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03/12/2018 12:28:44 PM  
MORT 1/29

**THIS INSTRUMENT PREPARED BY  
~~AND AFTER RECORDING RETURN TO~~**

Reed Smith LLP  
10 S. Wacker Drive  
Suite 4000  
Chicago, IL 60606  
Attn: Joel R. Schaidler, Esq.

**THIS MORTGAGE IS FILED AS AND SHALL CONSTITUTE A FIXTURE FILING IN  
ACCORDANCE WITH THE PROVISIONS OF SECTION 7-9A-502 OF THE CODE OF  
ALABAMA AND SHOULD ALSO BE INDEXED IN THE UCC RECORDS.**

**MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT  
AND FIXTURE FILING**

PROFESSIONAL RESOURCE DEVELOPMENT, INC.  
9100 Highway 119, Alabaster, AL 35007

THIS Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing (this "**Mortgage Instrument**") is dated as of March 7<sup>th</sup>, 2018 by PROFESSIONAL RESOURCE DEVELOPMENT, INC., an Illinois corporation ("**Borrower**"), as mortgagor, whose principal place of business is at 1200 Network Center Drive, Suite 2, Effingham, Illinois 62401 in favor of WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking institution, in such capacity as Administrative Agent for itself and all other Lenders that become party to the Credit Agreement (defined below) as mortgagee ("**Agent**"), with an address at 130 W. Jefferson Street, Suite 204, Naperville, Illinois 60540.

RECITALS:

A. Borrower is the owner of a certain tract or parcel of land described in **Exhibit A** attached hereto and made a part hereof, together with the improvements now or hereafter erected thereon.

B. Borrower, Agent and the Lenders have entered into that certain Credit Agreement, dated as of November 28, 2017 (as amended, restated or otherwise modified from time to time, the "**Credit Agreement**"), pursuant to which the Lenders have agreed to make term loans to Borrower in the aggregate amount not to exceed \$30,000,000 (which amount may be increased by \$15,000,000 upon satisfaction of certain conditions precedent set forth in the Credit Agreement) (the "**Loans**"), which Loans are evidenced by Term Loan Notes, dated as of the November 28, 2017, in the aggregate principal amount of \$30,000,000 (which amount may be increased by \$15,000,000 upon satisfaction of certain conditions precedent set forth in the Credit Agreement), bearing interest at a variable rate and due and payable in accordance

9100 Highway 119, Alabaster, AL

When Recorded Return To: Henry (SF)  
First American Title Insurance Company  
National Commercial Services  
121 S. 8th Street, Suite 1250  
Minneapolis, MN 55402  
File No: NCS 885178-1-MPLS

US\_ACTIVE-138578836.3

with the provisions of the Credit Agreement made by Borrower and payable to the order of each Lender (as each of the same may be amended, supplemented, modified, extended, renewed or replaced from time to time, the "Notes").

C. Borrower has committed to Agent to grant a conveyance and/or mortgage lien upon the Property (defined below) to secure payment and performance of all Obligations (defined below).

**NOW, THEREFORE,** in consideration of the Lenders' agreement to make certain proceeds of the Notes available to Borrower in accordance with the provisions of the Credit Agreement and for other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged by Borrower, for the purpose of securing the payment and performance of the Obligations (defined below) the parties agree as follows:

**I. DEFINITIONS.** As used in this Mortgage Instrument:

(1) "Award": is defined in Section III.7.

(2) "Cost of Restoration": is defined in Section III. 8(b).

(3) "Costs": means any and all reasonable out-of-pocket costs and expenses incurred by Agent at any time, including reasonable out-of-pocket costs and expenses of attorneys, in connection with: (i) the preparation, negotiation, execution and administration of this Mortgage Instrument and the other Loan Documents; (ii) the preparation, negotiation and execution of any Modification of this Mortgage Instrument or any other Loan Document; (iii) the custody, preservation, use, operation of, sale of, collection from or other realization upon the Collateral; (iv) the exercise or enforcement of any of the rights of Agent under this Mortgage Instrument or under any other Loan Document; (v) any failure by Borrower to perform or observe any of the provisions of this Mortgage Instrument or any other Loan Document; (vi) any litigation, contest, dispute, suit, proceeding or action in any way relating to this Mortgage Instrument, the Loan Documents or the transactions contemplated herein or therein; (vii) any evaluation, appraisal or inspection of the Collateral (including without limitation, the Property) obtained by Agent in accordance with the provisions of this Mortgage Instrument or any other Loan Document; (viii) the payment or performance by Agent of any liabilities or obligations of Borrower to third parties under the terms of this Mortgage Instrument, including, without limitation, the performance of any obligation of Borrower under the terms of any Loan Document; (ix) amounts reasonably necessary to protect the lien or priority of the lien or any security interest created by or granted pursuant to the terms of this Mortgage Instrument, or any other Loan Document on the Collateral or any part thereof or permitted under the Security Agreement and the Mortgages, or to pay, settle, compromise or contest any lien or claim of lien against the Collateral or any part thereof or permitted under the Security Agreement and any Mortgages, including any amount paid with respect to any charge, imposition or other taxes and assessments, whether or not a lien upon the Collateral; and (x) the payment or performance of any of the Obligations.

(4) **"Guaranty Equivalent"**: means, without duplication, any agreement, document or instrument pursuant to which any Guarantor directly or indirectly guarantees or in effect guarantees any Indebtedness (the **"primary obligation"**) of any other person (the **"primary obligor"**) including any obligation of the Guarantor, whether or not contingent, direct or indirect, for the benefit of another Person: (i) to purchase or assume, or to supply funds for the payment, purchase or satisfaction of, any primary obligation; (ii) to make any loans, advance, capital contribution or other investment in the primary obligor; (iii) to purchase or lease any property or services for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation; (iv) to maintain the solvency of the primary obligor; (v) to enable the primary obligor to meet any other financial condition; (vi) to enable the primary obligor to satisfy any primary obligation; (vii) to assure the holder of an obligation against loss; (viii) to purchase or lease property or services from the primary obligor regardless of the non-delivery of or failure to furnish such property or services; or (ix) in respect of any other transaction the effect of which is to assure the payment or performance (or payment of damages or other remedy in the event of nonpayment or nonperformance) of any obligation, provided that the term Guaranty Equivalent shall not include endorsements of instruments in the ordinary course of business.

(5) **"Hedging Obligations"**: means any and all obligations of Borrower, whether absolute or contingent and howsoever created, arising, evidenced or acquired (including all renewals, extensions, and modifications thereof and substitutions therefor), under (i) any and all Secured Hedge Agreements, and (ii) any and all agreements relating to cancellations, buy-backs, reversals, terminations or assignments of any of the foregoing.

(6) **"Indebtedness"**: means, with respect to any Person, at a particular time, without duplication (i) indebtedness for borrowed money or for the deferred purchase price of property or services in respect of which such Person is liable (other than current trade payables incurred in the ordinary course of such Person's business), contingently or otherwise, as obligor, guarantor or otherwise; (ii) obligations under capital leases; (iii) all obligations evidenced by notes, bonds, debentures or other similar instruments; (iv) Guaranty Equivalents; (v) all obligations, contingent and non-contingent, of such Person to reimburse any other Person in respect of amounts paid under a letter of credit, surety bond or similar instrument; (vi) all equity securities of such Person subject to repurchase or redemption otherwise than at the sole option of such Person; (vii) all obligations secured by a Lien on any asset of such Person, whether or not such obligation is otherwise an obligation of such Person; (viii) earnout payments and similar payment obligations; and (ix) Hedging Obligations.

(7) **"Loan Documents"**: means, collectively the Credit Agreement, the Notes, this Mortgage Instrument, every other mortgage instrument, the Assignments of Leases and Rents, every other assignment of leases and rents, the Security Agreement, the Subordination Agreement, the Guaranty, the Environmental Indemnity Agreement, each Subordination, Non-Disturbance and Attornment Agreement, the insurance certificates, the Notices of Borrowing, the incumbency certificate, the closing certificate, the Compliance Certificates, any Secured Hedge Agreement relating to the Loans to which Agent or any Lender is a



counterparty, acknowledgments, rent direction letter, estoppel certificates and all mortgages, assignments, instruments, documents, certificates, agreements and other written matter heretofore, now and/or from time to time hereafter executed by and/or on behalf of Borrower and delivered to Agent or any Lender, or issued by Agent or any Lender upon the application and/or other request of, and on behalf of, Borrower in any way relating to, evidencing or securing the Loans, and all Modifications thereto and thereof.

(8) **"Material Taking"**: any existing or threatened taking by eminent domain, condemnation or similar proceeding by any Governmental Authority of all or a material part of the Property or which taking would materially and adversely affect intended use of the Property.

(9) **"Obligations"**: means, collectively, all Secured Obligations (including, without limitation, all debts, claims, indebtedness, Hedging Obligations, Costs, and Guaranty Equivalents and interest at the Applicable Rate and the Default Rate, as applicable to the extent constituting Secured Obligations) whether primary, secondary, direct, contingent, fixed or otherwise, heretofore, now and/or from time to time hereafter owing, due or payable, however arising, evidenced, created, incurred, acquired or owing, whether now contemplated or hereafter arising. Without limiting the foregoing, Obligations shall include any and all additional advances made by Agent and the Lenders to protect or preserve the Property or the security interest created hereby on the Property, or for taxes, assessments or insurance premiums as hereinafter provided, or for performance of any of Borrower's Obligations hereunder or for any other purpose provided herein (whether or not the original Borrower remains the owner of the Property at the time of such advances).

(10) **"Property"** means, collectively,

- (a) All of Borrower's estate in the premises legally described in **Exhibit A**, together with all of the easements, rights of way, privileges, liberties, hereditaments, gores, streets, alleys, passages, ways, waters, watercourses, oil rights, gas rights, mineral rights and all other rights and appurtenances thereunto belonging or appertaining, and all of Borrower's estate, right, title, interest, claim and demand therein and in the public streets and ways adjacent thereto, either in law or in equity (the **"Land"**);
- (b) All the buildings, structures and improvements of every kind and description now or hereafter erected or placed on the Land, and all facilities, fixtures, machinery, apparatus, appliances, installations, machinery and equipment, including all building materials to be incorporated into such buildings, all electrical equipment necessary for the operation of such buildings and heating, air conditioning and plumbing equipment now or hereafter attached to, located in or used in connection with those buildings, structures or other improvements (the **"Improvements"**);

- (c) All rents, income, issues and profits arising or issuing from the Land and the Improvements and advantages and claims against guarantors of any Leases (defined below) (the "**Rents**") including the Rents arising or issuing from all leases, licenses, subleases or any other use or occupancy agreement now or hereafter entered into covering all or any part of the Land and Improvements (the "**Leases**"), all of which Leases and Rents are hereby assigned to Agent by Borrower. The foregoing assignment shall include all fees, charges, accounts or other payments for the use or occupancy of rooms and other public facilities in hotels, motels, or other lodging properties, and all cash or securities deposited under Leases to secure performance of lessees of their obligations thereunder, whether such cash or securities are to be held until the expiration of the terms of such leases or applied to one or more installments of rent coming due prior to the expiration of such terms. The foregoing assignment extends to Rents arising both before and after the commencement by or against Borrower of any case or proceeding under any Federal or State bankruptcy, insolvency or similar law, and is intended as an absolute assignment and not merely the granting of a security interest. Borrower, however, shall have a license to collect, retain and use the Rents so long as no Event of Default shall have occurred and be continuing or shall exist. Borrower will execute and deliver to Agent, on demand, such additional assignments and instruments as Agent may reasonably require to implement, confirm, maintain and continue the assignment of Rents hereunder;
- (d) All proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims; and
- (e) Without limiting any of the other provisions of this Mortgage Instrument, Borrower, as debtor, expressly grants unto Agent on behalf of the Lenders, as secured party, a security interest in all personal property of Borrower, including the following, all whether now owned or hereafter acquired or arising and wherever located: (i) accounts (including health-care-insurance receivables and credit card receivables); (ii) securities entitlements, securities accounts, commodity accounts, commodity contracts and investment property; (iii) deposit accounts; (iv) instruments (including promissory notes); (v) documents (including warehouse receipts); (vi) chattel paper (including electronic chattel paper and tangible chattel paper); (vii) inventory, including raw materials, work in process, or materials used or consumed in Borrower's business, items held for sale or lease or furnished or to be furnished under contracts of service, sale or lease, goods that are returned, reclaimed or repossessed; (viii) goods of every nature, including stock-in-trade, goods on consignment, standing timber that is to be cut and removed under a

conveyance or contract for sale, the unborn young of animals, crops grown, growing, or to be grown, manufactured homes, computer programs embedded in such goods and farm products; (ix) equipment, including machinery, vehicles and furniture; (x) fixtures; (xi) agricultural liens; (xii) as-extracted collateral; (xiii) letter of credit rights; (xiv) general intangibles, of every kind and description, including payment intangibles, software, computer information, source codes, object codes, records and data, all existing and future customer lists, choses in action, claims (including claims for indemnification or breach of warranty), books, records, patents and patent applications, copyrights, trademarks, tradenames, tradestyles, trademark applications, goodwill, blueprints, drawings, designs and plans, trade secrets, contracts, licenses, license agreements, formulae, tax and any other types of refunds, returned and unearned insurance premiums, rights and claims under insurance policies; (xv) all supporting obligations of all of the foregoing property; (xvi) all property of Borrower now or hereafter in Agent's possession or in transit to or from, or under the custody or control of, Agent or any affiliate thereof; (xvii) all cash and cash equivalents thereof; and (xviii) all cash and noncash proceeds (including insurance proceeds) of all of the foregoing property, all products thereof and all additions and accessions thereto, substitutions therefor and replacements thereof (the "**Personal Property Collateral**"). Notwithstanding anything herein to the contrary, in no event shall the Personal Property Collateral include, and Borrower shall not be deemed to have granted a security interest in, the Excluded Property (as defined in the Security Agreement). Borrower will execute and deliver to Agent on demand such financing statements and other instruments as Agent may reasonably require in order to perfect, protect and maintain such security interest under the Uniform Commercial Code on the aforesaid Personal Property Collateral.

(11) "**Restoration**": is defined in Section III.8(b).

(12) Any capitalized term used in this Mortgage Instrument but not defined herein shall have the meaning ascribed to such term in the Credit Agreement, including without limitation, "**Affiliate**", "**Applicable Law**", "**Applicable Rate**", "**Appraised Value**", "**Collateral**", "**Compliance Certificate**", "**Default Rate**", "**Eligible Leases**", "**Environmental Indemnity Agreement**", "**Governmental Authority**", "**Guarantor**", "**Lien**", "**Mortgages**", "**Permitted Encumbrances**", "**Person**", "**Secured Hedge Agreement**", "**Security Agreement**", "**Subordination Agreement**" and "**Default**".

II. **GRANT.** IN CONSIDERATION OF THE OBLIGATIONS AND LIABILITIES OF BORROWER AND AGENT UNDER THE CREDIT AGREEMENT, AND THE SUM OF TEN DOLLARS (\$10.00) AND OTHER GOOD AND VALUABLE CONSIDERATION RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGE, BORROWER DOES BY THESE PRESENTS GRANT, BARGAIN, SELL, DEED, WARRANT, MORTGAGE, CONVEY AND CONFIRM



UNTO AGENT ON BEHALF OF THE LENDERS, ALL OF THE PROPERTY, INCLUDING ALL RIGHTS AND INTEREST THEREIN, WHETHER NOW OWNED OR HEREAFTER ACQUIRED BY BORROWER, TOGETHER WITH ANY ADDITIONS HERETO THAT MAY BE SUBJECT TO THE LIEN OF THIS MORTGAGE INSTRUMENT BY MEANS OF SUPPLEMENTS HERETO AND IN SO FAR AS THE PROPERTY CONSISTS OF PERSONAL PROPERTY COLLATERAL (INCLUDING PROCEEDS OF THE PERSONAL PROPERTY COLLATERAL OF ANY KIND OR CHARACTER), BORROWER HEREBY GRANTS TO AGENT ON BEHALF OF THE LENDERS A SECURITY INTEREST IN ALL OF BORROWER'S RIGHT, TITLE AND INTEREST THEREIN. TO HAVE AND TO HOLD THE PROPERTY UNTO AGENT, ITS SUCCESSORS AND ASSIGNS, IN ACCORDANCE WITH THE PROVISIONS HEREOF.

This Mortgage Instrument secures all future advances and obligations constituting Obligations, including advances made after the date hereof whether or not contemplated in the Credit Agreement. The total amount of obligations and advances secured hereby may decrease or increase from time to time, but at no time shall the total principal amount of obligations and advances secured hereby, not including sums expended or incurred for the reasonable protection of the security interest hereby created in the Property, exceed the sum of \$1,186,250.

### III. **AGREEMENTS.**

1. **Representations and Warranties.** Borrower represents and warrants to Agent that: (i) Borrower has good and marketable title to an estate in fee simple absolute in the Land and Improvements, free and clear of all liens and encumbrances other than the Permitted Encumbrances and has all right, title and interest in all other property constituting a part of the Property free and clear of all liens and encumbrances, other than the Permitted Encumbrances, and (ii) its name, type of organization, jurisdiction of organization and chief executive office are true and complete as set forth in the heading of this Mortgage Instrument. This Mortgage Instrument is a valid and enforceable first lien on the Property, subject only to the Permitted Encumbrances. Borrower shall preserve such title as it warrants herein and the validity and priority of the lien hereof and shall forever warrant and defend the same to Agent against the claims (other than Permitted Encumbrances) of all Persons.

2. **Affirmative Covenants.** Until all of the Obligations (other than contingent indemnification obligations) shall have been fully paid, satisfied and discharged Borrower shall:

(a) **Payment and Performance of Obligations.** Pay or cause to be paid and perform all Obligations when due as provided in the Credit Agreement, this Mortgage Instrument and other Loan Documents.

(b) **Legal Requirements.** Subject to Borrower's right to contest set forth in the Credit Agreement, promptly comply in all material respects with and conform in all material respects to all present and future laws, statutes, codes, ordinances, orders and regulations and all covenants, restrictions and conditions which may be applicable to Borrower or to any of the Property (the "**Legal Requirements**"). Borrower will not, without Agent's prior approval, not to be unreasonably withheld, conditioned or delayed: (i) permit or acquiesce in any zoning reclassification of the Property or seek any variance under any existing zoning ordinance

applicable to the Property, or (ii) permit or acquiesce in any easement, restrictive covenant or encumbrance upon the Property, other than the Permitted Encumbrances, or file a plat of subdivision, or submit the property to a condominium form of ownership.

(c) Impositions. Subject to Borrower's right to contest set forth in the Credit Agreement, before interest or penalties are due thereon and otherwise when due, Borrower shall pay all material taxes of every kind and nature, all material charges for any easement or agreement maintained for the benefit of any of the Property, all material general and special assessments (including any condominium or planned unit development assessments, if any), levies, permits, inspection and license fees, all water and sewer rents and charges, and all other material charges and liens (other than Permitted Encumbrances), whether of a like or different nature, imposed upon or assessed against Borrower or any of the Property (the "**Impositions**"). Within 30 days after the payment of any Imposition, Borrower shall, upon Agent's request, deliver to Agent written evidence reasonably acceptable to Agent of such payment. Borrower's obligations to pay the Impositions shall survive Agent's taking title to (and possession of) the Property through foreclosure, deed-in-lieu or otherwise, as well as the termination of the Mortgage Instrument including, without limitation, by merger into a deed.

(d) Maintenance of Security. Use, and permit others to use, the Property only for its present use or such other uses as permitted by applicable Legal Requirements and approved in writing by Agent. Borrower shall keep the Property in good condition and order and in a rentable and tenantable state of repair and will make or cause to be made, as and when necessary, all necessary repairs, renewals, and replacements reasonably required by Agent (structural and nonstructural, exterior and interior, foreseen and unforeseen, ordinary and extraordinary). Except to the extent permitted by the Credit Agreement and ordinary wear and tear, Borrower shall not remove, demolish or alter the Property nor commit or suffer waste with respect thereto, nor permit the Property to become deserted or abandoned. Except to the extent permitted by the Credit Agreement, Borrower covenants and agrees not to take or permit any action with respect to the Property which will in any manner impair the security of this Mortgage Instrument or the use of the Property as set forth in the Loan Documents.

(e) Replacement of Fixtures. Except to the extent permitted by the Credit Agreement, without the prior written consent of Agent, permit any of the fixtures or other Personal Property Collateral to be removed at any time from the Land or Improvements, unless the removed item is removed temporarily for maintenance and repair or, if removed permanently, is obsolete and is replaced by an article of equal or better suitability and value, owned by Borrower subject to the liens and security interests of this Mortgage Instrument and the other Loan Documents, and free and clear of any other lien or security interest except the Permitted Encumbrances.

3. Leases. Borrower shall perform all covenants relating to Leases of the Property set forth in the Credit Agreement. Any or all Leases as to which HDC is the tenant, and all other Leases (other than any other Leases that are on a form of lease that was required or



provided by the tenant under such Lease) of all or any part of the Property shall be subordinated (by their express terms or otherwise) to this Mortgage Instrument and to Agent's rights and, together with any and all rents, issues or profits relating thereto, shall be assigned at the time of execution to Agent as additional collateral security for the Obligations, all in such form, substance and detail as is reasonably satisfactory to Agent in its sole discretion.

4. **Due on Sale Clause.** Except as expressly permitted pursuant to the Credit Agreement and other than the Permitted Encumbrances, until the Obligations (other than contingent indemnification obligations) are indefeasibly paid and performed in full, Borrower shall not, without the written consent of Agent:

(a) directly or indirectly sell, contract to sell, assign, transfer, convey, or dispose of the Property, or any portion thereof or any interest or estate therein, whether legal, equitable, beneficial or possessory, including but not limited to: (i) any conveyance into trust; (ii) any conveyance, sale or assignment of the beneficial interest in any trust holding title to the Property; (iii) any conveyance, sale or assignment of the issued and outstanding capital stock partnership interests, membership interest or other equity interests of Borrower, (iv) any land sale, installment contract for deed or other similar transaction in which the purchaser obtains equitable, legal, beneficial or possessory rights to the Property prior to payment in full of the purchase price, and (v) permit or contract to do any of the foregoing;

(b) permit the Property, or any portion thereof or interest therein (whether legal, equitable, beneficial or otherwise) or estate in any thereof (including the right to receive the rents and profits therefrom) directly or indirectly, to be subject to any mortgage, deed of trust, lien, claim, security interest, encumbrance or right (whether senior or junior to, or on a parity with, any mortgage granted or to be granted to Agent);

(c) subject the beneficial interest under any trust holding title to the Property, or any portion thereof or interest therein (whether legal, equitable, beneficial or otherwise) or estate in any thereof (or permit the same to be subjected), directly or indirectly, to any mortgage, deed of trust, lien, claim, security interest, encumbrance, collateral assignment or right;

(d) lease the Property;

(e) cause or permit (by operation of law or otherwise) any rents, leases, license or agreement for occupancy or other contracts relating to the Property to be assigned to any party nor borrow against, pledge or further assign any Rents due under any lease license or agreement for occupancy; or

(f) cause or permit any lien or other encumbrance, including without limitation, any easement, covenant, declaration or restriction encumbering the Property or any portion thereof or consent to the annexation of the Property to any municipality.

5. **Mechanics' Liens.** Except as expressly permitted pursuant to the Credit Agreement and the Permitted Encumbrances, Borrower shall preserve and protect the first lien, security title and security interest status of this Mortgage Instrument and the other Loan Documents. If any lien, security title or security interest other than the Permitted Encumbrances is asserted against the Property, Borrower shall promptly, and at its expense, (a) give Agent a detailed written notice of such lien, security title or security interest (including origin, amount and other terms), and (b) pay the underlying claim in full or take such other action so as to cause it to be released or, in Agent discretion, provide a bond or other security reasonably satisfactory to Agent for the payment of such claim.

6. **Insurance.** Borrower shall, at its expense, maintain or cause to be maintained the insurance described in the Credit Agreement. The proceeds of such insurance shall be applied as provided in Section III. 8 of this Mortgage Instrument. Provided no Event of Default or Default has occurred and is continuing, Borrower shall have the right to adjust and settle any claims under any insurance policies. If an Event of Default or Default has occurred and is continuing, Agent (or after entry of a decree of foreclosure, purchaser at the sale, or the decree creditor, as applicable) is authorized, to the fullest extent permitted under Applicable Law, to either: (i) settle and adjust any claim under such insurance policies which insure against such risk and Agent shall act in its sole and exclusive discretion; or (ii) allow Borrower to settle, adjust or compromise any claims for loss with the insurance companies on the amounts to be paid with respect to such loss. Nothing contained in this Mortgage Instrument shall create any responsibility or obligation on Agent or the Lenders to collect any amount owing on any insurance policy. Any and all insurance proceeds now and hereafter paid or payable to Borrower arising out of any casualty, loss or damage to the Property are hereby assigned by Borrower to Agent to secure payment and performance of the Obligations. Borrower further agrees to make, execute and deliver to Agent any and all further assignments and other instruments reasonably deemed necessary by Agent for the purpose of validly and sufficiently assigning all insurance proceeds and other compensation heretofore, now and hereafter paid or payable to Borrower arising out of any casualty, loss or damage to the Property.

7. **Condemnation.** Borrower, promptly upon obtaining knowledge of the institution of any proceedings for the condemnation or taking by eminent domain of all or a material portion of the Property, shall notify Agent of the pendency of such proceedings. Any and all awards, compensation or payment heretofore or hereafter made or to be made to the present or any subsequent owner of the Property by any Governmental Authority or other lawful authority for the taking, by condemnation or eminent domain, of all or any part of the Property (including any award from the United States government at any time after the allowance of a claim therefor, the ascertainment of the amount thereto, and the issuance of a warrant for payment thereof) (collectively "**Awards**"), are hereby assigned by Borrower to Agent to secure payment and performance of the Obligations. Provided that the taking is not a Material Taking and no Event of Default or Default has occurred and is continuing, Borrower and Agent shall jointly negotiate and settle any Awards. In all other events, Agent shall have the right to negotiate and settle all Awards. Nothing contained in this Mortgage Instrument

shall be deemed to create any responsibility or liability upon Agent to settle any claims for Awards. Awards shall be applied in accordance with Section III.8.

8. **Rights of Agent to Insurance Proceeds.**

(a) **Delivery of Insurance Proceeds.** To the extent required by Section 2.4(b) of the Credit Agreement and to the extent permitted by Applicable Law, all insurance proceeds now and hereafter paid or payable to Borrower arising out of any casualty, loss or damage to the Property and all Awards shall be delivered to Agent. Agent is entitled to reimbursement for all necessary, reasonable out-of-pocket expenses incurred or paid by Agent in the adjustment, determination, or collection of insurance proceeds or Awards and in connection with the Restoration, including, without limitation, insurance settlement costs, appraiser's fees, adjustor's fees, engineering fees, title insurance premiums, reasonable attorneys' fees, architect's fees, the inspecting architect's fees, permit fees, bond premiums and escrow fees (as used in this section only, collectively, "**Agent's Settlement Costs**"). Agent's Settlement Costs shall be Costs hereunder, payable by Borrower to Agent in accordance with the Credit Agreement, or, at the option of Agent, such Costs may, to the extent permitted by Applicable Law, be deducted from the insurance proceeds or Awards. The amount of all insurance proceeds and Awards actually collected by and paid to Agent, less Agent's Settlement Costs, shall be referred to herein as "**Net Restoration Proceeds**".

(b) **Restoration.** As used herein, the term "**Restoration**" shall mean construction and repairs to be made by Borrower to restore the Property to a value which shall not be less than its fair market value immediately prior to such fire or other casualty or taking by eminent domain proceedings and to a use and condition (as reasonably determined by Agent) which shall be the same use and condition as existed immediately prior to such casualty. As used herein, the term "**Cost of Restoration**" shall mean an estimate of all costs, expenses and charges to be incurred in connection with the demolition and Restoration of the Property, including, but not limited to, all payments to be made to contractors and materialmen, architects, and all other costs and expenses set forth below, as determined by Agent, acting in its reasonable discretion.

(c) **Cost of Restoration.** If the Cost of Restoration, as determined above is greater than \$100,000 or if any one or more of the conditions precedent, set forth below, have not been fully satisfied, Agent shall have the right to: (i) apply Net Restoration Proceeds in reduction of the Obligations, whether or not then due to the extent required by Section 2.4(b) of the Credit Agreement; or (ii) hold Net Restoration Proceeds and make them available to Borrower to pay for the Cost of Restoration, at Agent's reasonable discretion in accordance with Section 8(d). If the Cost of Restoration is equal to or less than \$100,000 and Borrower has satisfied all conditions precedent set forth below, Net Restoration Proceeds which have been received by Agent (but in no event to any extent or in any sum exceeding the amount actually collected by Agent) upon such loss or taking shall be disbursed in accordance with the provisions of subsection (d) below.



(d) Conditions. The following are conditions precedent to Agent's obligation to make Net Restoration Proceeds available to Borrower:

- (i) Less than fifty (50%) percent of the estimated insurable value of the Property at the time of the casualty or taking is damaged or destroyed and the then outstanding principal balance of the Loans allocated to the Land and Improvements (as determined by Agent) is not more than 65% of the then Appraised Value of the Land and Improvements (determined based on completion of the Restoration);
- (ii) Any taking by condemnation or eminent domain is not a Material Taking;
- (iii) Agent shall have determined that the Net Restoration Proceeds plus any amount delivered by Borrower to Agent for such purpose is not less than 110% of the estimated Cost of Restoration;
- (iv) No Event of Default or Default exists and is continuing at any time while Restoration is occurring, unless such default may be cured by the Restoration;
- (v) The Restoration will be completed not less than six (6) months prior to the Term Loan Maturity Date, without giving effect to any right to extend;
- (vi) The Property can be restored in compliance with all Applicable Laws (including zoning laws) and restrictions that are applicable to the Property;
- (vii) Agent shall have approved, in Agent's reasonable discretion, all plans and specifications for such Restoration;
- (viii) No Eligible Lease will lapse or become terminable by the tenant thereunder during the period of Restoration or permit any tenant the right not to re-occupy the premises when Restoration is complete.
- (ix) Each tenant of an Eligible Lease shall have executed an agreement in form and substance reasonably acceptable to Agent dated as of a date after the occurrence of the casualty: (A) reaffirming all obligations and liabilities under the applicable Eligible Lease, (B) acknowledging that the lease remains in full force and effect, and binding upon tenant, and (C) acknowledging that the casualty which has occurred does not give rise to and expressly waiving (1) any defense or right of offset in the payment of rent, (2) any right to terminate the applicable lease, (3) any right to surrender the premises, (4) any right of

offset against rent due under the lease, (5) any right to suspend or abate payment of rent under the lease, or (6) any right to exercise remedies against lessor under the Lease.

(x) Borrower shall have demonstrated, to Agent's reasonable satisfaction, that Borrower has sufficient funds to pay all Obligations due and owing during the period of Restoration.

(e) Use of Proceeds. If the conditions set forth in subsection (d) above have been satisfied, then Net Restoration Proceeds shall be made available to Borrower pursuant to procedures for disbursements reasonably approved by Agent to insure that all Restoration work is completed in a timely and workmanlike manner and that the Property will remain lien-free, subject only to the Permitted Encumbrances. Upon completion of and payment for such Restoration, any amount deposited by Borrower with Agent pursuant to subsection (d)(iii) above shall be paid to Borrower and the balance of the Net Restoration Proceeds shall be applied to the Obligations, to the extent required by Section 2.4(b) of the Credit Agreement.

9. Installments for Insurance, Taxes and Other Charges. In the event any tenant under any lease of the Property (including any Eligible Lease) deposits funds with Borrower for the payment of said tenant's prorata share of taxes, Impositions, or insurance premiums, or common area maintenance, Borrower shall use funds solely for the purpose for which such deposits were made. In addition to the forgoing, upon Agent's request, after the occurrence and during the continuance of an Event of Default, Borrower shall pay to Agent monthly, an amount equal to 1/12 of the annual premiums for the insurance policies referred to hereinabove and the annual Impositions and any other item which at any time may be or become a lien upon the Property (the "**Escrow Charges**"). The amounts so paid shall be used in payment of the Escrow Charges so long as no Event of Default shall have occurred and be continuing. No amount so paid to Agent shall be deemed to be trust funds, nor shall any sums paid bear interest. Agent shall have no obligation to pay any insurance premium or Imposition if at any time the funds being held by Agent for such premium or Imposition are insufficient to make such payments. If, at any time, the funds being held by Agent for any insurance premium or Imposition are exhausted, or if Agent determines, in its sole discretion, that such funds will be insufficient to pay in full any insurance premium or Imposition when due, Borrower shall promptly pay to Agent, upon demand, an amount which Agent shall estimate as sufficient to make up the deficiency. Upon the occurrence and during the continuance of an Event of Default, Agent shall have the right, at its election, to apply any amount so held against the Obligations due and payable in such order as Agent may deem fit, and Borrower hereby grants to Agent a lien upon and security interest in such amounts for such purpose.

10. Inspection of Property. Upon no less than 5 days prior notice to Borrower provided no Event of Default shall have occurred and be continuing (provided that if an Event of Default shall have occurred and be continuing no prior notice shall be required), Agent shall have the right to enter the Property during normal business hours at any reasonable hour for the purpose of inspecting the order, condition and repair of the buildings and improvements

erected thereon, as well as the conduct of operations and activities on the Property. If Agent reasonably believes that a condition not previously identified in a Phase I or Phase II Environmental Site Assessment available to Agent exists on the Property constituting a violation of Environmental Laws, Agent may enter the Property (and cause Agent's employees, agents and consultants to enter the Property), upon prior written notice to Borrower, to conduct any and all environmental testing related to such condition deemed appropriate by Agent in its reasonable discretion. Such environmental testing shall be accomplished by whatever means Agent may reasonably deem appropriate, including the taking of soil samples and the installation of ground water monitoring wells or other intrusive environmental tests. Borrower shall provide Agent (and Agent's employees, agents and consultants) reasonable rights of access during normal business hours to the Property as well as such information about the Property and the past or present conduct of operations and activities thereon as Agent shall reasonably request.

11. **Assignment and Security Interest.**

(a) **Assignment of Leases.** Borrower acknowledges and confirms that it has executed and delivered to Agent an Assignment of Leases and Rents of even date (the "**Assignment of Leases and Rents**"), intending that such instrument create a present, absolute assignment to Agent of the Leases and Rents. Without limiting the intended benefits or the remedies provided under the Assignment of Leases and Rents, Borrower hereby assigns to Agent, as further security for the payment and performance of the Obligations, the Leases and Rents. While any Event of Default exists, Agent shall be entitled to exercise any or all of the remedies provided in the Assignment of Leases and Rents and in Section (III)13 hereof, including, without limitation, the right to have a receiver appointed. If any conflict or inconsistency exists between the assignment of the Rents and the Leases in this Mortgage Instrument and the absolute assignment of the Rents and the Leases in the Assignment of Leases and Rents, the terms of the Assignment of Leases and Rents shall control. So long as any part of the Obligations (other than contingent indemnification obligations) secured hereby remain unpaid and undischarged, the fee and leasehold estates to the Property shall not merge, but shall remain separate and distinct, notwithstanding the union of such estates either in Borrower, Agent, any lessee or any third party by purchase or otherwise.

(b) **Security Agreement; Fixture Filing.** The Mortgage Instrument constitutes a "Security Agreement" on the Personal Property Collateral and all other personal property within the meaning of the Uniform Commercial Code as enacted in the State of Illinois ("**UCC**") and other applicable law with respect to the Property. To this end, Borrower grants to Agent a first and prior security interest in that portion of the Property which is personal property to secure the payment and performance of the Obligations, and agrees that Agent shall have all the rights and remedies of a secured party under the UCC with respect to such property. Notwithstanding anything herein to the contrary, in no event shall the Personal Property Collateral include, and Borrower shall not be deemed to have granted a security interest in the Excluded Property (as defined in the Security Agreement). Any notice of sale, disposition or other intended action by Agent with respect to the Personal Property Collateral



given ten (10) days prior to any action under the UCC shall constitute reasonable notice to Borrower. Agent shall have all of the rights and remedies of a secured party under the UCC. This Mortgage Instrument shall constitute a "fixture filing" (as defined in the Uniform Commercial Code, as enacted in the State of Illinois) for the purposes of the Uniform Commercial Code as enacted in Illinois against all of the Property which is or is to become fixtures. Information concerning the security interest herein granted may be obtained as the address of Borrower (as debtor) and Agent (as secured party) set forth in the first paragraph of this Mortgage Instrument. It is expressly agreed that until such time as the Obligations (other than contingent indemnification obligations) have been paid and performed in full, or until the security interest granted hereby has been released in writing by Agent, this Mortgage Instrument shall remain fully effective as a security agreement and fixture filing, notwithstanding that the lien on real property that is created by this Mortgage Instrument may be extinguished or release, by foreclosure of the Mortgage Instrument, or otherwise.

(c) Further Assurances. Borrower shall execute and deliver to Agent in form and substance reasonably satisfactory to Agent, such further assurances as Agent may, from time to time, reasonably consider necessary to create, perfect and preserve Agent security interest hereunder and Agent may cause such assurances to be recorded and filed, at such times and places as may be required or permitted by law to so create, perfect and preserve such security interest. Borrower's state of organization is the State of Illinois. Borrower authorizes Agent to file financing statements without the signature of Borrower thereon.

(d) No Mortgagee-in-Possession. The security interest herein granted shall in no event cause Agent or the Lenders to be deemed or construed as a mortgagee in possession of the Property, to obligate Agent or the Lenders to lease the Property or attempt to do so, or to take any action, incur any expense or perform or discharge any obligation, duty or liability whatsoever under any of the Leases or otherwise.

12. Events of Default. The occurrence of any one or more of the following events shall constitute an "Event of Default" hereunder:

(a) any Event of Default occurs under the Credit Agreement or any other Loan Document;

(b) any default occurs under Sections (III)3, 4, 5 or 6 of this Mortgage Instrument;

(c) Borrower defaults in the performance of or compliance with any term contained in this Mortgage Instrument (other than occurrences described in other provisions of this Section (III)12 for which a different grace or cure period is specified or which constitute immediate Events of Default) and such default is not remedied or waived within 30 calendar days after the earlier of: (i) receipt by Borrower of notice from Agent of such default, or (ii) knowledge of Borrower of such default;

(d) (i) an uninsured material loss, theft, damage, or destruction to all or a material portion of the Property, or (ii) the filing of any Lien against or the making of any levy, seizure or attachment of or on the Property, in each case other than with respect to Permitted Encumbrances; or

(e) foreclosure proceedings are instituted against the Property upon any other Lien or claim, whether alleged to be superior or junior to the lien of this Mortgage Instrument.

13. **Rights and Remedies.**

(a) **Acceleration.** Upon the occurrence of any Event of Default set forth in Section 8.1(i) or (j) of the Credit Agreement, the unpaid principal balance under the Notes and the Credit Agreement, all interest thereon and all other Obligations shall be immediately due and payable. Upon the occurrence of any other Event of Default and during the continuation thereof, Agent may declare the unpaid principal balance of the Notes and the Credit Agreement, all interest thereon and all other Obligations to be immediately due and payable, without presentment, demand, protest or notice of protest. In the event of such acceleration, Borrower shall pay to Agent sums due under the Notes, the Credit Agreement, this Mortgage Instrument and the other Loan Documents, together with interest thereon (including interest at the Default Rate). Agent's failure to exercise its option to accelerate the Obligations upon the occurrence of an Event of Default shall not constitute a waiver of Agent's right to exercise such option at any later time with respect to such Event of Default or with respect to any other subsequently occurring Event of Default.

(b) **Remedies Under Other Loan Documents.** Upon the occurrence of an Event of Default and during the continuation thereof, Agent shall have all remedies set forth in this Mortgage Instrument, in the Credit Agreement, in the other Loan Documents, under the UCC, at law or in equity. It is the intention of the parties that this Mortgage Instrument shall confer upon Agent the fullest rights, remedies and benefits available under Applicable Law and the inclusion of any specific remedy pursuant to this Mortgage Instrument or any other Loan Document shall not be deemed to exclude any other remedy available under the terms of this Mortgage Instrument, the Credit Agreement, any other Loan Document, at law or in equity.

(c) **Possession of Property.**

(i) **Right to Possession.** Without limiting the generality of the provisions of Section III(13)(b), to the fullest extent permitted by Applicable Law, upon and after the occurrence of any Event of Default and during the continuation thereof, Borrower hereby waives all right to the possession, income, and Rents of the Property. Without limiting the generality of the provisions of Section III(13)(b), upon the occurrence of an Event of Default (whether before or after the institution of legal proceedings to foreclose the lien of this Mortgage Instrument), Agent (by its officers, employees, attorneys and agents) is hereby expressly authorized and empowered, at the sole cost and expense of Borrower, in its own name or as attorney-in-fact of Borrower (with or without process of law): (1) to enter

into and upon and to take possession of the Property or any part thereof and to exclude Borrower therefrom; (2) to enter upon and take possession of all documents, books, records, papers and accounts of Borrower; (3) to make all repairs, decoration, renewals, replacements, alterations, additions, betterments and improvements to the Property as Agent (or receiver, if applicable) deems appropriate; (4) to continue any and all outstanding contracts for the erection, completion or repair of improvements to the Property and to complete any construction upon the Property; (5) to complete any transaction contemplated in any sales contract relating to the Property (or any portion thereof); (6) to enter into any new lease of the Property (or any portion thereof) under such terms as Agent (or receiver, if applicable) deems appropriate, to extend the term of or otherwise modify any existing Lease of the Property (or any portion thereof); (7) to enforce any existing Lease of the Property (or any portion thereof), with full power to use such measures (legal or equitable) as it in its sole discretion deems appropriate, including any action to enforce the payment of Rents, actions in forcible detainer and actions in distress of rent; (8) cancel or terminate any Lease or sublease for any cause or on any ground which would entitle Borrower to cancel the same; (9) elect to disaffirm any Lease or sublease made subsequent hereto or subordinated the lien of this Mortgage Instrument; (10) insure and reinsure the Property for all risks incidental to Agent's (or receiver's, if applicable) possession; (11) collect and receive all Rents, profits or any part thereof (including those past due and unpaid), and to apply such Rents and profits, less the necessary or appropriate expenses of collection thereof, either to expenses of the Property or, at the election of Agent, to payment (in whole or in part) of the Obligations; (12) employ watchmen to protect the Property or other Collateral from depreciation or injury; (13) to preserve and protect the Property and the other Collateral; (14) to make and enter into any contracts and obligations wherever necessary in its own name or as attorney-in-fact, in the name of Borrower; (15) to hold, develop, manage, operate or otherwise use the Property under such terms and conditions as Agent (or receiver, if applicable) may deems necessary or desirable; (16) to employ brokers, managers, consultants, attorneys, engineers, accountants, and other professionals; and (17) to pay and discharge all debts, obligations and liabilities incurred pursuant to any of the foregoing, all at the expense of Borrower. All expenditures pursuant to this Section shall be paid by Borrower on demand.

(ii) Unqualified Rights. Without limiting the generality of any other provision of this Mortgage Instrument, the rights of Agent set forth in this Mortgage Instrument, including the appointment of a receiver pursuant hereto, may be exercised and/or may be made: (1) either before or after sale, without choice; (2) without regard to the solvency or insolvency of Borrower or any other the Person or Persons (if any) liable for the payment of the Obligations at the time of the exercise of such remedy or the appointment of such receiver; (3) without regard to waste, adequacy of the security for the Obligations; (4) without regard to the value of the Property at such time and whether or not the same is then occupied as a homestead; and (5) without bond being required of the applicant.



(iii) Mortgagee-in-Possession. Nothing herein contained shall be construed as constituting Agent a mortgagee-in-possession in the absence of the actual taking of possession of the Property by Agent pursuant to this Mortgage Instrument.

(d) Foreclosure; Receiver. Without limiting the generality of any other provision of this Mortgage Instrument:

(i) Foreclosure. Upon the occurrence of any Event of Default and during the continuation thereof, Agent shall have the right immediately or at any time thereafter to foreclose the lien of this Mortgage Instrument.

(ii) Appointment of Receiver. Upon the occurrence of an Event of Default, Agent shall have the right to have a receiver appointed, without regard to the nature of the default or the adequacy of the Collateral.

(iii) Application of Rents by Receiver. Rents, income and profits shall be held and applied by the receiver as permitted by Applicable Law and as directed by the court, in such order of priority as the court shall determine to: (1) expenses of the Property; and (2) to Agent in payment (in part or in whole) of the Obligations.

(iv) Multiple Sales. This Mortgage Instrument may be foreclosed once against all, or successively against any portion or portions, of the Property and the other Collateral, as Agent may elect, until all of the Property and other Collateral has been foreclosed against and sold. As part of the foreclosure, Agent may, with or without entry, personally or by attorney, sell to the highest bidder all or any part of the Property, and all right, title, interest, claim and demand therein, and the right of redemption thereof, as an entirety, or in separate lots, as Agent may elect, and in one sale or in any number of separate sales held at one time or at any number of times, all in any manner and upon such notice as provided by Applicable Law. Upon the completion of any such sale or sales, Agent shall transfer and deliver, or cause to be transferred and delivered, to the purchaser or purchasers thereof the property so sold, in the manner and form as provided by Applicable Law, and Agent is hereby irrevocably appointed the true and lawful attorney-in-fact of Borrower, in its name and stead, to make all necessary transfers of the property thus sold, and for that purpose Agent may execute and deliver, for and in the name of Borrower, all necessary instruments of assignment and transfer, Borrower hereby ratifying and confirming all that said attorney-in-fact shall lawfully do by virtue hereof.

(v) Bid The Debt. In the case of any sale of the Property or any other Collateral (or any portion thereof) pursuant to any judgment or decree of any court, at public auction, private sale or otherwise, Agent may become the purchaser, and for the purpose of making settlement for or payment of the purchase price, shall be entitled to deliver over and use the indebtedness evidenced by the Notes (or any portion thereof) and any claims for the Obligations (or any portion thereof) in order that there may be credited as paid on the purchase price an amount of the debt (or a portion thereof). Any amount of the

Obligations not so credited shall be a deficiency payable by Borrower and Guarantors to Agent in accordance with the Loan Documents and Applicable Law. In case of any foreclosure of this Mortgage Instrument (or the commencement of or preparation therefor) in any court, all expenses of every kind paid or incurred by Agent for the enforcement, protection or collection of this mortgage lien and security interest, including court costs, attorneys' fees, stenographers' fees, costs of advertising, and costs of title insurance and any other documentary evidence of title, shall be paid by Borrower and shall be deemed to be Costs. Agent shall determine the amount of the debt to be bid as the purchase price (if any) in Agent's sole discretion.

(e) Remedies for Leases and Rents. Without limiting the generality of the provisions of Section III(13)(b):

(i) Enforcement and Collection. Upon the occurrence of an Event of Default or Default, Agent may revoke the privilege granted Borrower hereunder to collect the Rents, issues and profits of the Property and the other Collateral, and at its option, without notice, may exercise any right or remedy under this Mortgage Instrument relating to the enforcement of the Leases and collection of the Rents.

(f) Binding Obligations. It is agreed by and the intent of Borrower and Agent that any Leases, options, modifications, agreements, other actions taken by Agent (or receiver) pursuant to the terms of this Mortgage Instrument, at law or in equity, shall be binding upon Borrower and all Persons whose interests in the Property are subject to the lien hereof, and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of indebtedness, satisfaction of foreclosure decree or issuance of certificate of sale or deed to any purchaser or at any time thereafter.

(g) Personal Property. Without limiting the generality of any other provision of this Mortgage Instrument, upon the occurrence of an Event of Default, Borrower shall, promptly upon request by Agent, assemble the Collateral and make it available to Agent at such place or places reasonably convenient to Agent shall designate. Any notification of intended disposition required by Applicable Law of any of the Collateral shall be deemed reasonably and properly given if given at least ten (10) days before such disposition.

(h) Additional Specific Remedies.

(i) Remedies Relating to Rents and Other Collateral. Upon the occurrence of an Event of Default, Agent may, with respect to Rents and to so much of the Collateral as is personal property under Applicable Law, to the fullest extent permitted by Applicable Law, without further notice, advertisement, hearing or process of law of any kind: (1) notify any Person obligated on the Collateral to perform directly for Agent its obligations thereunder; (2) enforce collection of any of the Collateral by suit or otherwise, and surrender, release or exchange all or any part thereof or compromise or extend or renew for any period (whether or not longer than the original period) any obligations of any nature of any party with respect thereto; (3) endorse any checks, drafts or other writings in the

name of Borrower to allow collection of the Collateral; (4) take control of any proceeds of the Collateral; (5) enter upon any Property where any of the Collateral may be located and take possession of and remove such Collateral; (6) sell any or all of the Collateral, free of all rights and claims of Borrower therein and thereto, at any public or private sale; and (7) bid for and purchase any or all of the Collateral at any such sale and to use the indebtedness evidenced by the Notes (or any portion thereof) and any claims for the debt (or any portion thereof) in order that they may be credited as paid on the purchase price an amount of the debt (or portion thereof). Any proceeds of any disposition by Agent of any of the Collateral may be applied by Agent to the payment of expenses in connection with the Collateral and Agent's exercise of remedies hereunder, and any balance of such proceeds shall be applied by Agent toward the payment (in whole or in part) of the Obligations.

(ii) Advance of Monies to Receiver. Both before and after a foreclosure sale Agent and (if applicable) any purchaser at any foreclosure sale, including Agent, shall have the right at any time, to advance money to any receiver appointed of the Property to pay any part or all of the items which the receiver would otherwise be authorized to pay if cash were available from the Property and the sum so advanced, with interest at the Default Rate, shall be payable by Borrower on demand (if advanced by Agent), a part of the Obligations, and part of the sum required to be paid to redeem from any foreclosure sale.

(i) Option Of Agent To Subordinate. At the option of Agent, this Mortgage Instrument shall become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to insurance proceeds or any condemnation or eminent domain award) to any and all Leases of all or any part of the Property upon the execution by Agent of a unilateral declaration to that effect and the recording thereof in the applicable recording office in and for the county wherein the Property is situated.

(j) Collateral Protection Act. Borrower is hereby notified as follows: Unless Borrower provides Agent with evidence of the insurance coverage required by this Mortgage Instrument, the Credit Agreement or any of the other Loan Documents, Agent may purchase insurance at Borrower's expense to protect the interest of Agent in the Property. This insurance may, but need not, protect Borrower's interests. The coverage Agent purchases may not pay any claim that Borrower makes or any claim that is made against Borrower in connection with the Property. Borrower may later cancel any insurance purchased by Agent but only after providing Agent with evidence that Borrower has obtained insurance as required by the Mortgage Instrument, the Credit Agreement or any of the other Loan Documents. If Agent purchases insurance for the Property, Borrower will be responsible for the costs of such insurance, including interest or any other charges that Agent may lawfully impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of any such insurance may be added to the obligations secured hereby. The costs of the insurance may be more than the cost of insurance that Borrower may be able to obtain on its own.



(k) Remedies Cumulative. Borrower hereby grants Agent full power and authority to exercise each and every one of the rights, remedies, privileges and powers contained herein and in every other Loan Document, at any and all times after any Event of Default without notice to Borrower or any other Person. No remedy or right of Agent hereunder or under the Notes, the Credit Agreement or any of the other Loan Documents or otherwise, or available under Applicable Law or in equity, shall be exclusive of any other right or remedy, but each such remedy or right shall be in addition to every other remedy or right now or hereafter existing under any such document or under Applicable Law or in equity. No delay in the exercise of, or omission to exercise, any remedy or right accruing on any Event of Default shall impair any such remedy or right or be construed to be a waiver of any such Event of Default or an acquiescence therein, nor shall it affect any subsequent Event of Default of the same or a different nature. Every such remedy or right may be exercised concurrently or independently, and when and as often as may be deemed expedient by Agent. All obligations of Borrower, and all rights, powers and remedies of Agent, expressed herein shall be in addition to, and not in limitation of, those provided by law, in equity or in the Notes or any other Loan Document or any other written agreement or instrument relating to any of the Obligations or any security therefor.

(l) No Cure. The exercise of Agent's rights or remedies hereunder, the taking possession by Agent as a lender-in-possession, the appointment of a receiver, the collection of Rents, income and profits and the application thereof as provided in this Mortgage Instrument or any other Loan Document and the making of any protective advance or funding of any other cost or expense shall not cure or waive any Event of Default or waive, modify or affect notice of default hereunder or under any other Loan Document or invalidate any act done pursuant to said notice, nor in any way operate to prevent Agent from pursuing any remedy which now or hereafter it may have under the terms and conditions of this Mortgage Instrument or the other Loan Documents. To the fullest extent permitted by Applicable Law, the rights and powers of Agent hereunder shall remain in full force and effect both prior to and after any foreclosure of this Mortgage Instrument and any sale pursuant thereto and until expiration of the period of redemption for said sale (if any).

(m) Adequacy Of Security. Agent may take any of the actions referred to in any provision of this Mortgage Instrument irrespective of and without regard to the adequacy of the security for the payment and performance of the Obligations.

14. Application of Proceeds. Agent shall apply the proceeds of any foreclosure sale of, or other disposition or realization upon, or Rents or profits from, the Property first to payment of Agent's and receiver's fees and expenses (if any) and then to satisfy the then unpaid Obligations (whether or not then due and payable), in such order of application as Agent shall determine in its exclusive discretion, unless otherwise required by Applicable Law. The balance, after payment in full of the Obligations, shall be paid to the persons legally entitled thereto.

15. **Agent's Right to Protect Security.** Agent is hereby authorized to do any one or more of the following, irrespective of whether an Event of Default has occurred: (a) appear in and defend any action or proceeding purporting to affect the security hereof or Agent's rights or powers hereunder; (b) purchase such insurance policies covering the Property as it may elect if insurance coverage required hereunder is not maintained; and (c) take such action as Agent may reasonably determine to pay, perform or comply with any Impositions or Legal Requirements, to cure any Events of Default and to protect its security in the Property.

16. **Appointment of Agent as Attorney-in-Fact.** Agent or any of its officers, is hereby irrevocably appointed attorney-in-fact for Borrower (without requiring any of them to act as such), such appointment being coupled with an interest, to do any or all of the following: (a) collect the Rents after the occurrence and during the continuance of an Event of Default; (b) settle for, collect and receive any awards payable pursuant to the terms hereof from the authorities making the same; and (c) execute, deliver and file, at Borrower's sole cost and expense such financing, continuation or amendment statements and other instruments as Agent may reasonably require in order to perfect, protect and maintain its security interest under the UCC on any portion of the Property.

17. **Waiver.**

(a) **Commercial Property.** Borrower voluntarily and knowingly hereby acknowledges that the transaction of which this Mortgage Instrument is a part is a transaction that does not include either agricultural real estate, or residential real estate.

(b) **Waivers of Presentment.** Borrower hereby expressly waives presentment, demand, notice of dishonor, protest and notice of protest in connection with the Notes and, to the fullest extent permitted by Applicable Law, any and all other notices, demands, advertisements, hearings or process of law in connection with the exercise by Agent of any of its rights and remedies hereunder.

(c) **Waiver of Statutory Rights.** Borrower, on behalf of itself and all Persons now or hereafter interested in the Property or the other Collateral, to the fullest extent permitted by Applicable Law hereby waives all rights under all appraisement, homestead, moratorium, valuation, exemption, stay, extension, and reinstatement statutes, laws or equities now or hereafter existing, and hereby further waives the pleading of any statute of limitations as a defense to any and all Obligations secured by this Mortgage Instrument. Borrower agrees that no defense, claim or right based on any thereof will be asserted, or may be enforced, in any action enforcing or relating to this Mortgage Instrument or any of the Collateral.

(d) **Reserved.**

(e) **Waiver of Marshaling.** Borrower on its own behalf and on behalf of each and every Person acquiring any interest in or title to the Property subsequent to the date of this Mortgage Instrument, hereby irrevocably waives and releases all rights to direct the order

in which any of the Collateral shall be sold in the event of any sale or sales pursuant hereto and to have any of the Property, the other Collateral and/or any other property now or hereafter constituting security for any of the Obligations marshaled upon any foreclosure of this Mortgage Instrument or of any other security for any of said indebtedness.

(f) Waiver of Bond. Borrower waives the posting of any bond otherwise required of any party hereto in connection with any judicial process or proceeding to realize on the Collateral or any other security for the Obligations or to enforce any judgment or other court order entered in favor of such party, or to enforce by specific performance, temporary restraining order, preliminary or permanent injunction, this Mortgage Instrument or any other Loan Document.

18. Notices. All notices required or permitted hereunder shall be delivered and deemed delivered in accordance with the provisions of the Credit Agreement.

19. Documentary Stamps. If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Notes or this Mortgage Instrument, or impose any other tax or charge on the same, Borrower will pay for the same, with interest and penalties thereon, if any.

20. Preservation of Rights. No delay or omission on Agent's part to exercise any right or power arising hereunder will impair any such right or power or be considered a waiver of any such right or power, nor will Agent's action or inaction impair any such right or power. Agent's rights and remedies hereunder are cumulative and not exclusive of any other rights or remedies which Agent may have under other agreements, at law or in equity.

21. Illegality. If any provision contained in this Mortgage Instrument should be invalid, illegal or unenforceable in any respect, it shall not affect or impair the validity, legality and enforceability of the remaining provisions of this Mortgage Instrument. It is the intention of the parties hereto to conform strictly to applicable usury laws. Accordingly, the provisions of the Credit Agreement relating to usury and compliance with laws are incorporated herein by reference as if fully set forth herein.

22. Survival; Successors and Assigns.

(a) Successors. This Mortgage Instrument will be binding upon and inure to the benefit of Borrower, Agent and their respective heirs, executors, administrators, successors and assigns; provided, that Borrower may not assign this Mortgage Instrument in whole or in part without Agent's prior written consent and Agent at any time may assign this Mortgage Instrument in whole or in part in accordance with the terms of Section 10.9 of the Credit Agreement.

(b) Covenants Run with Land. All Obligations contained in this Mortgage Instrument are intended by Borrower and Agent to be, and shall be construed as, covenants running with the Property. As used herein, "Borrower" shall refer to the party named in the



first paragraph of this Mortgage Instrument and to any subsequent owner of all or any portion of the Property (without in any way implying that Agent has or will consent to any such conveyance or transfer of the Property). All persons or entities who may have or acquire an interest in the Property shall be deemed to have notice of, and be bound by, the terms of the Credit Agreement and the other Loan Documents; however, no such party shall be entitled to any rights thereunder without the prior written consent of Agent.

23. **Interpretation.** In this Mortgage Instrument, unless Agent and Borrower otherwise agree in writing, the singular includes the plural and the plural the singular; words importing any gender include the other genders; references to statutes are to be construed as including all statutory provisions consolidating, amending or replacing the statute referred to; the word "or" shall be deemed to include "and/or", the words "including", "includes" and "include" shall be deemed to be followed by the words "without limitation"; references to articles, sections (or subdivisions of sections) or exhibits are to those of this Mortgage Instrument; and references to agreements and other contractual instruments shall be deemed to include all subsequent amendments and other modifications to such instruments, but only to the extent such amendments and other modifications are not prohibited by the terms of this Mortgage Instrument. Section headings in this Mortgage Instrument are included for convenience of reference only and shall not constitute a part of this Mortgage Instrument for any other purpose. If this Mortgage Instrument is executed by more than one party as Borrower, the obligations of such persons or entities will be joint and several.

24. **Indemnity.** Borrower agrees to indemnify each of Agent, Lenders, each legal entity, if any, who controls, is controlled by or is under common control with Agent, Lenders and each of their respective directors, officers, employees and agents (the "**Indemnified Parties**"), and to defend and hold each Indemnified Party harmless from and against, any and all claims, damages, losses, liabilities and out-of-pocket expenses (including reasonable fees and charges of external counsel with whom any Indemnified Party may consult and all expenses of litigation and preparation therefor) which any Indemnified Party may incur, or which may be asserted against any Indemnified Party by any person, entity or Governmental Authority (including any person or entity claiming derivatively on behalf of Borrower), in connection with or arising out of or relating to the matters referred to in this Mortgage Instrument or in the other Loan Documents, whether: (a) arising from or incurred in connection with any breach of a representation, warranty or covenant by Borrower, or (b) arising out of or resulting from any suit, action, claim, proceeding or governmental investigation, pending or threatened, whether based on statute, regulation or order, or tort, or contract or otherwise, before any court or Governmental Authority; provided, however, that the foregoing indemnity agreement shall not apply to any claims, damages, losses, liabilities and expenses (i) solely attributable to an Indemnified Party's gross negligence or willful misconduct, or (ii) resulting from a claim brought by Borrower against an Indemnified Party for breach in bad faith of such Indemnified Party's obligations hereunder or under any other Loan Document, if Borrower has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction. The indemnity agreement contained in this Section shall survive the termination of this Mortgage Instrument, payment of any Obligations and

assignment of any rights hereunder in accordance with Section 10.9 of the Credit Agreement. Borrower may participate at its expense in the defense of any such action or claim.

25. **Governing Law and Jurisdiction.** This Mortgage Instrument has been delivered to and accepted by Agent and will be deemed to be made in the State of Illinois. **THIS MORTGAGE INSTRUMENT WILL BE INTERPRETED AND THE RIGHTS AND LIABILITIES OF THE PARTIES HERETO DETERMINED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS, EXCLUDING ITS CONFLICT OF LAWS RULES, EXCEPT THAT THE LAWS OF THE STATE WHERE THE PROPERTY IS LOCATED (IF DIFFERENT FROM THE STATE OF ILLINOIS) SHALL GOVERN THE CREATION, PERFECTION AND FORECLOSURE OF THE LIENS CREATED HEREUNDER ON THE PROPERTY OR ANY INTEREST THEREIN.** Agent and Borrower hereby irrevocably consent to the exclusive jurisdiction of any state or federal court for the county or judicial district located in Cook County, Illinois; provided that nothing contained in this Mortgage Instrument will prevent Agent from bringing any action, enforcing any award or judgment or exercising any rights against Borrower or any Guarantor individually, against any security or against any property of Borrower within any other county, state or other foreign or domestic jurisdiction. Agent and Borrower agree that the venue provided above is the most convenient forum for both Agent and Borrower. Agent and Borrower waive any objection to venue and any objection based on a more convenient forum in any action instituted under this Mortgage Instrument in any state or federal court or judicial district located in Cook County, Illinois.

26. **Credit Agreement's Act.** This Mortgage Instrument and the other Loan Documents shall not be amended, modified or supplemented without the written agreement of Borrower and Agent at the time of such amendment, modification or supplement. Borrower and Agent expressly agree that for purposes of this Mortgage Instrument and each and every other Loan Document: (i) this Mortgage Instrument and each and every other Loan Document shall be a "credit agreement" under the Illinois Credit Agreements Act, 815 ILCS 160/1 et seq. (the "**Credit Act**"); (ii) the Credit Act applies to this transaction including, but not limited to, the execution of this Mortgage Instrument and each and every other Loan Document; and (iii) any action on or in any way related to this Mortgage Instrument and each and every other Loan Document shall be governed by the Credit Act. In the event of a scrivener's error in any term of this Mortgage Instrument, Borrower and each other Loan Party (by execution of a Loan Document and incorporation of this provision by reference) shall take all such actions to correct such scrivener's error and to conform this Mortgage Instrument and the other Loan Documents to the intended terms and provisions.

27. **Representation by Counsel.** Borrower hereby represents that it has been represented by competent counsel of its choice in the negotiation and execution of this Mortgage Instrument and the other Loan Documents; that it has read and fully understood the terms hereof; that Borrower and its counsel have been afforded an opportunity to review, negotiate and modify the terms of this Mortgage Instrument; and that it intends to be bound hereby. In accordance with the foregoing, the general rule of construction to the effect that any ambiguities in a contract are to be resolved against the party drafting the contract shall

not be employed in the construction and interpretation of this Mortgage Instrument or any other Loan Document.

28. **Third Party Beneficiaries.** This Mortgage Instrument and the other Loan Documents are solely for the benefit of Agent, the Lenders and Borrower and their respective permitted successors and assigns, and nothing contained herein shall be deemed to confer upon any Person any right to insist on or to enforce the performance or observance of any of the obligations contained herein or therein. All conditions to the obligations of Agent to make the Loans hereunder are imposed solely and exclusively for the benefit of Agent and its respective successors and assigns, no other Person shall have standing to require satisfaction of such conditions in accordance with their terms.

29. **Waiver of Damages.** Borrower acknowledges and agrees that neither Agent or Lenders shall be liable for any loss or damages to Borrower or the Property on the basis that Agent or Lenders interfered with Borrower's ownership and operation of the Property absent: (i) Agent or any Lender's gross negligence or intentional misconduct; or (ii) an affirmative action or negligent omission of Agent which relates to the use and possession of the Property, and arises following Agent's acquisition of the Property via foreclosure or deed-in-lieu of foreclosure (but excluding any receiver appointed by Agent or Lenders). In no event shall Agent be liable to Borrower for consequential or punitive damages suffered by Borrower in connection with or arising out of, or in any way related to the Loan Documents, including without limitation lost profits, whatever the nature of a breach by Agent of its obligations under this Mortgage Instrument or any of the other Loan Documents. Borrower, for itself and each Affiliate of Borrower, waives all claims for punitive, exemplary or consequential damages.

30. **WAIVER OF JURY TRIAL.** BORROWER IRREVOCABLY WAIVES ANY AND ALL RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR CLAIM OF ANY NATURE RELATING TO THIS MORTGAGE INSTRUMENT, ANY DOCUMENTS EXECUTED IN CONNECTION WITH THIS MORTGAGE INSTRUMENT OR ANY TRANSACTION CONTEMPLATED IN ANY OF SUCH DOCUMENTS. BORROWER ACKNOWLEDGES THAT THE FOREGOING WAIVER IS KNOWING AND VOLUNTARY.

31. **Local Law Provisions.**

(a) **Defeasance.** In the event the Obligations are paid and performed in the time and manner and in accordance with the terms stipulated in the Loan Documents, then this Mortgage Instrument and all the conveyances, assignments, and security interests granted herein shall be null and void.

(b) **Right to Foreclose.** In furtherance of and not in limitation of any other provision of this Mortgage Instrument:

(i) If an Event of Default shall occur, all of the Obligations secured hereby shall become and be immediately due and payable at the option of Agent, without notice or demand which are hereby expressly waived, and this Mortgage Instrument may be foreclosed, at the option of Agent, and Agent, its



successors, assigns, agents or attorneys, shall have the right and are hereby authorized and empowered to enter upon and take possession of the Property, and, with or without taking such possession, to sell the same before the main door of the County Courthouse in which all or any portion of the Property is located, at public outcry, during the legal hours of sale, for cash, after first giving notice of the time, place and terms of such sale, by publication once a week for three successive weeks, prior to said sale, in some newspaper(s) published or circulated in the county or counties in which the Property lies, all in compliance with the laws of Alabama, and upon the payment of the purchase money shall execute to the purchaser at such sale a deed to the property so purchased. Agent shall apply the proceeds of said sale first to the expenses incurred hereunder, including a reasonable attorney's fee for such services as may be necessary for the collection of said Obligations and the foreclosure of this Mortgage Instrument; then to the payment of whatever sum or sums Agent may have paid or become liable to pay in carrying out the terms and stipulations of this Mortgage Instrument, together with interest thereon; and finally, to the payment and satisfaction of the Obligations secured hereby. The balance (if any) shall be paid over to Borrower or to whomever else is entitled thereto. In the event of a sale under the power contained herein Agent, its successors, assigns, agents or attorneys, may purchase the Property at such sale the same as if they were strangers to this conveyance, and in that case the auctioneer or person making the sale is hereby authorized and empowered to execute a deed to the purchaser in the name and on behalf of Agent herein.

(ii) Agent may sell the Property under the terms designated in the notice of sale in one or more parcels and in such order as Agent may determine. Agent may postpone the sale of all or any part of the Property by public announcement at the time and place of any previously scheduled sale.

(iii) If an Event of Default shall occur, Agent may also institute proceedings for judicial foreclosure in a court of competent jurisdiction, and recover from Borrower all costs of such proceedings, including reasonable attorney's fees.

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

Borrower acknowledges that it has read and understood all the provisions of this Mortgage Instrument, including the waiver of jury trial, and has been advised by counsel as necessary or appropriate.

In Witness Whereof, this Mortgage Instrument, has been executed as of the day and year first written above.

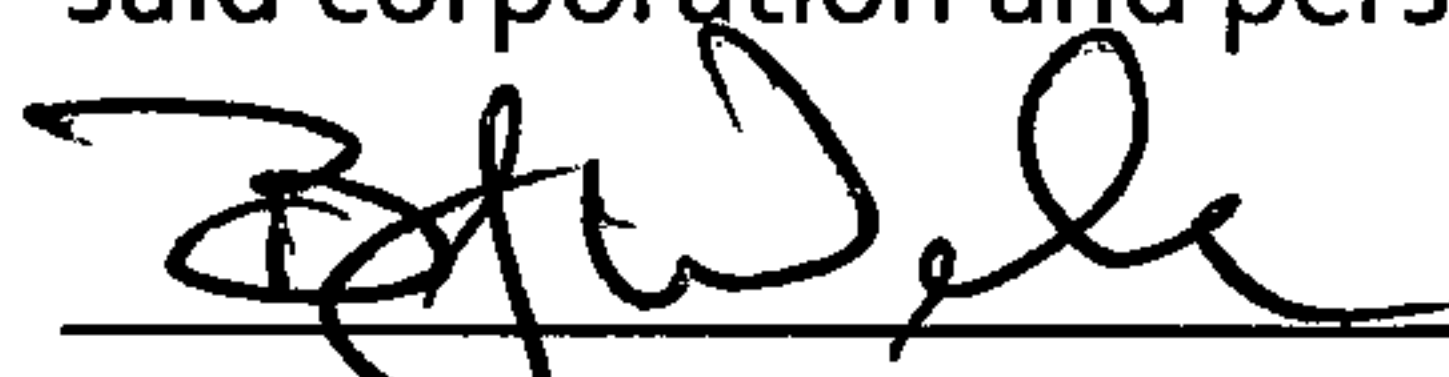
**BORROWER:**

Professional Resource Development, Inc.,  
an Illinois corporation

By:   
Name: Jonathan Brumleve  
Title: Secretary

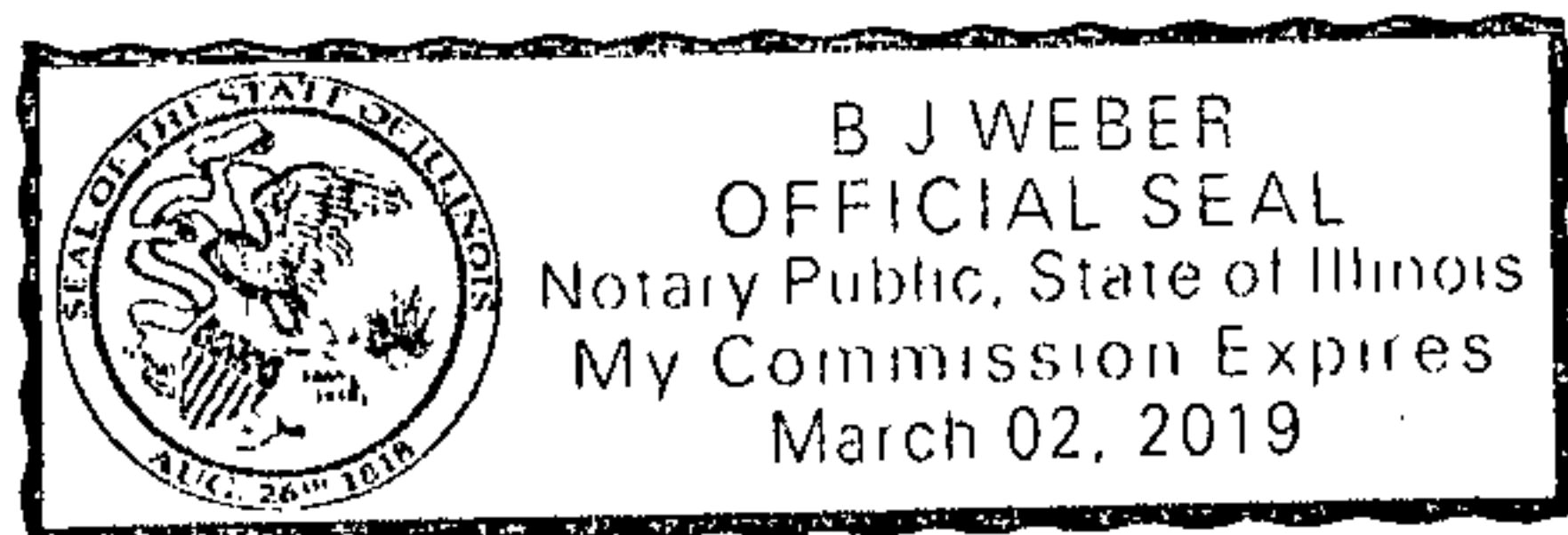
STATE OF ILLINOIS            )  
  ):  
COUNTY OF EFFINGHAM    )

This instrument was acknowledged before me on February 8<sup>th</sup>, 2018, by Jonathan Brumleve, the Secretary of Professional Resource Development, Inc., an Illinois corporation, on behalf of said corporation and personally known to me to be the person executing this instrument.

  
Notary Public

My commission expires: 3/2/2019

(seal)



**EXHIBIT A**

**Legal Description**

**PARCEL 1: (FEE)**

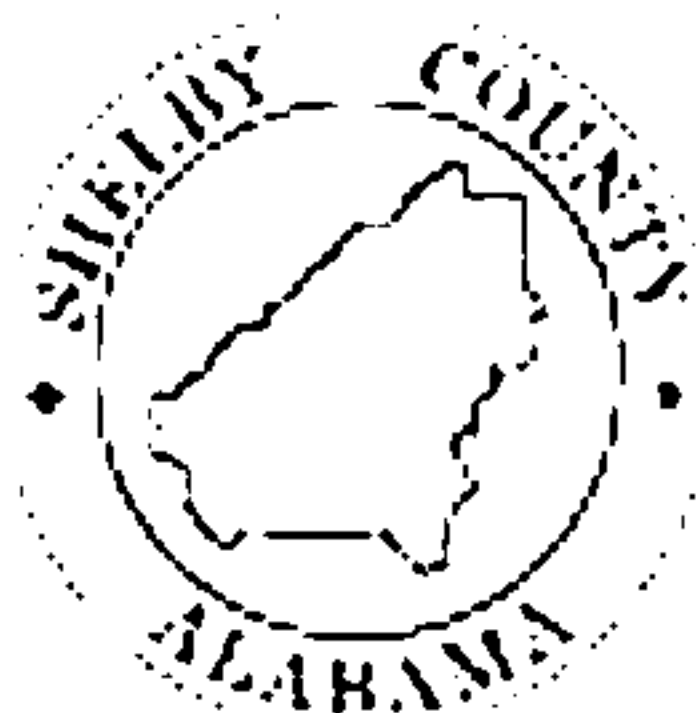
LOT 4, ACCORDING TO THE MAP OF WHITE STONE CENTER SUBDIVISION, AS RECORDED IN MAP BOOK 33, PAGE 138 A AND B IN THE OFFICE OF THE JUDGE OF PROBATE OF SHELBY COUNTY, ALABAMA.

**PARCEL 2: (EASEMENT)**

TOGETHER WITH AND SUBJECT TO ANY RIGHTS AND EASEMENTS AS CREATED BY AND THROUGH THAT CERTAIN DECLARATION OF RESTRICTIONS, COVENANTS AND CONDITIONS AND GRANT OF EASEMENTS (WHITE STONE SHOPPING CENTER) APPEARING OF RECORD UNDER INSTRUMENT NO. 20031124000768400 IN THE PROBATE OFFICE OF SHELBY COUNTY ALABAMA.

**PARCEL 3: (EASEMENT)**

TOGETHER WITH AND SUBJECT TO ANY RIGHTS AND EASEMENTS AS CREATED BY AND THROUGH THAT CERTAIN JOINT ACCESS EASEMENTS - LOTS 3 AND 4, WHITE STONE CENTER SUBDIVISION, RECORDED IN THE SAID PROBATE OFFICE UNDER INSTRUMENT NO. 20040903000495490.



Filed and Recorded  
Official Public Records  
Judge James W. Fuhrmeister, Probate Judge,  
County Clerk  
Shelby County, AL  
03/12/2018 12:28:44 PM  
\$1878.45 CHERRY  
20180312000079000

A handwritten signature in black ink, appearing to read "James W. Fuhrmeister", is written over the official text.