

14.9 TIME OF THE ESSENCE. Time is of the essence of this AGREEMENT.

14.10 MERCANTILE'S LIABILITY. MERCANTILE PROPERTIES, INC. is the fee owner of the MERCANTILE TRACT. It is contemplated that MERCANTILE PROPERTIES, INC. will construct the improvements required hereby for the MERCANTILE TRACT and will lease the MERCANTILE TRACT, as improved, to J. B. WHITE & COMPANY. It is also contemplated that MERCANTILE PROPERTIES, INC. may mortgage or otherwise encumber the MERCANTILE TRACT and may assign its lease with J. B. WHITE & COMPANY to the mortgagee or encumbrance holder as collateral. DEVELOPER hereby consents to any lease of the MERCANTILE TRACT to J. B. WHITE & COMPANY so long as said Tenant under said lease for itself and its successors and assigns assumes and agrees to timely perform all terms and conditions of this AGREEMENT on MERCANTILE'S part to be performed whether or not then overdue or in default and to any mortgage or other encumbrance of the MERCANTILE TRACT and to the collateral assignment of the lease between MERCANTILE PROPERTIES, INC. and J. B. WHITE & COMPANY. MERCANTILE PROPERTIES, INC. and J. B. WHITE & COMPANY shall be jointly and severally liable under this AGREEMENT until both of the following events have occurred:

- (i) The construction of the improvements to the MERCANTILE TRACT required hereby has been completed, and
- (ii) The term of any lease between MERCANTILE PROPERTIES, INC. and J. B. WHITE & COMPANY is in effect.

Upon the happening of both of said events, and for so long thereafter as the term of any lease between MERCANTILE PROPERTIES, INC. and J. B. WHITE & COMPANY is in effect, MERCANTILE PROPERTIES, INC. shall have no liability hereunder, and DEVELOPER does hereby release MERCANTILE PROPERTIES, INC. from liability hereunder during such period. The release of MERCANTILE PROPERTIES, INC. hereunder shall not affect the liability of J. B. WHITE & COMPANY nor the easements or declaration of restrictions made by MERCANTILE PROPERTIES, INC. Any mortgagee or encumbrance holder on the MERCANTILE TRACT may, after foreclosure on the MERCANTILE TRACT or accepting title to the MERCANTILE TRACT in lieu of foreclosure, enforce this AGREEMENT on behalf of both itself and J. B. WHITE & COMPANY, with

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