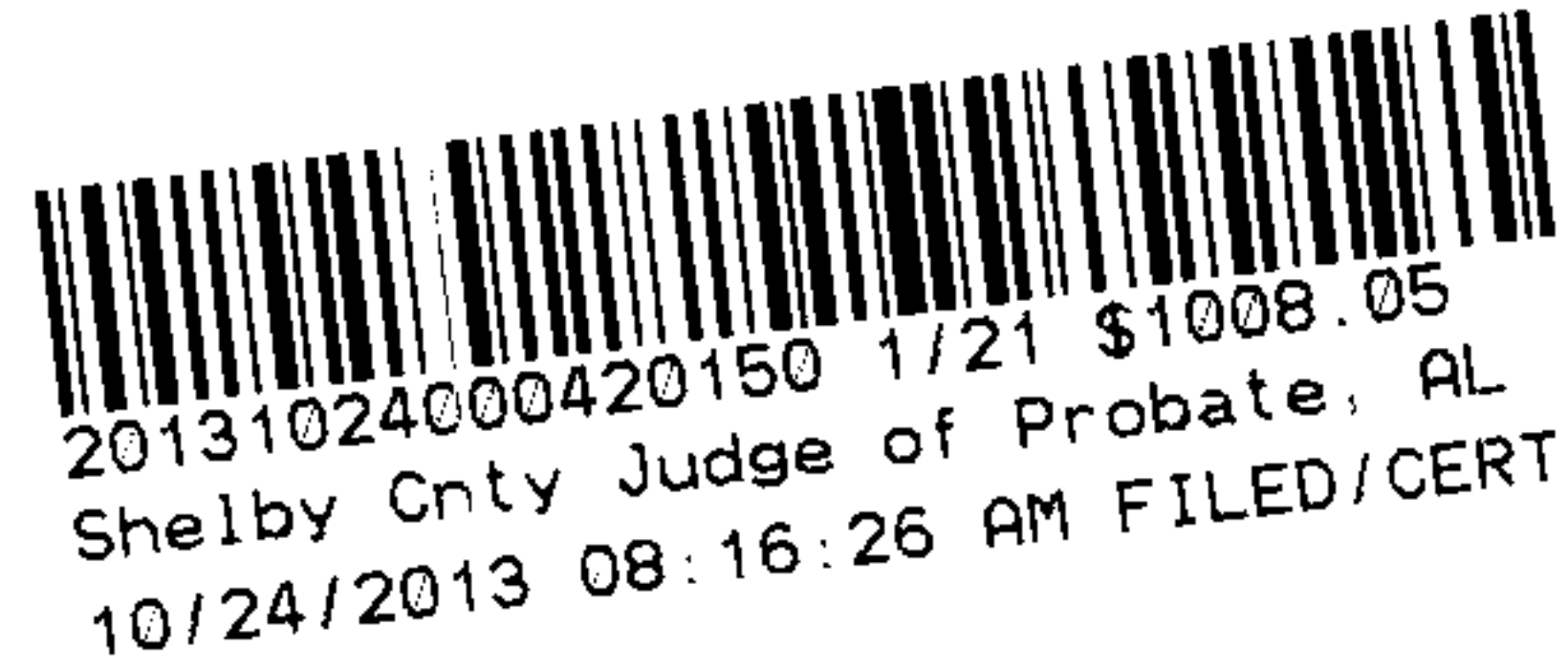


*This Instrument Prepared By, And After
Recording Should Be Returned To:*

Damon P. Denney, Esq.
Burr & Forman LLP
3100 Wachovia Tower
420 North 20th Street
Birmingham, Alabama 35203
Telephone: (205) 251-3000



STATE OF ALABAMA)
 :
COUNTY OF SHELBY)

**CONSOLIDATED, AMENDED AND RESTATED MORTGAGE AND SECURITY
AGREEMENT**

THIS CONSOLIDATED, AMENDED AND RESTATED MORTGAGE AND SECURITY AGREEMENT (this "Mortgage"), made effective as of the 21st day of October, 2013, is from **ACTON INVESTMENTS, LLC**, an Alabama limited liability company (the "**Borrower**"), as mortgagor and debtor, whose address is c/o Douglas Acton, 2834 Acton Place, Birmingham, Alabama 35243, in favor of **REGIONS BANK**, an Alabama banking corporation (hereinafter called the "**Bank**"), as mortgagee and secured party, whose address is 1901 6th Avenue North - 19th Floor, Birmingham, Alabama 35203, Attention: N. Ronald Downey, III, Senior Vice President / Team Leader. 12

This Mortgage constitutes both a new grant, bargain, sale, alienation, and conveyance of the Collateral described herein as security for certain consolidated, amended and restated obligations owed to Bank and a consolidation, amendment and restatement in their entirety of the following Mortgages:

- (i) *Mortgage dated March 9, 2007 from Acton Pate Investments, LLC in favor of AmSouth Bank (predecessor by merger to Bank) and filed with the Judge of Probate of Shelby County, Alabama as Instrument 20070329000143510;*
- (ii) *Mortgage dated May 9, 2012 from Acton Investments, LLC in favor of Bank and recorded with the Judge of Probate of Shelby County, Alabama as Instrument Number 20120521000180400;*
- (iii) *Mortgage dated February 23, 2007 from Acton Pate Investments, LLC in favor of AmSouth Bank (predecessor by merger to Bank) and recorded with the Judge of Probate of Shelby County, Alabama as Instrument Number 20070314000114390;*
- (iv) *Mortgage dated May 5, 2008 from Acton Pate Investments, LLC in favor of Bank and recorded with the Judge of Probate of Shelby County, Alabama as Instrument Number 20080528000216480;*
- (v) *Mortgage dated February 9, 2007 from Acton Pate Investments, LLC to AmSouth Bank (predecessor by merger to Bank) and recorded with the Judge*

*of Probate of Shelby County, Alabama as Instrument 20070222000082940;
and*

(vi) Mortgage dated May 5, 2008 from Acton Pate Investments, LLC in favor of Bank and recorded with the Judge of Probate of Shelby County, Alabama as Instrument 20080520000205800,


together with any and all prior mortgages and/or amendments thereto securing the Loan Obligations referenced herein and any and all renewals, modifications and/or amendments thereof, the "Prior Mortgages"). Without limiting the effect of this Mortgage as a new and present grant, bargain, sale, alienation and conveyance of all Collateral described herein, the Borrower hereby acknowledges, confirms and agrees that it is obligated to Bank and hereby confirms its assumption of obligations as the mortgagor and debtor under each of the Prior Mortgages, as consolidated, amended and restated hereby.

WITNESSETH:

WHEREAS, Borrower is justly indebted to Bank for a loan in the principal amount of **SIX HUNDRED TWENTY-TWO THOUSAND SIX HUNDRED TWENTY-THREE AND 16/100 DOLLARS** (\$622,623.16) (the "Loan"), which Loan is evidenced by that certain Consolidated, Amended and Restated Promissory Note of even date herewith payable by Borrower to the order of Bank (said Promissory Note, as the same may hereafter be renewed, extended or modified, being herein called the "Note"), and that certain Loan Agreement (Consolidation, Amendment and Restatement of Loans 01-731-7000034656, 01-733-7000063891 & 01-733-7000063893) dated of even date herewith among Borrower and Bank (as the same may hereafter be modified or amended, the "Loan Agreement"; capitalized terms used herein without definition shall have the meaning ascribed to such terms in the Loan Agreement); and

WHEREAS, as a condition precedent to consolidating, amending and restating the Loan to Borrower, Bank has required that Borrower execute this Mortgage as security for the Loan and the Loan Obligations (as hereinafter defined), and the Lot 6 Loan Obligations (as hereinafter defined), including, without limitation, any and all existing and future obligations of Borrower under any Bank Swap Document, if any, on a pari passu basis with all other obligations secured hereby.

NOW, THEREFORE, in consideration of the Recitals, the sum of Ten Dollars, and other valuable considerations, the receipt and sufficiency of which are hereby acknowledged, and in order to secure the payment and performance of the Loan Obligations and the Lot 6 Loan Obligations, Borrower has bargained and sold and does hereby grant, bargain, sell, alien, and convey unto Bank, its successors and assigns, the following described land, real estate, buildings, improvements, fixtures, furniture, and other personal property (which together with any additional such property hereafter acquired by Borrower and subject to the lien of this Mortgage, or intended to be so, as the same may be from time to time constituted is hereinafter sometimes referred to as the "Collateral"), to-wit:


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Shelby Cnty Judge of Probate, AL
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(a) All of Borrower's right, title, and interest in and to the tracts or parcels of land located in **Shelby** County, Alabama as are more particularly described in Exhibit A attached hereto and by this reference made a part hereof (the "Land"); and

(b) All of Borrower's right, title and interest in and to all buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land, and all gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, elevators and motors, plumbing and heating fixtures, carpeting and other floor coverings, water heaters, awnings and storm sashes, and cleaning apparatus which are or shall be attached to said buildings, structures or improvements, and all other furnishings, furniture, fixtures, machinery, equipment, appliances, and personal property of every kind and nature whatsoever now or hereafter owned by Borrower and located in, on or about, or used or intended to be used with or in connection with the construction, use, operation or enjoyment of the Collateral, including all extensions, additions, improvements, betterments, renewals and replacements, substitutions, or proceeds from a permitted sale of any of the foregoing (collectively the "Improvements"), all of which are hereby declared and shall be deemed to be fixtures and accessions to the Land and a part of the Collateral as between the parties hereto and all persons claiming by, through or under them, and which shall be deemed to be a portion of the security for the Loan Obligations; and

(c) All of Borrower's right, title and interest in and to all building materials, equipment, fixtures, fittings, and personal property of every kind or character now owned or hereafter acquired by Borrower for the purpose of being used or useful in connection with the Improvements located or to be located on the Land, whether such materials, equipment, fixtures, fittings, and personal property are actually located on or adjacent to said Land or not, and whether in storage or otherwise, wheresoever the same may be located, including, but without limitation, all lumber and lumber products, bricks, building stones, and building blocks, sand and cement, roofing material, paint, doors, windows, hardware, nails, wires and wiring, plumbing and plumbing fixtures, heating and air conditioning equipment and appliances, electrical and ornamental and decorative fixtures, furniture, and in general all building materials and equipment of every kind and character used or useful in connection with said Improvements; and

(d) All of Borrower's right, title and interest in and to all easements, rights-of-way, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, minerals, flowers, shrubs, crops, trees, timber and other emblements now or hereafter located on the Land or under or above the same or any part or parcel thereof, and all ground leases, estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances, reversions, and remainders whatsoever, in any way solely belonging, relating or appertaining to the Collateral or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Borrower (collectively, the "Appurtenant Rights"), and any and all such greater rights as Borrower may hereinafter acquire in and to the Appurtenant Rights; and

(e) All of Borrower's right, title, and interest in and to all rents, issues, profits and revenues of the Collateral from time to time accruing, together with all proceeds of insurance, condemnation payments, security deposits and escrow funds, and all of the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of Borrower of, in and to the same, reserving only the right to Borrower to collect the same so long as an Event of Default (as herein defined) has not occurred hereunder or such collection is not otherwise restricted by this Mortgage; and

(f) All of Borrower's right, title, and interest in and to any and all licenses, permits, general intangibles, accounts, trade names, trademarks, contract rights and other intangible property, now owned or hereafter acquired, relating to the foregoing real property or the business now or hereafter conducted thereat, it being agreed that the same may not be transferred to other real estate without Bank's prior written consent; and

(g) Proceeds and products of all of the foregoing real and personal property.

TO HAVE AND TO HOLD the Collateral and all parts thereof unto Bank, its successors and assigns forever, subject however to the terms and conditions herein.

PROVIDED, HOWEVER, that these presents are upon the condition that, if Borrower shall pay or cause to be paid to Bank the principal and interest and other indebtedness (including future advances) payable in respect to the Note, this Mortgage, and the other Loan Documents and in respect to the Lot 6 Loan Documents at the times and in the manner stipulated therein and herein, or in any Bank Swap Document applicable to the Loan, all without any deduction or credit for taxes or other similar charges paid by Borrower, and shall keep, perform, and observe all and singular the covenants and promises in the Note, this Mortgage, the other Loan Documents and the Lot 6 Loan Documents expressed to be kept, performed, and observed by and on the part of Borrower, all without fraud or delay, then this Mortgage, and all the properties, interest, and rights hereby granted, bargained, and sold shall cease, determine, and be void, but shall otherwise remain in full force and effect.

AND Borrower covenants and agrees with Bank as follows:

ARTICLE I

DEFINITIONS; RULES OF CONSTRUCTION

1.01. Defined Terms. As used herein, all defined terms shall have the meanings ascribed to them in the Loan Agreement, and, in addition, the following terms will have the following meanings:

"Event of Default" means any "Event of Default" as defined in Section 3.01 hereof.

"Exhibit" means an Exhibit to this Agreement, unless the context refers to another document, and each such Exhibit shall be deemed a part of this Agreement to the same extent as if it were set forth in its entirety wherever reference is made thereto.

"Permitted Encumbrances" means those matters set forth on Exhibit B attached hereto.

"Proceeding" has the meaning set forth in Section 2.06 hereof.

1.02. Singular and Plural. Singular terms shall include the plural forms and vice versa, as applicable of the terms defined.

1.03. UCC. Terms contained in this Agreement shall, unless otherwise defined herein or unless the context otherwise indicates have the meanings, if any, assigned to them by the Uniform Commercial Code in effect in the State of Alabama.

1.04. References. All references to other documents or instruments shall be deemed to refer to such documents or instruments as they may hereafter be extended, renewed, modified or amended, and all replacements and substitutions therefor.

1.05. Loan Agreement. All other capitalized terms not otherwise defined in this Mortgage shall have the meanings set forth in the Loan Agreement.

ARTICLE II **COVENANTS, AGREEMENTS, AND REPRESENTATIONS OF BORROWER**

2.01. Warranty of Title. Borrower represents and warrants to Bank that it is lawfully seized of an indefeasible estate in fee simple in the Land and Improvements hereby mortgaged, and has good and absolute title to all other Collateral hereby mortgaged. Borrower further represents and warrants to Bank that it has good right, full power and lawful authority to sell, convey and mortgage its interest in the Collateral in the same in the manner and form aforesaid, and that, except for the Permitted Encumbrances, the Collateral is free and clear of all liens, charges, and encumbrances whatsoever, including, as to the personal property and fixtures, conditional sales contracts, chattel mortgages, security agreements, financing statements, and anything of a similar nature, and that Borrower shall and will warrant and forever defend the title to its interests in the Collateral unto Bank, its successors and assigns, against the lawful claims of all persons whomsoever.

2.02. Performance of Loan Obligations. Borrower covenants and agrees to perform, observe, and comply with all provisions hereof, of the Note secured hereby and of the Loan Documents to which Borrower is a party, and all any Bank Swap Document now or hereafter entered into with respect to the Loan, and duly and punctually to pay to Bank the sum of money expressed in the Note with interest thereon and all other sums required to be paid by Borrower pursuant to the provisions of this Mortgage, the other Loan Documents, or any Bank Swap Document now or hereafter entered into with respect to the Loan, all without any deductions or credit for taxes or other similar charges paid by Borrower.

2.03. Monthly Tax Deposits. If required by Bank following the occurrence of an Event of Default, Borrower will pay to Bank monthly throughout the term of the Loan, together with in addition to the regular installments of principal and/or interest due and payable under the Note, until the Note is paid in full, an amount equal to one-twelfth (1/12) of the yearly taxes and assessments as estimated by Bank to be sufficient to enable Bank to pay, at least thirty (30) days before they become due, all taxes, assessments, and other similar charges against the Collateral or any part thereof. Such added payments shall not be, nor be deemed to be, trust funds, but may be commingled with the general funds of Bank, and no interest shall be payable in respect

thereof. Upon demand of Bank, Borrower agrees to deliver to Bank such additional moneys as are necessary to make up any deficiencies in the amounts necessary to enable Bank to pay such taxes, assessments and similar charges when due. Upon an Event of Default, Bank may apply to the reduction of the sums secured hereby, in such manner as Bank shall determine, any amount under this Section 2.03 remaining to Borrower's credit.

2.04. Other Taxes, Utilities and Liens.

(a) Borrower will pay promptly, when and as due, and will exhibit promptly to Bank, upon request, receipts for the payment of, all taxes, assessments, water rates, dues, charges, fines and impositions of every nature whatsoever imposed, levied or assessed or to be imposed, levied or assessed upon or against the Collateral or any part thereof, or upon the interest of Bank in the Collateral (other than any of the same for which provision has been made in Section 2.03 hereof), this Mortgage or the Note, as well as all income taxes, assessments and other governmental charges lawfully levied and imposed by the United States of America or any state, county, municipality, borough or other taxing authority upon Borrower or in respect of the Collateral or any part thereof, or any charge which, if unpaid, would become a lien or charge upon the Collateral. Borrower shall have the right, before any such tax, assessment, fee, or charges become delinquent, to contest or object to the amount or validity of any such tax, assessment, fee, or charge by appropriate legal proceedings, *provided* that said right shall not be deemed or construed in any way as relieving, modifying, or extending Borrower's covenant to pay any such tax, assessment, fee, or charge at the time and in the manner provided herein unless (i) Borrower has given prior written notice to Bank of Borrower's intent to so contest or object, (ii) Borrower shall demonstrate to Bank's satisfaction that the legal proceedings shall conclusively operate to prevent the sale of the Premises, or any part thereof, to satisfy such tax, assessment, fee, or charge prior to final determination of such proceedings, (iii) Borrower shall furnish a good and sufficient bond or surety as requested by and satisfactory to Bank, and (iv) Borrower shall have provided a good and sufficient undertaking as might be required or permitted by law to accomplish a stay of such proceedings.

(b) Borrower will pay, or will cause to be paid, promptly all charges by utility companies, whether public or private, for electricity, gas, water, sewer, or other utilities with respect to the Collateral.

(c) Borrower shall pay, or shall cause to be paid, promptly all charges for labor and materials and will not suffer any mechanic's, laborer's, statutory, or other lien to be filed against any of the Collateral, provided, however, that Borrower shall have the opportunity to contest any such lien as long as arrangements satisfactory to Bank are made with respect thereto.

(d) In the event of the passage of any state, federal, municipal or other governmental law, order, rule or regulation, subsequent to the date hereof, in any manner changing or modifying the laws now in force governing the taxation of mortgages or debts secured by mortgages or the manner of collecting taxes so as to affect adversely Bank, Borrower shall have a period of ten (10) days from Bank's demand to make, or reimburse Bank for, payment of same.

2.05. Insurance. Borrower will procure for, deliver to, and maintain for the benefit of, Bank during the life of this Mortgage, the general liability insurance policy required under

Section 4.4 of the Loan Agreement. The form of such policy and the company issuing it shall be reasonably acceptable to Bank, and shall name Bank as an additional insured, and shall obligate the insurer to give to Bank not less than thirty (30) days' prior written notice of cancellation. At least thirty (30) days prior to the expiration date of such policy, a renewal thereof reasonably satisfactory to Bank shall be delivered to Bank. Borrower shall deliver to Bank receipts evidencing the payment of all such insurance policies and renewals. In the event of the foreclosure of this Mortgage or any other transfer of title to the Collateral in extinguishment of the indebtedness secured hereby, all right, title and interest of Borrower in and to all insurance policies then in force shall pass to the purchaser or grantee.

If required by Bank following the occurrence of an Event of Default, Borrower will pay to Bank monthly throughout the term of the Note, an amount equal to one-twelfth (1/12) of the yearly premiums for insurance. Such amount shall be used by Bank to pay such insurance premiums when due. Such added payments shall not be, nor be deemed to be, trust funds, but may be commingled with the general funds of Bank, and no interest shall be payable in respect thereof. Upon demand of Bank, Borrower agrees to deliver to Bank such additional moneys as are necessary to make up any deficiencies in the amounts necessary to enable Bank to pay such insurance premiums when due. Upon the occurrence of an Event of Default Bank may apply to the reduction of the sums secured hereby, in such manner as Bank shall determine, any amount paid in accordance herewith remaining to Borrower's credit.

2.06. Condemnation. If all or any material portion of the Collateral shall be damaged or taken through condemnation (which term when used in this Mortgage shall include any damage or taking by any governmental authority, and any transfer by private sale in lieu thereof), either temporarily or permanently, other than a taking of a part of the Collateral which does not, in Bank's opinion, materially and adversely affect access to or the use of the Collateral, the entire Loan Obligations shall, at Bank's option, become immediately due and payable upon thirty (30) days' prior notice to Borrower. Borrower, immediately upon obtaining knowledge of the institution of any proceeding for the condemnation of the Collateral, or any portion thereof (a "Proceeding"), will notify Bank immediately of the pendency of such Proceeding. Bank shall be entitled to all compensation, awards, and other payments or relief therefor, is hereby authorized, at its option, to commence, appear in and prosecute, in its own or Borrower's name any actions or proceedings relating to any condemnation, and to settle or compromise any claim in connection therewith. So long as no Event of Default exists, Bank agrees to consult with Borrower prior to any settlement or compromise of proceeds. All such compensation, awards, damages, claims, rights of action and proceeds and the right thereto are hereby assigned by Borrower to Bank to the extent of the Loan Obligations secured by this Mortgage, and Borrower agrees to execute such further assignments of any compensation, awards, damages, claims, rights of action and proceeds as Bank may require. Bank, after deducting therefrom all its reasonable expenses, including reasonable attorney's fees, may release any moneys so received by it from a Proceeding without affecting the lien of this Mortgage or may apply the same in such manner as Bank shall determine to the reduction of the sums secured hereby (without prepayment premium or penalty), and any balance of such moneys then remaining shall be paid to Borrower.

2.08. Care of the Property.

(a) Borrower will preserve and maintain the Collateral in good condition and repair, and will not commit or suffer any waste and will not do or suffer to be done anything which will increase the risk of fire or other hazard to the Collateral or any part thereof.

(b) No buildings, fixtures, personal property, or other part of the Collateral shall be removed, demolished or substantially altered without the prior written consent of Bank. Borrower may sell or otherwise dispose of, free from the lien of this Mortgage, furniture, furnishings, equipment, tools, appliances, machinery, fixtures or appurtenances, subject to the lien hereof, which may become worn out, undesirable, obsolete, disused or unnecessary for use in the operation of the Collateral, upon replacing the same by, or substituting for the same, other furniture, furnishings, equipment, tools, appliances, machinery, fixtures, or appurtenances not necessarily of the same character, but of at least equal value to Borrower and costing not less than the amount realized from the property sold or otherwise disposed of, which shall forthwith become, without further action, subject to the lien of this Mortgage.

(c) If the Collateral or any part thereof is damaged by fire or any other cause, Borrower will give immediate written notice of the same to Bank.

(d) Bank is hereby authorized to enter upon and inspect the Collateral at any time during normal business hours, but Bank shall not unreasonably interfere with any tenant's use and possession of its demised premises.

(e) Borrower will comply promptly with all present and future laws, ordinances, rules and regulations of any governmental authority affecting the Collateral or any part thereof, including, without limitation, all laws, ordinances, rules and regulations relating to zoning, building codes, set back requirements and environmental matters, and with all present and future restrictive covenants affecting the Collateral.

(f) If all or any part of the Collateral shall be damaged by fire or other casualty, Borrower will restore promptly the Collateral to the equivalent of its original condition, regardless of whether or not there shall be any insurance proceeds therefor. If a part of the Collateral shall be physically damaged through condemnation, Borrower will restore promptly, repair or alter the remaining property in a manner satisfactory to Bank.

2.09. Further Assurances; After Acquired Property. At any time, and from time to time, upon request by Bank, Borrower will make, execute and deliver or cause to be made, executed and delivered, to Bank and, where appropriate, to cause to be recorded and/or filed and from time to time thereafter to be re-recorded and/or refiled at such time and in such offices and places as shall be deemed desirable by Bank any and all such other and further mortgages, instruments of further assurance, certificates and other documents as may, in the reasonable opinion of Bank, be necessary or desirable in order to effectuate, complete, or perfect, or to continue and preserve the obligation of Borrower under the Note and this Mortgage, and the lien of this Mortgage as a first and prior lien upon all of the Collateral, whether now owned or hereafter acquired by Borrower. Upon any failure by Borrower so to do, Bank may make, execute, and record any and all such mortgages, instruments, certificates, and documents for and in the name of Borrower and Borrower hereby irrevocably appoints Bank the agent and attorney-in-fact of Borrower so to do. The lien hereof will automatically attach, without further act, to all

after acquired property attached to and/or used in the operation of the Collateral or any part thereof.

2.10. Expenses. Borrower will pay or reimburse Bank for all reasonable attorney's fees, costs, and expenses incurred by Bank in any proceeding involving the estate of a decedent or an insolvent, affecting any of the Loan Documents, Borrower, Guarantor or the Collateral, or in any action, proceeding, or dispute of any kind in which Bank is made a party, or appears as party plaintiff or defendant, affecting any of the Loan Documents, Borrower, Guarantor or the Collateral, including but not limited to the foreclosure of this Mortgage, any condemnation action involving the Collateral, or any action to protect the security hereof; and any such amounts paid by Bank shall bear interest at the Default Rate if not paid within ten (10) days of Bank's demand therefor, shall be payable upon demand, and shall be secured by the lien of this Mortgage.

2.11. Performance by Bank of Defaults by Borrower. Subject to the giving of any applicable notice and the expiration of any applicable cure periods, if Borrower shall default in the payment of any tax, lien, assessment, or charge levied or assessed against the premises; in the payment of any utility charge, whether public or private; in the payment of insurance premium; in the procurement of insurance coverage and the delivery of the insurance policies required hereunder; or in the performance or observance of any covenant, condition, or term of this Mortgage, then Bank, at its option, may perform or observe the same, and all payments made for costs or incurred by Bank in connection therewith, shall be secured hereby and shall be, without demand, immediately repaid by Borrower to Bank with interest thereon at the Default Rate. Bank shall be the sole judge of the legality, validity and priority of any such tax, lien, assessment, charge, claim and premium; of the necessity for any such actions and of the amount necessary to be paid in satisfaction thereof. Bank is hereby empowered to enter and to authorize others to enter upon the premises or any part thereof for the purpose of performing or observing any such defaulted covenant, condition or term, without thereby becoming liable to Borrower or any person in possession holding under Borrower.

2.12. Estoppel Affidavits. Borrower within ten (10) Business Days after written request from Bank shall furnish a written statement, duly acknowledged, setting forth the unpaid principal of, and interest on, the Note and whether or not any offsets or defenses exist against such principal and interest.

2.13. Security Agreement. With respect to the apparatus, fittings, fixtures and articles of personal property referred to or described in this Mortgage, or in any way connected with the use and enjoyment of the Collateral, this Mortgage is hereby made and declared to be a security agreement encumbering each and every item of personal property included herein as a part of the Collateral, in compliance with the provisions of the Uniform Commercial Code as enacted in the state wherein the Land is situated, and Borrower hereby grants to Bank a security interest in said personal property. A financing statement or statements affecting all of said personal property aforementioned shall be appropriately filed, and Borrower hereby authorizes Bank to file a financing statement without Borrower's signature in all appropriate offices. The remedies for any violation of the covenants, terms and conditions of the security agreement contained in this Mortgage, or otherwise in respect of an Event of Default hereunder, shall be (i) as prescribed herein, or (ii) as prescribed by general law, or (iii) as prescribed by the specific statutory

consequences now or hereafter enacted and specified in said Uniform Commercial Code, all at Bank's sole election. Borrower and Bank agree that the filing of such financing statement(s) in the records normally having to do with personal property shall not in any way affect the agreements of Borrower and Bank that everything used in connection with the production of income from the Collateral or adapted for use therein or which is described or reflected in this Mortgage, is, and at all times and for all purposes and in all proceedings, both legal or equitable, shall be, regarded as part of the real estate conveyed hereby regardless of whether (a) any such item is physically attached to the Improvements, (b) serial numbers are used for the better identification of certain items capable of being thus identified in an Exhibit to this Mortgage, or (c) any such item is referred to or reflected in any such financing statement(s) so filed at any time. Similarly, the mention in any such financing statement(s) of the rights in and to (i) the proceeds of any fire and/or hazard insurance policy, or (ii) any award in eminent domain proceedings for taking or for loss of value, or (iii) Borrower's interest as lessor in any present or future lease or rights to income growing out of the use and/or occupancy of the Collateral, whether pursuant to lease or otherwise, shall not in any way alter any of the rights of Bank as determined by this instrument or affect the priority of Bank's security interest granted hereby or by any other recorded document, it being understood and agreed that such mention in such financing statement(s) is solely for the protection of Bank in the event any court shall at any time hold, with respect to the foregoing items (i), (ii), or (iii), that notice of Bank's priority of interest, to be effective against a particular class of persons, must be filed in the Uniform Commercial Code records. This Mortgage may be filed as a financing statement in any office where Bank deems such filing necessary or desirable, and Borrower will promptly upon demand reimburse Bank for the costs therefor.

2.14. Compliance with Applicable Environmental Law. Borrower represents and warrants to Bank that, to the best of Borrower's knowledge, neither the Collateral nor Borrower is in violation of or subject to any existing, pending, or, threatened investigation or inquiry by any governmental authority or any remedial obligations under any Applicable Environmental Laws. Borrower further represents and warrants that there are no facts, conditions or circumstances known to it which could result in any such investigation or inquiry if such facts, conditions and circumstances, if any, were fully disclosed to the applicable governmental authority, and Borrower will promptly notify Bank if Borrower becomes aware of any such facts, conditions or circumstances or any such investigation or inquiry. Borrower further represents and warrants that it has not obtained and is not required to obtain any permits, licenses, or similar authorizations to operate or use any buildings, improvements, fixtures or equipment in connection with the Collateral by reason of any Applicable Environmental Laws. Borrower further represents and warrants that, to the best of Borrower's knowledge, and except as otherwise set forth in the Environmental Site Assessment of the Collateral delivered to Bank in connection with the Loan, no oil, toxic or hazardous substances or solid wastes have been disposed of or released on the Land and Borrower agrees that it will not in its use of the Land dispose of or release oil, toxic or hazardous substances or solid wastes on the Land (except for amounts generated and disposed of in accordance with Applicable Environmental Laws). Borrower agrees to notify Bank in the event that any governmental agency or other entity notifies Borrower that it or the Land may not be in compliance with any Applicable Environmental Law. In such event, Borrower agrees to permit Bank to have access to the Land at all reasonable times in order to conduct, at Borrower's expense, any tests which Bank deems are reasonably necessary to ensure that Borrower and the Collateral are in compliance with all

Applicable Environmental Laws, provided that Bank's exercise of such right shall not materially and adversely interfere with the use of the Improvements. Borrower and Guarantor have executed and delivered to Bank the Environmental Indemnity Agreement with respect to environmental matters, the terms and conditions of which are incorporated herein by this reference, and Borrower covenants and agrees to comply with all of its obligations set forth therein.

ARTICLE III

EVENTS OF DEFAULT; REMEDIES

3.01. Event of Default. The term "Event of Default," wherever used in this Mortgage, shall mean any one or more of the following events:

(a) Nonperformance of Covenants. Failure of Borrower to comply with the terms and conditions of any provision hereof (other than a Monetary Default as defined in the Loan Agreement) within thirty (30) days of Bank's written notice to Borrower of such Default; provided, however, that if such Default is of the nature that it reasonably cannot be cured within said thirty (30) days, such cure period shall be extended for an additional period necessary to complete said cure (but in no event longer than an additional sixty (60) days), provided that (i) Borrower shall commence to cure such Default within the initial thirty (30) days, and (ii) thereafter shall diligently and in good faith to prosecute said cure to completion.

(c) Sale or Transfer of Collateral. Other than a sale, conveyance, lease, mortgage or other alienation of the Collateral wherein the Loan Obligations and Lot 6 Loan Obligations will be repaid in full, the sale, conveyance, lease (other than tenant leases permitted under the Loan Agreement), mortgage, or other alienation of the Collateral.

(d) Liens or Encumbrances. Unless the written consent of Bank is first obtained, which consent may be granted or refused by Bank in its sole discretion, the creation or suffering to exist by Borrower of any lien or encumbrance on the Collateral, other than (i) the lien of this Mortgage, (ii) liens for ad valorem taxes and assessments not then delinquent, (iii) liens or encumbrances which are imposed without the consent or acquiescence of Borrower and are bonded off or otherwise removed from the Collateral within thirty (30) days after Borrower becomes aware that such a lien or encumbrance has been filed against all or a part of the Collateral (provided that Borrower shall have the right to contest such liens as provided in Section 2.04 hereof), (iv) Permitted Encumbrances, or (vii) Permitted Liens; provided, however, that nothing herein shall be deemed to prohibit Borrower from entering into any Bank Swap Document or securing its obligations thereunder with the Property or any other collateral for the Loan.

(e) Defaults Under Other Loan Documents. The occurrence of any Event of Default under any of the other Loan Documents which is not cured within applicable curative periods specified therein, which such Events of Default are incorporated herein by reference; or

3.02. Acceleration of Maturity. If an Event of Default shall have occurred and then be continuing, then the entire principal amount of the indebtedness secured hereby (but not any Loan Obligations under any Bank Swap Document, which shall be due in accordance with and

governed by the provisions of said Bank Swap Document) with interest accrued thereon shall, at the option of Bank, become due and payable without notice or demand, time being of the essence; and any omission on the part of Bank to exercise such option when entitled to do so shall not be considered as a waiver of such right.

3.03. Right to Enter and Take Possession.

(a) If an Event of Default shall have occurred and be continuing, upon demand of Bank, Borrower shall forthwith surrender to Bank the actual possession of the Collateral and, if and to the extent permitted by law, Bank itself, or by such officers or agents as it may appoint, may enter and take possession of all or any part of the Collateral without the appointment of a receiver or an application therefor, and, Bank may exclude Borrower and its agents and employees wholly therefrom, and take possession of the books, papers and accounts of Borrower.

(b) If Borrower shall for any reason fail to surrender or deliver the Collateral or any part thereof after such demand by Bank, Bank may obtain a judgment or decree conferring upon Bank the right to immediate possession or requiring Borrower to deliver immediate possession of the Collateral to Bank. Borrower will pay to Bank, upon demand, all expenses of obtaining such judgment or decree, including reasonable compensation for Bank's attorneys and agents, and all such expenses and compensation shall, until paid, become part of the Loan Obligations and shall be secured by this Mortgage.

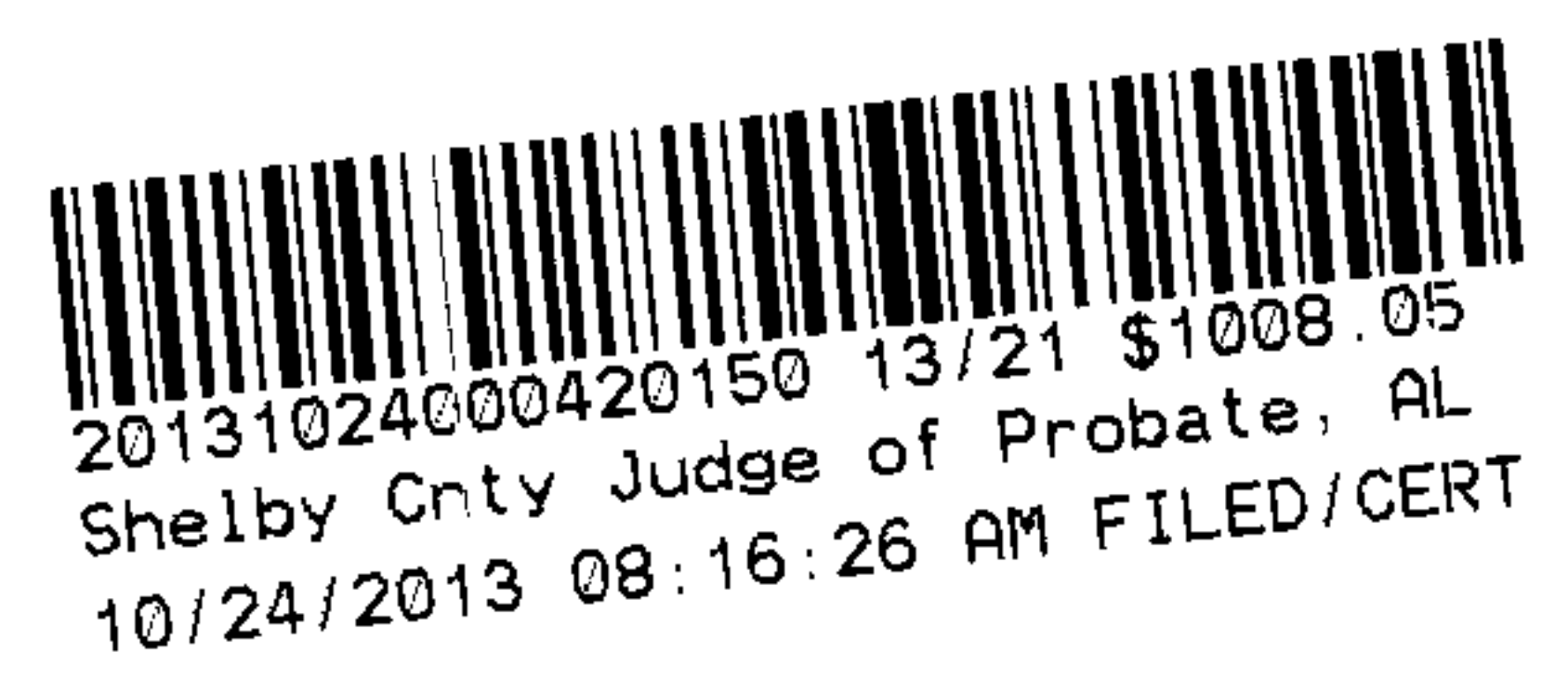
(c) Upon every such entering upon or taking of possession, Bank may hold, store, use, operate, manage and control the Collateral and conduct the business thereof, and, from time to time (i) make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon and purchase or otherwise acquire additional fixtures, personalty and other property; (ii) insure or keep the Collateral insured; (iii) manage and operate the Collateral and exercise all of the rights and powers of Borrower to the same extent as Borrower could in its own name or otherwise act with respect to the same; and (iv) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted to Bank, all as Bank from time to time may determine to be in its best interest. Bank may collect and receive all the rents, issues, profits and revenues from the Collateral, including those past due as well as those accruing thereafter, and, after deducting (A) all expenses of taking, holding, managing and operating the Collateral (including compensation for the services of all persons employed for such purposes); (B) the cost of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements, purchases and acquisitions; (C) the cost of such insurance; (D) such taxes, assessments and other similar charges as Bank may at its option pay; (E) other proper charges upon the Collateral or any part thereof; and (F) the reasonable compensation, expenses and disbursements of the attorneys and agents of Bank, Bank shall apply the remainder of the monies and proceeds so received by Bank, first, to the payment of accrued interest; second, to the payment of deposits required in Section 2.03 and/or 2.04 hereof and to other sums required to be paid hereunder; and third, to the payment of overdue installments of principal. Anything in this Section 3.03 to the contrary notwithstanding, Bank shall not be obligated to discharge or perform the duties of a landlord to any tenant or incur any liability as a result of any exercise by Bank of its rights under this Mortgage, and Bank shall be liable to account only for the rents, incomes, issues and profits

actually received by Bank. Bank agrees to use commercially reasonable good faith efforts to avoid waste of the Collateral during any period of time during which Bank is in possession of the Collateral.

(d) Whenever all such interest, deposits and principal installments and other sums due under any of the terms, covenants, conditions and agreements of this Mortgage shall have been paid and all Events of Default shall have been cured, Bank shall surrender possession of the Collateral to Borrower and its successors or assigns. The same right of taking possession, however, shall exist if any subsequent Event of Default shall occur and be continuing.

3.04. Performance by Bank. Upon the occurrence and during the continuance of an Event of Default in the payment, performance or observance of any term, covenant or condition of this Mortgage, Bank may, at its option, pay, perform or observe the same, and all payments made or costs or expenses incurred by Bank in connection therewith, with interest thereon at the Default Rate, shall be secured hereby and shall be, without demand, immediately repaid by Borrower to Bank. Bank shall be the sole judge of the necessity for any such actions and of the amounts to be paid. Bank is hereby empowered, to enter and to authorize others to enter upon the Collateral or any part thereof for the purpose of performing or observing any such defaulted term, covenant or condition without thereby becoming liable to Borrower or any person in possession holding under Borrower. Notwithstanding anything to the contrary herein, Bank shall have no obligation, explicit or implied, to pay, perform, or observe any term, covenant, or condition.

3.05. Receiver. If any Event of Default shall have occurred and be continuing, Bank, upon application to a court of competent jurisdiction, shall be entitled as a matter of strict right, without notice and without regard to the occupancy or value of any security for the Loan Obligations or the solvency of any party bound for its payment, to the appointment of a receiver to take possession of and to operate the Collateral and to collect and apply the rents, issues, profits and revenues thereof. The receiver shall have all of the rights and powers permitted under the laws of the state wherein the Land is situated. Borrower will pay unto Bank upon demand all reasonable expenses, including receiver's fees, reasonable attorney's fees, costs and agent's compensation, incurred pursuant to the provisions of this Section 3.05, and upon Borrower's failure to pay the same, any such amounts shall be added to the Loan Obligations and shall be secured by this Mortgage.



3.06. Bank's Power of Enforcement and Power of Sale.

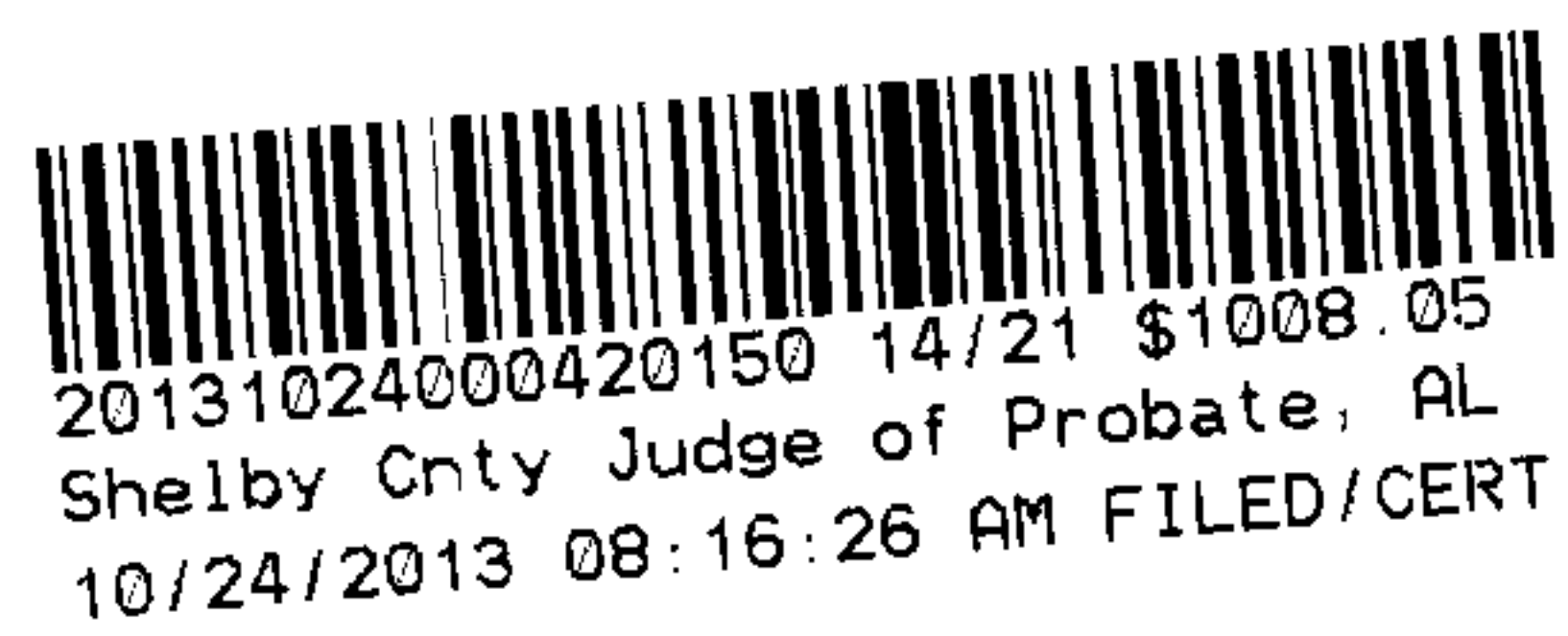
(a) If an Event of Default shall have occurred and be continuing, Bank may, either with or without entry or taking possession as hereinabove provided or otherwise, proceed by suit or suits at law or in equity or any other appropriate proceeding or remedy (i) to enforce performance of this Mortgage or any right, power or remedy hereunder, (ii) to foreclose this Mortgage and to sell the Collateral, as an entirety or in separate lots or parcels, as provided by applicable law, and (iii) to pursue any other remedy available to it, all as Bank shall deem most effectual for such purposes. Bank shall take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, as Bank may determine.

(b) If an Event of Default shall have occurred and be continuing, Bank may sell all or any portion of the Collateral (including all or any portion of the personal and/or real property) at public outcry to the highest bidder for cash in front of the Court House door in the county where the Land is located, either in person or by auctioneer, after having first given notice of the time, place and terms of sale by publication once a week for three (3) successive weeks prior to said sale in some newspaper published in said county, and, upon payment of the purchase money, Bank or any person conducting the sale for Bank is authorized to execute to the purchaser at said sale a foreclosure deed to the Collateral so purchased. Bank may bid at said sale and purchase said Collateral, or any part thereof, if the highest bidder therefor. At the foreclosure sale, the Collateral may be offered for sale and sold as a whole without first offering it in any other manner or may be offered for sale and sold in any other manner Bank may elect. In the event a portion but not all of the Collateral is sold as provided herein, whether in one or more sale(s), Bank shall be entitled to hold subsequent sale(s) of the remainder of the Collateral unless and until all Collateral is sold.

3.07. Purchase by Bank. Upon any foreclosure sale or sale of all or any portion of the Collateral under the power of sale herein granted, Bank may bid for and purchase the Collateral and shall be entitled to apply all or any part of the Loan Obligations as a credit to the purchase price.

3.08. Application of Proceeds of Sale. In the event of a foreclosure or other sale of all or any portion of the Collateral, the proceeds of said sale shall be applied, first, to the reasonable expenses of such sale and of all proceedings in connection therewith, including reasonable attorneys' fees (attorneys fees and expenses shall become absolutely due and payable whenever foreclosure is commenced); then to insurance premiums, liens, assessments, taxes and charges including utility charges advanced by Bank hereunder, and interest thereon; then to payment of the Loan Obligations and accrued interest thereon, in such order of priority as Bank shall determine, in its sole discretion; and finally the remainder, if any, shall be paid to Borrower, or to the person or entity lawfully entitled thereto.

3.09. Borrower as Tenant Holding Over. In the event of any such foreclosure sale or sale under the powers herein granted Borrower shall be deemed tenants holding over and shall forthwith deliver possession to the purchaser or purchasers at such sale or be summarily dispossessed according to provisions of law applicable to tenants holding over.



3.10. Waiver of Appraisement, Valuation, Etc. Borrower agrees, to the fullest extent permitted by law, that upon the occurrence and during the continuation of an Event of Default, neither Borrower nor anyone claiming through or under Borrower will set up, claim or seek to take advantage of any appraisement, valuation, stay, extension, exemption or laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, or the absolute sale of the Collateral, or the delivery of possession thereof immediately after such sale to the purchaser at such sale, and Borrower, for itself and all who may at any time claim through or under Borrower, hereby waives to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the assets subject to the security interest of this Mortgage marshaled upon any foreclosure or sale under the power herein granted.


Nothing herein shall be deemed to prohibit Borrower from obtaining at Borrower's sole cost and expense and Borrower shall be entitled to obtain at Borrower's sole cost and expense an appraisal of the Collateral during any period of time during which Borrower and/or Bank (following the exercise of Bank's rights and remedies hereunder) owns the Collateral.

3.11. Waiver of Homestead. Borrower hereby waives and renounces all homestead and exemption rights provided for by the Constitution and the laws of the United States and of any state, in and to the Collateral as against the collection of the Loan Obligations, or any part thereof.

3.12. Discontinuance of Proceedings. In case Bank shall have proceeded to enforce any right, power or remedy under this Mortgage by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to Bank, then in every such case, Borrower and Bank shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Bank shall continue as if no such proceedings had occurred.

3.13. Remedies Not Exclusive. Bank shall be entitled to exercise all rights and powers under this Mortgage or under any other of the Loan Documents or other agreement or under any laws now or hereafter in force, notwithstanding that some or all of the Loan Obligations may now or hereafter be otherwise secured, whether by mortgages, deeds of trust, deeds to secure debt, pledges, liens, assignments or otherwise. Neither the acceptance of this Mortgage nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Bank's right to realize upon or enforce any other security now or hereafter held by Bank, it being agreed that Bank shall be entitled to enforce this Mortgage and any other security now or hereafter held by Bank in such order and manner as they or either of them may in their absolute discretion determine. No right or remedy herein conferred upon or reserved to Bank is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any of the Loan Documents to Bank or to which it otherwise may be entitled, may be exercised concurrently or independently, from time to time and as often as may be deemed expedient by Bank.

3.14. No Waiver.


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(a) No delay or omission by Bank or by any holder of the Note to exercise any right, power or remedy accruing upon any default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such default, or acquiescence therein, and every right, power and remedy given by this Mortgage to Bank may be exercised from time to time and as often as may be deemed expedient by Bank. No consent or waiver expressed or implied by Bank to or of any breach or default by Borrower in the performance of the obligations of Borrower hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance of the same or any other obligations of Borrower hereunder. Failure on the part of Bank to complain of any act or failure to act or failure to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by Bank of its rights hereunder or impair any rights, powers or remedies of Bank hereunder.

(b) No act or omission by Bank shall release, discharge, modify, change or otherwise affect the original liability under or this Mortgage or any other obligation of Borrower or any subsequent purchaser of the Collateral or any part thereof, or any maker, cosigner, endorser, surety or guarantor, nor preclude Bank from exercising any right, power or privilege herein granted or intended to be granted in the event of any default then existing or of any subsequent default, nor alter the lien of this Mortgage, except as expressly provided in an instrument or instruments executed by Bank. Without limiting the generality of the foregoing, Bank may (i) grant forbearance or an extension of time for the payment of all or any portion of the Loan Obligations; (ii) take other or additional security for the payment of any of the Loan Obligations; (iii) waive or fail to exercise any right granted herein or in the Note; (iv) release any part of the Collateral from the security interest or lien of this Mortgage or otherwise change any of the terms, covenants, conditions or agreements of the Note or this Mortgage; (v) release any other collateral securing the Loan Obligations; (vi) consent to the filing of any map, plat or replat affecting the Collateral; (vii) consent to the granting of any easement or other right affecting the Collateral; (viii) make or consent to any agreement subordinating the security title or lien hereof, or (ix) take or omit to take any action whatsoever with respect to the Note, this Mortgage, the Collateral or any document or instrument evidencing, securing or in any way related to the Loan Obligations, all without releasing, discharging, modifying, changing or affecting any such liability, or precluding Bank from exercising any such right, power or privilege or affecting the lien of this Mortgage. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Collateral, Bank, without notice, is hereby authorized and empowered to deal with any such vendee or transferee with reference to the Collateral or the Loan Obligations, or with reference to any of the terms, covenants, conditions or agreements hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any liabilities, obligations or undertakings.

3.15. Suits to Protect the Collateral. Bank shall have power to institute and maintain such suits and proceedings as it may deem expedient (a) to prevent any impairment of the Collateral by any acts which may be unlawful or constitute an Event of Default under this Mortgage; (b) to preserve or protect its interest in the Collateral and in the rents, issues, profits and revenues arising therefrom; and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would materially impair the security hereunder or be prejudicial to the interest of Bank.

3.16. Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Borrower, their creditors or its property, Bank, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Bank allowed in such proceedings for the entire amount due and payable by Borrower under this Mortgage at the date of the institution of such proceedings and for any additional amount which may become due and payable by Borrower hereunder after such date.

3.17. Tradenames, etc. During the exercise of any right in the Collateral pursuant to this Article III, Bank shall not be liable to Borrower for any inadvertent violation or infringement upon any tradename, trademark, service mark, or logo relating to the Collateral, and Borrower waives any claim for any such violation or infringement that occurs prior to notice of such infringement by Borrower to Bank.

ARTICLE IV MISCELLANEOUS

4.01. Successors and Assigns. This Mortgage shall inure to the benefit of and be binding upon Borrower and Bank and their respective heirs, executors, legal representatives, successors, successors-in-title, and assigns. Whenever a reference is made in this Mortgage to "Borrower" or "Bank," such reference shall be deemed to include a reference to the heirs, executors, legal representatives, successors, successors-in-title and assigns of Borrower or Bank, as the case may be, but shall not imply any permission to make or permit any transfer which is otherwise prohibited.

4.02. Terminology. All personal pronouns used in this Mortgage, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles and Articles are for convenience only and neither limit nor amplify the provisions of this Mortgage, and all references herein to Articles, Sections or subparagraphs shall refer to the corresponding Articles, Sections or subparagraphs of this Mortgage unless specific reference is made to Articles, Sections or subparagraphs of another document or instrument.

4.03. Severability; Complete Agreement. If any provisions of this Mortgage or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Mortgage and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law. This Mortgage constitutes the full and complete agreement of the parties and supersedes all prior negotiations, correspondence, and memoranda relating to the subject matter hereof, and this Mortgage may not be amended except by a writing signed by the parties hereto.

4.04. Notices. All notices and other communications provided for hereunder shall be in writing and be given in accordance with the applicable provisions of the Loan Agreement.

4.05. Assignment. This Mortgage may be assigned by Bank, and any such assignment shall operate to vest in the assignee all rights and powers herein conferred upon and granted to Bank.


4.06. Termination. Provided that no Event of Default then exists, Bank agrees to release this Mortgage upon payment and performance in full of all Loan Obligations applicable to the Loan and other obligations secured hereby and termination of the right to further advances of the Loans (to the extent not fully advanced).

4.07. Time of the Essence. Time is of the essence with respect to each and every covenant, agreement and obligation of Borrower under this Mortgage and any and all other instruments now or hereafter evidencing, securing or otherwise relating to the Loan Obligations.

4.08. Controlling Law. THIS MORTGAGE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ALABAMA. BORROWER CONSENTS THAT ANY LEGAL ACTION OR PROCEEDING ARISING HEREUNDER MAY BE BROUGHT IN THE CIRCUIT COURT OF THE STATE OF ALABAMA, JEFFERSON COUNTY, ALABAMA OR THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA AND ASSENTS AND SUBMITS TO THE PERSONAL JURISDICTION OF ANY SUCH COURT IN ANY ACTION OR PROCEEDING INVOLVING THIS MORTGAGE. NOTHING HEREIN SHALL LIMIT THE JURISDICTION OF ANY OTHER COURT.

4.10. Waiver of Jury Trial. BORROWER HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SETOFF, DEMAND, ACTION OR CAUSE OF ACTION (I) ARISING OUT OF OR IN ANY WAY PERTAINING OR RELATED TO THIS MORTGAGE OR THE LOAN, OR (II) IN ANY WAY CONNECTED WITH OR PERTAINING OR RELATED TO OR INCIDENTAL TO ANY DEALINGS OF BANK AND BORROWER WITH RESPECT TO THIS MORTGAGE, THE LOAN DOCUMENTS, OR THE LOAN, OR IN CONNECTION WITH THE TRANSACTIONS RELATED HERETO OR CONTEMPLATED HEREBY OR THE EXERCISE OF ANY PARTY'S RIGHTS AND REMEDIES HEREUNDER, OR THE CONDUCT OF THE RELATIONSHIP OF THE PARTIES HERETO, IN ALL OF THE FOREGOING CASES WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. BORROWER AGREES THAT BANK MAY FILE A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED AGREEMENT OF BORROWER IRREVOCABLY TO WAIVE THEIR RIGHTS TO TRIAL BY JURY, AND THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY DISPUTE OR CONTROVERSY WHATSOEVER BETWEEN BORROWER AND BANK SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

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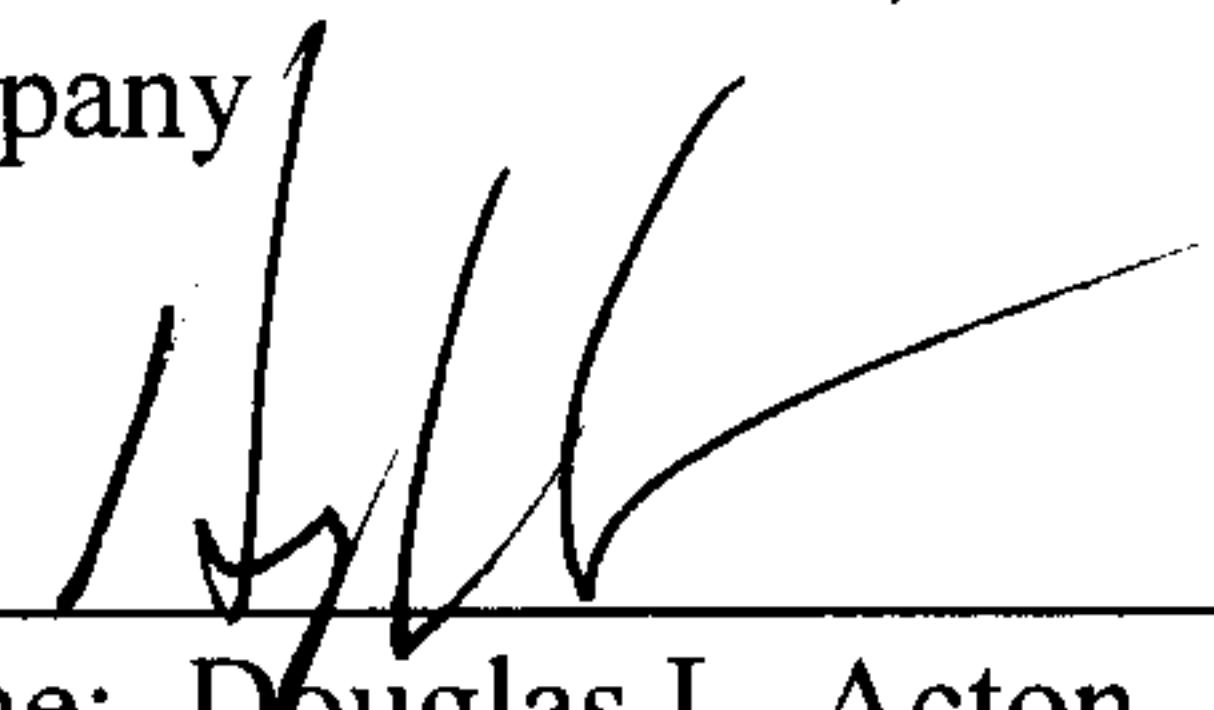

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[SIGNATURE PAGE TO MORTGAGE AND SECURITY AGREEMENT]

IN WITNESS WHEREOF, Borrower has caused this Mortgage to be properly executed as of the date of the notarial acknowledgement below to be effective as of the day and year first above written.

BORROWER:

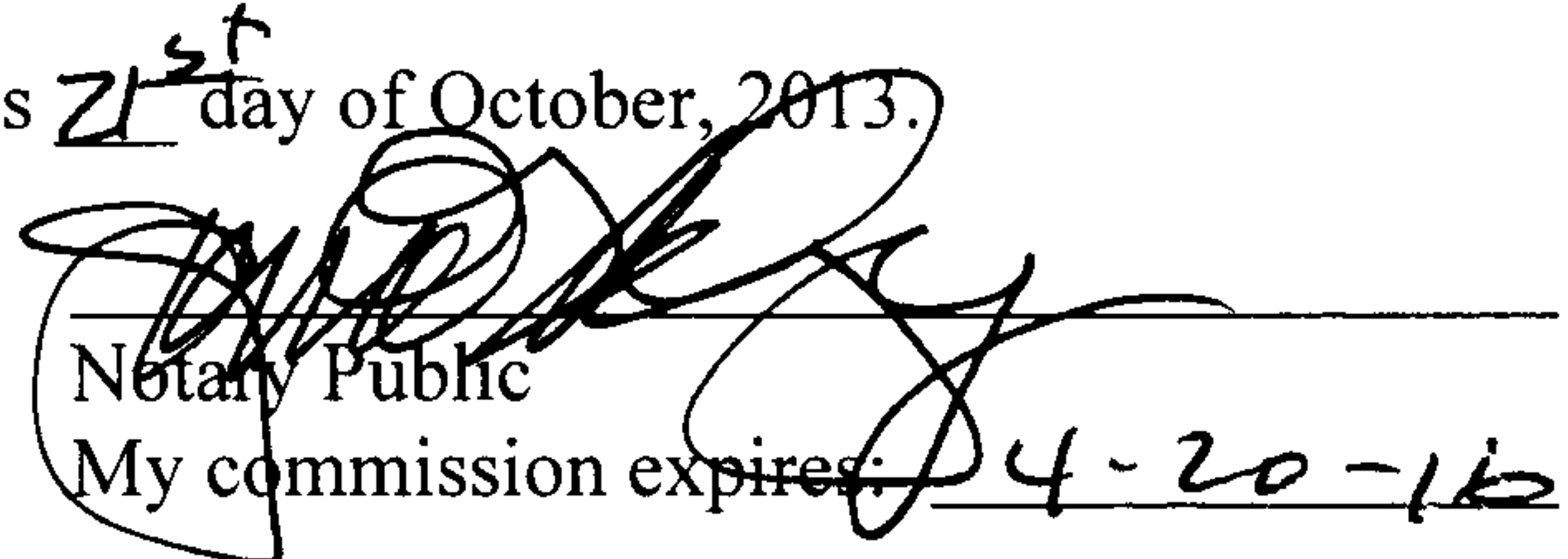
ACTON INVESTMENTS, LLC, an Alabama limited liability company

By: 
Printed Name: Douglas L. Acton
Its: Manager

STATE OF ALABAMA)
JeffersonCOUNTY)

I, the undersigned, hereby certify that Douglas L. Acton, whose name as Manager of **ACTON INVESTMENTS, LLC**, an Alabama limited liability company, is signed to the foregoing Mortgage, and who is known to me, acknowledged before me on this day that, being informed of the contents of the Mortgage, he/she, as such officer, executed the same voluntarily and with full authority for and as the act of said limited liability company.

Given under my hand and seal of office this 21st day of October, 2013.


Notary Public
My commission expires: 4-20-16



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EXHIBIT A

LEGAL DESCRIPTION

Lots 7 and 8, according to the Survey of Riverchase Trade Center, as recorded in Map Book 12,
Page 24, in the Probate Office of Shelby County, Alabama

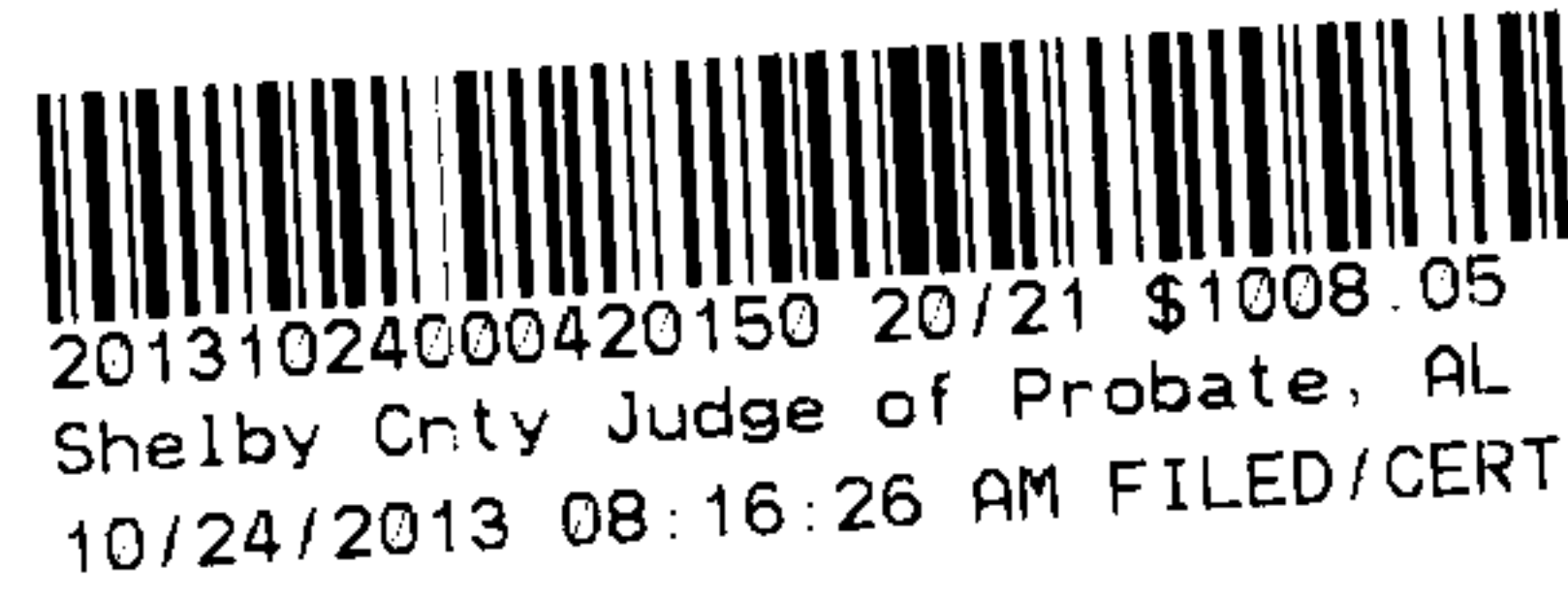


EXHIBIT B

PERMITTED ENCUMBRANCES

1. All taxes for the year 2013 and subsequent years, not yet due and payable.
2. Right of Way granted to Alabama Power Company by instrument(s) recorded in Instrument #1994-492.
3. Restrictions appearing of record in Real Volume 192, Page 886.
4. Title to minerals as reserved in Deed Book 24, Page 35, and in Deed Book 127, Page 140, with mining rights and privileges belonging thereto.
5. Rights claimed by Alabama Power Company under the following transmission line permits: Deed Book 101, Page 500; Deed Book 101, Page 569; Deed Book 194, Page 58; Deed Book 228, Page 197; Deed Book 164, page 177; Deed Book 167, Page 117; Deed Book 111, Page 153; Deed Book 129, Page 38; Deed Book 240, Page 429; Deed Book 251, Page 514 and Deed Book 28, Page 759, all in Probate Office of Shelby County, Alabama.
6. Rights claimed under the gas line easement to Alabama Gas Corporation recorded in Deed Book 215, Page 47, in the Probate Office of Shelby County, Alabama.
7. Rights claimed under the public road right of way deed to Shelby County recorded in Deed Book 102, Page 441, and under condemnation proceedings recorded in Probate Minutes Book 7, Page 38 and 46, in the Probate Office of Shelby County, Alabama.
8. Rights of interested parties under any outstanding leases.
9. Easements and building line as shown on recorded map.
10. Hazardous Substances Certificate and Indemnity Agreement as recorded in Instrument Number 20030205000069800.
11. Reciprocal Easement Agreement as recorded in Real Volume 356, Page 319 in the Probate Office of Shelby County, Alabama.
12. Easement conveyed to Riverchase Community Church as recorded in Instrument #1998-01784 in Probate Office of Shelby County, Alabama.
13. Assignment of Rents and Leases to Regions Bank recorded in Instrument #20080528000216490, Instrument #20070222000082950 and Instrument #20080520000205800.



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