the covenants, agreements, and obligations of the Mortgagor hereunder, by the securing of equitable remedies, including that of temporary and permanent injunction and specific performance, without the necessity of the Mortgagee filing any bond or other security which would otherwise be required by the statutes of the State of Alabama or the Alabama Rules of Civil Procedure, as amended, in seeking such equitable remedies, the requirement for filing of any such bond or other security being hereby expressly waived.

(43) Amendments. No amendment, modification or cancellation of this Mortgage shall be valid unless in writing and signed by the party against whom enforcement is sought.

(44) Headings. The Paragraph and Subparagraph headings hereof are inserted for convenience and reference only and shall not alter, define, or be used in construing the text of such Paragraphs or Subparagraphs.

(45) Governing Law. This Mortgage shall be governed and construed under the laws of the State of Alabama except to the extent any law, rule or regulation of the federal government of the United States of America may be applicable, in which case such federal law, rule or regulation shall control.

(46) Copies. Mortgagor acknowledges receipt of a true and correct copy of this Mortgage.

(47) Meaning of Particular Terms. Whenever used, the singular number shall include the plural and the plural the singular, and pronouns of one gender shall include all genders; and the words "Mortgagor" (without limiting Mortgagee's rights or Mortgagor's obligations to secure approval or consent) and "Mortgagee" shall include their respective heirs, personal representatives, successors and assigns. The term "Mortgagor" as used in this Mortgage refers to each of the undersigned, jointly and severally, whether one or more natural persons, partnerships, corporations, associations, trusts or other entities or organizations.

(48) Counterparts. This Agreement may be executed in counterparts, all of which together shall constitute one agreement binding on the parties hereto, notwithstanding that all parties are not signatories to the original or to the same counterpart.

*[The remainder of this page is intentionally left blank.]*

**IN WITNESS WHEREOF**, the undersigned has caused this instrument to be executed on its behalf by its duly authorized members on this \_\_\_\_\_ day of February, 2014.

**MORTGAGOR:**

**REMINGTON ARMS COMPANY, LLC**

By: \_\_\_\_\_  
George Kollitides, its \_\_\_\_\_

STATE OF ALABAMA                    )  
  :  
MADISON COUNTY                    )

I, the undersigned, a notary public in and for said county in said state, hereby certify that George Kollitides, whose name as \_\_\_\_\_ of Remington Outdoor Company, Inc., a Delaware corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this \_\_\_\_\_ day of February, 2014.

\_\_\_\_\_  
Notary Public

[NOTARIAL SEAL]

My commission expires: \_\_\_\_\_

**SCHEDULE A  
TO  
MORTGAGE AND SECURITY AGREEMENT**

**Legal Description**

**SCHEDULE B  
TO  
MORTGAGE AND SECURITY AGREEMENT**

**Permitted Encumbrances**

**ROUTING SLIP  
CONTRACTS AND AGREEMENTS**

Originating Department: Legal

Council Meeting Date: 2/27/2014

Department Contact: Peter Joffrion

Phone # 427-5026

Contract or Agreement: Remington Project Development Agreement

Document Name: Development Agreement between the City and Remington

City Obligation Amount:

Total Project Budget:

Uncommitted Account Balance:

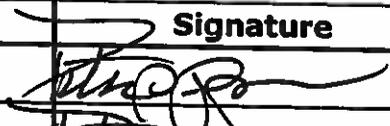
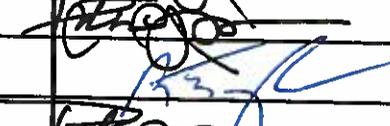
Account Number:

**Procurement Agreements**

<u>Not Applicable</u>	<u>Not Applicable</u>
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**Grant-Funded Agreements**

<u>Not Applicable</u>	Grant Name:
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Department	Signature	Date
1) Originating		<u>2-26-14</u>
2) Legal		<u>2-26-14</u>
3) Finance		<u>2/26/14</u>
4) Originating		<u>2-26-14</u>
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		