

**PROMISSORY NOTE**

\$2,060,000.00

October 28, 1998

**FOR VALUE RECEIVED, BISSONNET SE, L. P.**, a Texas limited partnership (the "Maker"), hereby promises to pay to the order of **JEFFERSON PILOT FINANCIAL INSURANCE COMPANY**, and any subsequent holder of this Note ("Holder" or "Holders") in the manner hereinafter provided, the principal sum of Two Million Sixty Thousand Dollars (\$2,060,000.00) together with interest on the outstanding principal balance from the date of the initial disbursement (for purposes of this Note, "disbursement" means the date funds are wire transferred from Holder's account) of all or a part of the principal of this Note ("Disbursement Date") until maturity at the rate of Seven and Ten Hundredths percent (7.10%) per annum ("Contract Rate") in accordance with the provisions hereinafter set forth.

1. Payment of Principal and Interest. Principal and interest hereunder shall be payable as follows:

(a) Commencing on the first day of December 1998 (the "First Payment Date") and on the first day of each month thereafter through November 1, 2018 principal and interest in consecutive equal installments of Sixteen Thousand Ninety-Six Dollars (\$16,096.00) (each of said payments is referred to herein as a "Monthly Payment").

(b) On November 1, 2018 (the "Maturity Date"), the entire unpaid principal amount, together with accrued and unpaid interest thereon, and all other sums due under this Note or under any other documents evidencing or securing this Note (collectively, the "Loan Documents"), shall be due and payable in full.

Interest shall be payable in arrears and calculated on the basis of a 360-day year containing twelve 30-day months; provided, however, interest due on the First Payment Date shall be calculated on the basis of the actual number of days elapsed between the Disbursement Date and the First Payment Date. If the interest due and accrued on the First Payment Date is more or less than one month, the Monthly Payment due on the First Payment Date shall be increased or decreased to the extent that the amount of interest then due exceeds or is less than one month's interest.

(c) Prepayment Privilege. Except for a prepayment allowed pursuant to sections 103 and 105 of the Deed of Trust, no prepayment of the principal of the Note shall be allowed prior to the end of the five year period immediately following the date of the Note. At any time after the initial five year period following the date of the Note, the principal of the Note may be prepaid in whole, but not in part, on any interest prepayment date, provided that: (1) not more than sixty (60) days or less than thirty (30) days prior to such prepayment,

Borrower delivers written notice to Lender that Borrower intends to prepay the Note in full on the date specified in such notice, and (2) Borrower pays to Lender at the time of such prepayment, a sum (the "Prepayment Premium"), which together with the amount prepaid shall be sufficient to invest in a U. S. Treasury obligation for the remaining term of the Loan to produce the same effective yield to maturity as the Loan. Such Prepayment Premium shall be the greater of the following calculations:

- (1) one percent (1%) of the then outstanding principal balance of the Loan, or
- (2) the sum of the present value of the scheduled monthly payments on the Loan from the date of prepayment to the maturity date minus the outstanding principal Loan Balance as of the date of prepayment. The present value will be computed on a monthly basis as of the date of prepayment, discounted at the "Treasury Yield" plus 50 basis points. ("Treasury Yield" is the yield in percent per annum of the Treasury Constant Maturities for the appropriate length of time as published in document H.15(519) (presently published by the Board of Governors of the Federal Reserve System titled "Federal Reserve Statistical Release,") for the calendar week immediately preceding the calendar week in which the prepayment occurs).

Notwithstanding the foregoing, however, in the event of acceleration of the Note at any time and subsequent involuntary or voluntary payment, the Prepayment Premium shall be payable. Under no circumstances shall the Prepayment Premium ever be less than one percent (1%) of the then outstanding principal balance of the Loan.

Maker acknowledges that Holder (a) has advanced the amounts evidenced by this Note with the expectation that such amounts would be outstanding for a period at least equal to the No-Prepayment Period, (b) would not have been willing to advance such amounts on these terms for a shorter period of time, (c) in making the loan evidenced by this Note, is relying on Maker's creditworthiness and its agreement to pay in strict accordance with the terms set forth in the Note, and (d) would not make the loan without full and complete assurance by Maker of its agreement not to prepay all or a part of the principal of this Note except as expressly permitted herein and in the Indenture. Maker has been advised and acknowledges that Holder is relying on the receipt of payments under this Note to, among other things, match and support its obligations under contracts entered into by Holder with third parties and that in the event of a prepayment, Holder could suffer loss and additional expenses which are extremely difficult and impractical to ascertain. The Prepayment Premium is a good faith resolution by Maker and Holder of the damages Holder would suffer, and it is not intended as a penalty. Accordingly, should this Note be paid for any reason, whether voluntary or involuntary, prior to the end of the No-Prepayment Period, then Maker shall pay to Holder a Prepayment Premium calculated in accordance with this paragraph 1, except as expressly permitted herein or in the Indenture.

Maker expressly acknowledges that pursuant to the provisions of this Note and except as otherwise provided in the Indenture, Maker has no right to prepay this Note in whole or in part without prepayment of the Prepayment Premium, and Maker shall be liable for the payment of the Prepayment Premium upon any payment of the outstanding principal of this Note before its due date, whether voluntary or involuntary or after acceleration of the Note whether the acceleration of the maturity hereof is due to Maker's default or otherwise. Furthermore, Maker waives any rights it may have under any applicable state laws as they relate to any Prepayment restrictions contained in this paragraph 1 or otherwise contained in this Note and expressly acknowledges that Holder has made the loan in reliance upon such agreements and waiver of Maker and that Holder would not have made the loan without such agreements and waiver of Maker. Maker acknowledges that specific weight has been given to the consideration given for such agreements, which consideration is the granting of the loan.

(d) Evasion of Prepayment Premium. Maker acknowledges that in the event of an acceleration of payment of this Note following an Event of Default by Maker, a tender of payment of an amount necessary to satisfy the entire indebtedness evidenced hereby, which payment does not include the Prepayment Premiums, required pursuant to the terms of this Note or the Indenture, made at any time prior to a foreclosure sale by Maker, its successors or assigns or by anyone on behalf of Maker or by a buyer upon foreclosure or power of sale, shall be presumed to be and conclusively deemed to constitute a deliberate evasion of the prepayment provisions hereof and shall constitute a prepayment hereunder and shall therefore be subject to the Prepayment Premium as calculated in accordance with this Note with the date of prepayment being deemed the date of occurrence of the foreclosure sale or the tender of payment of the amount necessary to pay the entire indebtedness evidenced hereby in full, including the Prepayment Premium.

2. Payment Information. All payments required to be made hereunder shall be made during regular business hours to Holder at its office at Greensboro, N.C., with sufficient information to identify the source and application of such payment to Holder's Loan No. C98248, or at such other place as Holder may from time to time designate in writing. All payments shall be made in lawful currency of the United States of America, in immediately available funds, without presentment or surrender of this Note. Payments to Holder received after 1:00 P.M., local, Greensboro, N.C. time, shall be deemed to have been received by Holder on the next business day and shall bear interest accordingly.

3. Security for Note. The payment of this Note and all other sums due Holder is secured by the Indenture (as hereinafter defined) and the other Loan Documents. Except as otherwise defined herein, all of the terms and provisions contained in the Indenture and the other Loan Documents are hereby incorporated herein by express reference.

4. Late Charges. Should any Monthly Payment required under this Note not be paid in full within ten (10) days from the date such payment is due, Maker acknowledges that the Holder will incur extra expenses for the handling of the delinquent payment and servicing the indebtedness

evidenced hereby, and that the exact amount of these extra expenses is extremely difficult and impractical to ascertain, but that a charge of four percent (4%) of the amount of the delinquent payment ("Late Charge") would be a fair approximation of the expense so incurred by Holder. If applicable law requires a lesser charge, however, then the maximum charge permitted by such law may be charged by Holder for said purpose. If applicable law requires that more than a ten (10) day period elapse from the date a payment is due until the Late Charge can be imposed, Holder will impose the Late Charge at the earliest date permitted by such law. Therefore, Maker shall, in such event, without further notice, and without prejudice to the right of Holder to collect any other amounts provided to be paid hereunder or under the Indenture or the other Loan Documents, or to declare an Event of Default as defined below, pay to Holder the Late Charge to compensate Holder for expenses incurred in handling delinquent payments.

5. Interest Payable Upon Default. If there occurs an Event of Default, under this Note or the Indenture or under any of the other Loan Documents, then the unpaid principal amount of this Note, and, to the extent permitted by applicable law, all accrued and unpaid interest thereon, shall bear interest at the lesser of (i) the Contract Rate plus four percent (4%) per annum compounded monthly, or (ii) the maximum rate permitted by applicable law ("Default Rate") from the date of expiration of any applicable cure or grace period until such time, if any, as the Event of Default is cured and the Indenture and this Note are reinstated as permitted by applicable law, or otherwise until such time as the unpaid principal amount of this Note and all other indebtedness evidenced by this Note are fully repaid, whichever is earlier.

6. Events of Default. An "Event of Default" shall exist under this Note (a) in the event Maker shall fail to make any payment due under this Note, other than the final payment and Prepayment Premium, within ten (10) days from the date when such payment is due; (b) in the event Maker shall fail to make the final payment or the Prepayment Premium when such payment is due; or (c) if there shall exist an Event of Default as that term is defined in the Indenture or in any of the other Loan Documents.

7. Additional Payments. The additional payments called for under paragraphs 4 and 5 shall be in addition to, and shall in no way limit, any other rights and remedies provided for in this Note, the Indenture or in any of the other Loan Documents, as well as all other remedies provided by law.

8. Payment of Taxes and Expenses.

(a) Maker further promises to pay to Holder, immediately upon written notice from Holder, (i) all recordation, transfer, stamp, documentary or other fees or taxes levied on Holder (exclusive of Holder's income taxes) by reason of the making or recording of this Note, the Indenture or any of the other Loan Documents, and (ii) all intangible property taxes levied upon any Holder of this Note or mortgagee, beneficiary, or lender under the Indenture or secured party under the other Loan Documents.

(b) Maker further promises to pay to Holder, immediately upon written notice from Holder, all actual costs, expenses, disbursements, escrow fees, title charges and reasonable

legal fees and expenses actually incurred by Holder and its counsel in (i) the collection or attempted collection following an Event of Default, or negotiation and documentation of any settlement or workout of the principal amount of this Note, the interest thereon or any installment or other payment due hereunder, and (ii) in any suit or proceeding whatsoever in regard to this Note or to protect or sustain any instrument securing this Note following an Event of Default, including, without limitation, in any bankruptcy proceeding or judicial or nonjudicial foreclosure proceeding. It is the intent of the parties that Maker pay all expenses and reasonable attorneys' fees incurred by Holder as a result of Holder's entering into the loan transaction evidenced by this Note.

9. Application of Payments. All payments from Maker shall be applied as follows: (i) to unpaid Late Charges and costs of collection and to any other costs and expenses due and payable to Holder under the Loan Documents; (ii) to the Prepayment Premium due, if any; (iii) to interest accrued and unpaid on the unpaid balance hereof; and (iv) the balance to unpaid principal.

10. Prepayment. Maker may not prepay this Note in whole or in part except as specifically provided herein.

11. Maker's Covenants. Maker agrees that (a) the obligation evidenced by this Note is an exempted transaction under the Truth-in-Lending Act, 15.U.S.C § 1601, et seq. (1982); and (b) said obligation constitutes a business loan for the purpose of the application of any laws that distinguish between consumer loans and business loans and that have as their purpose the protection of consumers in the state in which the Property is located.

12. Severability. The parties hereto intend and believe that each provision of this Note comports with all applicable local, state and federal laws and judicial decisions. However, if any provision or any portion of any provision contained in this Note is held by a court of law to be invalid, illegal, unlawful, void or unenforceable as written in any respect, then it is the intent of all parties hereto that such portion or provision shall be given force to the fullest possible extent that it is legal, valid and enforceable, that the remainder of the Note shall be construed as if such illegal, invalid, unlawful, void or unenforceable portion or provision was not contained therein, and the rights, obligations and interests of Maker and Holder under the remainder of this Note shall continue in full force and effect.

13. Usury Laws.

(a) Usury Savings Clause. Any provision herein, or in the Indenture, the Loan Documents or any other document executed in connection herewith, or in any other agreement or commitment, whether written or oral, express or implied, to the contrary notwithstanding, no Holder hereof shall in any event be entitled to receive or collect, nor shall or may amounts received hereunder be credited so that any Holder hereof shall be paid as interest a sum greater than the maximum amount permitted by applicable law to be charged to the person, firm or corporation primarily obligated to pay this Note at the time in question. If any construction of this Note, the Indenture, the Loan Documents, or any and all other papers, agreements or commitments, indicates a different right given to any Holder hereof to ask for, demand or receive any larger sum as interest, such is a mistake in calculation or wording, which this clause shall override and control, it being the

intention of the parties that this Note, the Indenture, the Loan Documents, or any and all other instruments securing the payment of this Note shall in all things comply with applicable law, and proper adjustment shall automatically be made accordingly. In the event any Holder hereof ever receives, collects or applies as interest any sum in excess of the maximum legal rate, such excess amount shall be applied to the reduction of the unpaid principal balance of this Note in the inverse order of maturity, and if this Note is paid in full, any remaining excess shall be paid to Maker. In determining whether or not the interest paid or payable under any specific contingency exceeds the highest lawful rate, Maker and Holder hereof shall, to the maximum extent permitted under applicable law, (a) characterize any non-principal payment as an expense, fee or premium rather than as interest, (b) exclude voluntary prepayments and the effects thereof, and (c) "spread" the total amount of interest throughout the entire term of this Note so that the interest rate is uniform throughout the entire term of this Note; provided that, if this Note is paid and performed in full prior to the end of the full contemplated term hereof, and if the interest received for the actual period of existence hereof exceeds the maximum lawful rate, the Holder hereof shall refund to Maker the amount of such excess or credit the amount against the principal balance of this Note at the time in question.

14. Acceleration. Except as otherwise provided herein, upon an Event of Default, Holder shall have the right, without demand or notice, to declare the entire principal amount of this Note then outstanding, and all accrued and unpaid interest thereon, and all other sums, including without limitation, the Prepayment Premium required under this Note or the Indenture, to be immediately due and payable, and notwithstanding the stated maturity in this Note, all such sums declared due and payable shall thereupon become immediately due and payable. During the existence of such Event of Default, Holder may apply payments received on any amounts due under the Note, the Indenture, or any of the other Loan Documents as Holder may determine in its sole discretion.

15. Waivers by Maker. Except as otherwise provided herein, as to this Note, the Indenture, the Loan Documents and any other instruments securing the indebtedness, Maker and all guarantors, sureties, endorsers and other parties hereafter assuming or otherwise becoming liable under this Note, severally waive all applicable exemption rights, whether under any state constitution, homestead laws or otherwise, and also severally waive diligence, valuation and appraisal, presentment for payment, protest and demand, notice of protest, demand and dishonor and diligence in collection and nonpayment of this Note and all other notices in connection with the delivery, acceptance, performance, default, or enforcement of the payment of this Note (except notice of default specifically provided for in the Indenture and the other Loan Documents), including but not limited to all notices of intent to accelerate the maturity hereof, notice of acceleration of the maturity hereof and notice of intent to foreclose on any collateral securing this Note, and they agree that the liability of each of them shall be unconditional without regard to the liability of any other party and shall not be affected by an indulgence, extension of time, renewal, waiver, or modification granted to or consented to by the Holder; and Maker and all guarantors, sureties and endorsers hereof consent to any and all extensions of time, renewals, waivers, or modifications that may be granted by Holder with respect to the payment or other provisions of this Note, and to the substitution, exchange or release of the Collateral, or any part thereof, and consent to the release of any party primarily or secondarily liable hereon or the addition of makers, guarantors, sureties and endorsers as parties hereto without notice to them or affecting their liability hereunder. To the extent permitted

by law, Maker further waives all benefit that might accrue to Maker by virtue of any present or future laws exempting the Property, or any other property, real or personal, or the proceeds arising from any sale of any such property, from attachment, levy, or sale under execution, or providing for any stay of execution to be issued on any judgment recovered on this Note or in any action to foreclose the Indenture, injunction against sale pursuant to power of sale, exemption from civil process or extension of time for payment. Maker agrees that any real estate that may be levied upon pursuant to a judgment obtained by virtue of this Note, or any writ of execution issued thereon, may be sold upon any such writ in whole or in part in any order desired by Holder.

16. Maker Not Released. No delay or omission of Holder to exercise any of its rights and remedies under this Note, the Indenture or any Loan Documents at any time following the happening of an Event of Default shall constitute a waiver of the right of Holder to exercise such rights and remedies at a later time by reason of such Event of Default or by reason of any subsequently occurring Event of Default. This Note, or any payment hereunder, may be extended from time to time by agreement in writing between Maker and Holder without in any other way affecting the liability and obligations of Maker and endorsers, if any.

17. Joint and Several Obligation; Successors and Assigns. This Note shall be the joint and several obligation of all Makers, endorsers, guarantors and sureties, if any, as may exist now or hereafter in addition to Maker, and shall be binding upon them and their respective heirs, administrators, executors, legal representatives, successors and assigns and shall inure to the benefit of Lender and its successors, successors in title, and assigns.

18. Remedies Cumulative. The remedies of Holder as provided in this Note, or in the Indenture or the Loan Documents, and the warranties contained herein or therein shall be cumulative and concurrent, may be pursued singly, successively or together at the sole discretion of Holder, may be exercised as often as occasion for their exercise shall occur and in no event shall the failure to exercise any such right or remedy be construed as a waiver or release of such right or remedy. No remedy under this Note, conferred upon or reserved to Holder is intended to be exclusive of any other remedy provided in this Note, the Indenture or any of the Loan Documents or provided by law, but each shall be cumulative and shall be in addition to every other remedy given under the Indenture or any of the Loan Documents or hereunder or now or hereafter existing at law or in equity or by statute.

19. Notices. All notices or other communications under this Note shall be given as provided in the Indenture.

20. Governing Law. THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED WITHOUT GIVING EFFECT TO THE CONFLICT OF LAWS PRINCIPLES THEREOF. IN ANY LITIGATION IN CONNECTION WITH OR TO ENFORCE THIS NOTE, THE MAKER HEREBY IRREVOCABLY CONSENTS AND CONFERS PERSONAL JURISDICTION ON THE STATE COURTS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED, OR ON THE UNITED STATES DISTRICT COURT OR THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT IN WHICH THE PROPERTY IS LOCATED.

MAKER EXPRESSLY WAIVES ANY OBJECTIONS AS TO VENUE IN ANY SUCH COURTS AND AGREES THAT SERVICE OF PROCESS MAY BE MADE ON THE MAKER BY MAILING A COPY OF THE SUMMONS AND COMPLAINT BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE MAKER'S ADDRESS. NOTHING CONTAINED HEREIN SHALL, HOWEVER, PREVENT THE HOLDER FROM BRINGING ANY ACTION OR EXERCISING ANY RIGHTS WITHIN ANY OTHER STATE OR JURISDICTION OR FROM OBTAINING PERSONAL JURISDICTION BY ANY OTHER MEANS AVAILABLE BY APPLICABLE LAW.

21. Waiver of Jury Trial. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE MAKER HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT OR PROCEEDING THAT RELATES TO OR ARISES OUT OF THIS NOTE OR THE ACTS OR FAILURE TO ACT OF OR BY HOLDER IN THE ENFORCEMENT OF ANY OF THE TERMS OR PROVISIONS OF THIS NOTE.

22. Material Inducements. ALL WAIVERS SET FORTH IN THIS NOTE ARE MATERIAL INDUCEMENTS FOR THE HOLDER TO GRANT THIS LOAN.

23. No Oral Modification. This Note may not be modified or discharged orally, but only by an agreement in writing signed by the party against whom enforcement or any waiver, modification or discharge is sought.

24. Time. Time is of the essence with regard to the performance of the obligations of Maker in this Note and each and every term, covenant and condition herein by or applicable to Maker.

25. Captions. The captions and headings of the paragraphs of this Note are for convenience only and are not to be used to interpret, define or limit the provisions hereof.

26. Terminology. As used in this Note the word "Indenture" means a Deed of Trust Security Agreement and Fixture Filing of even date herewith from Maker to, or for the benefit of, Lender, which secures Maker's obligations hereunder and which covers the property described therein ("Property").

27. Replacement Note. Upon receipt of evidence reasonably satisfactory to Maker of the loss, theft, destruction or mutilation of this Note, and in the case of any such loss, theft or destruction, upon delivery of an indemnity agreement reasonably satisfactory to Maker or, in the case of any such mutilation, upon surrender and cancellation of this Note, Maker will execute and delivery to Holder in lieu thereof, a replacement note dated as of the date of this Note, identical in form and substance to this Note and upon such execution and delivery all references in the Indenture to this Note shall be deemed to refer to such replacement note.

28. Exhibits. Exhibit A attached hereto is incorporated herein by reference.

**IN WITNESS WHEREOF**, Maker has caused this Promissory Note to be duly executed under seal on the date first above written.

**BISSONNET SE, L.P.**,  
a Texas limited Partnership

By: SHELBY/ESTUS REALTY GROUP, INC., a  
Texas corporation as general partner

By: Bryce Shelby  
Name: Bryce Shelby  
Title: CEO

## EXHIBIT A

Nonrecourse. Except as hereinafter in this Exhibit A and in Section 1.13 of the Indenture specifically provided, Maker shall not be personally liable for the payment of any sums due hereunder or the performance of any obligations of Maker hereunder or under the Indenture or the other Loan Documents. In any action to foreclose the Indenture or to otherwise realize upon any security furnished under the Loan Documents or to collect any amount payable hereunder or under the other Loan Documents, no judgment for the repayment of this Note or interest thereon or any other sum due under any of the Loan Documents or for damages for failure to perform any obligation of Maker hereunder or under any of the Loan Documents will be enforced against Maker personally or against any property of Maker other than the Property and other security furnished under the Loan Documents. Notwithstanding the foregoing, nothing herein contained shall be construed as prohibiting Holder from exercising any and all remedies which the Loan Documents permit, including the right to bring actions or proceedings against Maker and to enter a judgment against Maker; provided, however, that any judgment so entered must specify that it is limited to the security furnished under the Loan Documents and that it may not be levied against any other property of Maker other than the security furnished under the Loan Documents.

Notwithstanding the foregoing provisions of this Exhibit A or any other agreement, Maker shall be fully liable for damages to Holder or the Property resulting from: (i) maker's fraud or misrepresentation, whether affirmative or by omission; (ii) the misapplication of (a) proceeds of insurance covering any portion of the Property, or (b) proceeds of condemnation of any portion of the Property or proceeds from the sale or conveyance of any portion of the Property, in lieu of condemnation, or (c) rentals received by or on behalf of Maker subsequent to the date on which Holder gives written notice of the revocation of the license granted in the Absolute Assignment of Rents and Profits and Collateral Assignment of Leases to the extent such rentals are not applied to ordinary and necessary operational costs of the Property; (iii) for the return of all unearned advance rentals and security deposits paid by tenants of the Property and not refunded to or forfeited by such tenants; (iv) the amount of any loss caused by Maker's failure to comply with any federal, state and local statute, ordinance or regulation applicable to the Property relating to hazardous waste and environmental laws, such loss to include expenses, clean up, penalties and damages incurred by Holder and any diminution in the fair market value of the Property caused by Maker, its agents and tenants as a result of non-compliance with such hazardous waste and environmental laws from and after the date hereof (specifically including any liability of Maker under Section 1.13 of the Indenture); (v) a lien hereafter imposed upon any of the Property without Holder's prior written consent and which has priority over any security for the payment of this Note, including, without limitation, all costs incurred by Holder in the bonding, payment or release of any lien arising from the use, incorporation, storage or disposal of toxic, hazardous, chemical or nuclear waste or materials upon or in any portion of the Property caused by Maker, its agents and tenants as a result of non-compliance with Hazardous Material Laws (as defined in the Indenture) from and after the period from the date hereof; (vi) the commission of waste; and (vii) failure of Maker to pay real estate taxes and property insurance premiums relating to the Property.