

**This instrument prepared by and
upon recording return to:**

S. Mark Burr, Esq.
Law Offices of S. Mark Burr, P.C.
4005 Nine McFarland Drive
Suite 150
Alpharetta, Georgia 30004

STATE OF ALABAMA)
)
COUNTY OF SHELBY)

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (the "Mortgage") is made as of the 15
day of March, 2006, from **2801 RIVERVIEW, LLC**, a Georgia limited liability company, as grantor
and debtor, with a mailing address of 1049 Powers Ferry Road, Atlanta, Georgia 30067 (hereinafter
referred to as "Mortgagor"), to **COLONIAL BANK, N.A.**, a national banking association, as grantee
and secured party, with a mailing address of 390 W. Crogan Street, Suite 380, Lawrenceville,
Georgia 30045, Attn: Mr. Jason D. Brown, Vice President (hereinafter referred to as "Mortgagee").

WITNESSETH:

WHEREAS, Mortgagee has agreed to make a loan to Mortgagor in the principal sum of
Fifteen Million One Hundred Twenty Thousand and No/100 Dollars (\$15,120,000.00) to be
evidenced by that certain promissory note as is hereinafter described, and as one of the conditions

**THIS INSTRUMENT IS A "CONSTRUCTION MORTGAGE" AS THAT TERM IS DEFINED IN
SECTION 334(h) OF ARTICLE 9A OF THE UNIFORM COMMERCIAL CODE OF ALABAMA, ALA.
CODE § 7-9A-334(h), AND SECURES AN OBLIGATION FOR THE CONSTRUCTION OF
IMPROVEMENTS UPON LAND.**

**THE NOTE SECURED BY THIS MORTGAGE WILL MATURE NO LATER THAN MARCH 15,
2011.**

therefor, Mortgagee requires that Mortgagor execute and deliver this Mortgage and Security Agreement (this "Mortgage") as part of the collateral for such loan;

NOW, THEREFORE, for and in consideration of the foregoing and other good and valuable consideration, and the sum of One Hundred and No/100 Dollars (\$100.00) in hand paid, and the other considerations hereinafter mentioned, the receipt and sufficiency whereof are hereby acknowledged, Mortgagor does hereby bargain, sell, grant, and convey to Mortgagee, its successors and assigns, all of the following property and appurtenances (hereinafter collectively referred to as the "Premises"):

(i) All tracts, pieces, or parcels of land located in Shelby County, Alabama, more particularly described in Exhibit A attached hereto and by this reference made a part hereof (the "Land");

(ii) All buildings, structures, and improvements of every nature whatsoever now or hereafter situated on the Land (the "Improvements"), and all gas and electric fixtures, radiators, heaters, engines, machinery, boilers, ranges, elevators, motors, plumbing and heating fixtures, carpeting and other floor coverings, water heaters, awnings and storm sashes, and cleaning apparatus that are or will be attached to the Improvements, and all other furnishings, furniture, fixtures, machinery, equipment, appliances, and personal property of every kind and nature whatsoever now or hereafter owned by Mortgagor 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 Improvements, all of which are hereby declared and shall be deemed to be fixtures and accessions to the Land as between the parties hereto and all persons claiming by, through, or under Mortgagor and which shall be deemed to be a portion of the security for the indebtedness herein described and to be secured by this Mortgage;

(iii) All building materials, equipment, fixtures, fittings, and personal property of every kind or character now owned or hereafter acquired by Mortgagor 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 the Land or not, and whether in storage or otherwise, wheresoever the same might 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, ranges, refrigerators, dishwashers, disposals, washers, dryers, and in general all building materials and equipment of every kind and character used or useful in connection with said Improvements;

(iv) 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, under, or above the Land or any part or parcel thereof, and all ground leases, estates, rights, titles, interests, privileges, liberties, tenements, hereditaments, appurtenances, reversions, and remainders whatsoever in any way

belonging, relating, or appertaining to the Land or any part thereof, or which hereafter shall in any way belong, relate, or be appurtenant thereto, whether now owned or hereafter acquired by Mortgagor;

(v) All existing and future leases, subleases, subtenancies, licenses, occupancy agreements and concessions relating to the use and enjoyment of all or any part of the Land and the Improvements, and any and all guaranties and other agreements relating to or made in connection with any of such leases;

(vi) All rights to the payment of money, accounts, accounts receivable, reserves, deferred payments, refunds, cost savings, payments and deposits, whether now or hereafter to be received from third parties (including all earnest money deposits) or deposited by Mortgagor with third parties (including all utility deposits), contract rights, goodwill, development and use rights, governmental permits and licenses, applications, architectural and engineering plans, specifications and drawings, as-built drawings, chattel paper, instruments, documents, notes, drafts and letters of credit, which arise from or relate to construction on the Land, to any business now or hereafter to be conducted on the Land, or to the Land and the Improvements generally;

(vii) All proceeds, including all claims to and demands for them, of the voluntary or involuntary conversion of any of the Land, Improvements, or the other property described above into cash or liquidated claims, including proceeds of all present and future fire, hazard, or casualty insurance policies and all condemnation awards or payments now or hereafter to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any damage or injury to the Land, Improvements, or the other property described above or any part of them, or breach of warranty in connection with the construction of the Improvements, including causes of action arising in tort, contract, fraud, or concealment of a material fact;

(viii) All books and records pertaining to any and all of the property described above, including computer-readable memory and any computer hardware or software necessary to access and process such memory; and

(ix) All proceeds of, additions and accretions to, substitutions and replacements for, and any changes in any of the property described above.

TO HAVE AND TO HOLD the Premises and all parts, rights, members and appurtenances thereof, to the use, benefit and behoof of Mortgagee, and its successors and assigns, in fee simple forever; and Mortgagor covenants that Mortgagor is lawfully seized and possessed of the Premises and holds marketable fee simple absolute title to the same and has good right to convey the Premises and that the conveyances in this Mortgage are subject to only those matters (hereinafter referred to as the "Permitted Liens") to which the Mortgagee has consented. Except for the Permitted Liens, Mortgagor does warrant and will forever defend the title to the Premises against the claims of all persons whomsoever.

This Mortgage is intended to constitute (i) a mortgage and security agreement, a security agreement and financing statement under the UCC, and (ii) a notice of assignment of rents or profits under Alabama law, and is given to secure the following obligations in any order of priority that Mortgagee chooses (collectively, the "Secured Obligations"):

(a) Payment of all obligations any time owing pursuant to that certain Promissory Note of even date herewith payable by Mortgagor to the order of Mortgagee in the principal amount of Fifteen Million One Hundred Twenty Thousand and No/100 Dollars (\$15,120,000.00) (as the same might hereafter be amended, extended, renewed, supplemented, or restated, the "Note"), which Note matures not later than March 1, 2011;

(b) Payment and performance of all obligations of Mortgagor pursuant to that certain Construction Loan Agreement of even date herewith between Mortgagor and Mortgagee (the "Loan Agreement"), pursuant to which the principal amount of the Note is to be advanced;

(c) Payment and performance of all obligations of Mortgagor under this Mortgage;

(d) Payment and performance of all obligations of Mortgagor under any of the Loan Documents (as defined in the Loan Agreement);

(e) Payment of principal and interest on any future advance made by Lender to Borrower, or any successor in interest of Borrower as the owner of all or any part of the Property (a "Future Advance"), including all extensions, renewals and modifications of any Future Advance; and

(f) Payment and performance of all modifications, amendments, extensions, consolidations, and renewals, however evidenced, of any of the obligations described in clauses (a) through (e) above.

This Mortgage is also intended to operate and be construed as an absolute present assignment of the rents, issues and profits of the Premises, Mortgagor hereby agreeing, as provided for in Alabama law, that Mortgagee is entitled to receive the rents, issues and profits of the Premises prior to an Event of Default and without entering upon or taking possession of the Premises.

This Mortgage is also intended by Mortgagor and Mortgagee to serve as a fixture filing with respect to all goods and collaterals comprising part of the Premises which are or are to become fixtures related to the Land. The goods are described by item or type in paragraphs (i) through (ix) above. The Mortgagor is the debtor, and the Mortgagee is the secured party. The names of the debtor (Mortgagor) and the secured party (Mortgagee) are given in the first paragraph of this Mortgage. This Mortgage is signed by the debtor (Mortgagor) as a fixture filing. The mailing address of the Mortgagee set out in the first paragraph of this Mortgage is an address of the secured party from which information concerning the security interest may be obtained. The mailing address of the Mortgagor set out in first paragraph of this Mortgage is the mailing address for the debtor. The real estate to which the goods are or are to be affixed is described in Exhibit A. The Mortgagor is a record owner of the real estate.

PROVIDED, HOWEVER, that these presents are upon the condition that, if Mortgagor shall pay or cause to be paid to Mortgagee the principal and interest payable in respect to the Note, at the times and in the manner stipulated therein and herein, all without any deduction or credit for taxes or other similar charges paid by Mortgagor, and shall keep, perform, and observe all and singular the covenants and promises of Mortgagor in the Note, this Mortgage, and in any and all other Loan Documents, 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, and shall be discharged of record at the cost of Mortgagor, which cost Mortgagor agrees to pay, but shall otherwise remain in full force and effect.

AND Mortgagor covenants with Mortgagee, and represents and warrants to Mortgagee, as follows:

ARTICLE I

1.1. Payment of Secured Obligations. Mortgagor will cause all payments required pursuant to the Note to be made according to the tenor thereof and all other Secured Obligations to be paid promptly as the same shall become due.

1.2. Other Taxes, Utilities and Liens.

(a) Mortgagor will pay, on or before the due date thereof, all taxes, assessments, levies, license fees, permit fees, dues, charges, fines, and impositions (in each case whether general or special, ordinary or extraordinary, or foreseen or unforeseen) of every character whatsoever (including all penalties and interest thereon) now or hereafter levied, assessed, confirmed, or imposed on, or in respect of, or which might constitute a lien upon the Premises, or any part thereof, or any estate, right, or interest therein, or upon the rents, issues, income, or profits thereof, and shall submit to Mortgagee such evidence of the due and punctual payment of all such taxes, assessments, and other fees and charges as Mortgagee might require. Mortgagor 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 Mortgagor's covenant to pay any such tax, assessment, fee, or charge at the time and in the manner provided herein unless (i) Mortgagor has given prior written notice to Mortgagee of Mortgagor's intent to so contest or object, (ii) Mortgagor shall demonstrate to Mortgagee'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) Mortgagor shall furnish a good and sufficient bond or surety as requested by and satisfactory to Mortgagee, and (iv) Mortgagor shall have provided a good and sufficient undertaking as might be required or permitted by law to accomplish a stay of such proceedings.

(b) Mortgagor will pay, on or before the due date thereof, all taxes, assessments, charges, expenses, costs, and fees that might now or hereafter be levied upon, or assessed or charged against, or incurred in connection with, the Note, the Secured Obligations, this Mortgage, or any of the other Loan Documents.

(c) Mortgagor will pay or cause to be paid, on or before the due date thereof, (i) all premiums on policies of insurance covering, affecting, or relating to the Premises, as required pursuant to Section 1.3 below, (ii) all ground rentals, other lease rentals, and other sums, if any, owing by Mortgagor and becoming due under any lease or rental contract affecting the Premises, and (iii) all utility charges that are incurred by Mortgagor for the benefit of the Premises, or which might become a charge or lien against the Premises for gas, electricity, water, sewer services, and the like furnished to the Premises, and all other public or private assessments or charges of a similar nature affecting the Premises or any portion thereof, whether or not the nonpayment of same might result in a lien thereon. Mortgagor shall submit to Mortgagee such evidence of the due and punctual payment of all such premiums, rentals, and other sums as Mortgagee might require.

(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 deeds to secure debt or security agreements, or debts secured thereby, or in the manner of collecting such taxes so as to adversely affect Mortgagee (excluding any tax upon Mortgagee's income derived from the Secured Obligations), Mortgagor will pay any such tax on or before the due date thereof. If Mortgagor fails to make such prompt payment or if, in the opinion of Mortgagee, any such state, federal, municipal, or other governmental law, order, rule, or regulation prohibits Mortgagor from making such payment or would penalize Mortgagor if Mortgagor makes such payment, or if, in the opinion of Mortgagee, the making of such payment might result in the imposition of interest beyond the maximum amount permitted by applicable law, then the entire Secured Obligations will, at the option of Mortgagee, become immediately due and payable, upon written notice to Mortgagor.

(e) Mortgagor shall not suffer any mechanic's, materialmen's, laborer's, statutory, or other lien to be created or remain outstanding against the Premises (except for those liens existing as of the date of this Mortgage which are insured over by Lender's policy of title insurance, or for which provisions for payment have otherwise been made to Mortgagee's satisfaction); *provided, however*, Mortgagor may contest any such lien in good faith by appropriate legal proceedings as described in Section 5.3(b) of the Loan Agreement, and for so long as the lien is bonded in such manner as not to adversely affect the priority of this Mortgage.

1.3. Insurance.

(a) Mortgagor will procure for, deliver to, and maintain for the benefit of Mortgagee during the term of this Mortgage, original paid-up insurance policies issued by such insurance companies, in such amounts, in form and substance, and with such expiration dates as are acceptable to Mortgagee and containing non-contributory standard mortgagee clauses, their equivalent, or a satisfactory mortgagee loss payable or additional insured endorsement in favor of Mortgagee, providing the following types of insurance covering the Premises and the interest and liabilities incident to the ownership, possession, and operation thereof:

(i) Insurance against loss or damage by fire, flood, earthquake, subsidence, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles, smoke, vandalism, malicious mischief, and such other risks normally insured against under so-called "extended coverage" or such other risks which, under good insurance practices, from time to time are insured against for properties of similar character and location, the amount of which insurance shall be not less than the full replacement cost of the Premises without deduction for

depreciation and which policies of insurance shall contain satisfactory replacement cost endorsements;

(ii) During the course of any construction or repair of the Premises, non-reporting builder's risk insurance with standard waiver of subrogation clauses;

(iii) If the Improvements existing or to be constructed on the Land lie within a flood hazard area, flood insurance equal to the lesser of (aa) the principal amount of the Note or (bb) the maximum amount of coverage available under the National Flood Insurance Program;

(iv) Comprehensive public liability insurance on an "occurrence basis" against claims for "personal injury," including, without limitation, bodily injury, death, or property damage occurring on, in, or about the Premises and the adjoining streets, sidewalks, and passageways, such insurance to afford immediate minimum protection to a limit of not less than \$1,000,000 with respect to personal injury or death to any one or more persons or damage to property and \$2,000,000 in aggregate coverage per occurrence;

(v) Worker's compensation insurance (including employer's liability insurance, if requested by Mortgagee) for all employees of Mortgagor engaged on or with respect to the Premises, in such amount as is reasonably satisfactory to Mortgagee or in such amounts as might be established by law;

(vi) Within thirty (30) days after substantial completion of the Improvements, rent or business interruption insurance against loss of income arising out of damage or destruction by fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles, smoke, vandalism, and malicious mischief, and such other hazards as are presently included in so-called "extended coverage" in an amount of not less than twelve (12) months' gross rental income from the Premises; and

(vii) Such other insurance on the Premises or any replacements or substitutions therefor and in such amounts as might from time to time be reasonably required by Mortgagee against other insurable casualties that at the time are commonly insured against in the case of premises similarly situated, due regard being given to the height and type of the Improvements, their construction, location, use, and occupancy, or any replacements or substitutions therefor.

(b) All policies of insurance required by the terms of this Mortgage shall contain an endorsement or agreement by the insurer that any loss will be payable in accordance with the terms of such policy notwithstanding any act or negligence of Mortgagor that might otherwise result in forfeiture of said insurance, and the further agreement of the insurer waiving all rights of setoff, counterclaim, or deductions against Mortgagor.

(c) Mortgagor is hereby authorized and empowered, at its option, to adjust or compromise any loss under any insurance policies maintained pursuant to this Section, *provided* that Mortgagor agrees that (i) it shall not take any action or refrain from taking any action which might jeopardize the security title and interest granted to Mortgagee hereunder and (ii) no settlement

in excess of \$100,000.00 shall occur unless approved in writing by Mortgagee; *provided further* that, if an Event of Default has occurred and is continuing at the time of such loss, then Mortgagee shall be authorized and empowered, at its option, to adjust or compromise any loss under any insurance policies maintained pursuant to this Section and to collect and receive the proceeds from any such policy or policies, to the exclusion of Mortgagor. In such event, each insurance company is hereby authorized and directed to make payment for all such losses directly to Mortgagee as its interest might appear, instead of to Mortgagor and Mortgagee jointly. If any insurance company fails to disburse directly and solely to Mortgagee but instead disburses either solely to Mortgagor or to Mortgagor and Mortgagee jointly, Mortgagor agrees immediately to endorse and transfer such proceeds to Mortgagee to the extent of Mortgagee's interest therein. Upon the failure of Mortgagor to endorse and transfer such proceeds as aforesaid, Mortgagee may execute such endorsements or transfers for and in the name of Mortgagor, and Mortgagor hereby irrevocably appoints Mortgagee as Mortgagor's agent and attorney-in-fact so to do. Mortgagee shall not be held responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure.

(d) At least fifteen (15) days prior to the expiration date of each policy maintained pursuant to this Section, a renewal or replacement thereof satisfactory to Mortgagee shall be delivered to Mortgagee. Mortgagor will deliver to Mortgagee receipts evidencing the payment for all such insurance policies and renewals or replacements. The delivery of any insurance policies hereunder shall constitute an assignment of all unearned premiums as further security for the Secured Obligations. In the event of the foreclosure of this Mortgage or any other transfer of title to the Premises in extinguishment or partial extinguishment of the Secured Obligations, all right, title, and interest of Mortgagor in and to all insurance policies then in force will pass to the purchaser or Mortgagee, and Mortgagee is hereby irrevocably appointed by Mortgagor as attorney-in-fact for Mortgagor to assign any such policy to said purchaser or to Mortgagee without accounting to Mortgagor for any unearned premiums thereon.

(e) All policies of insurance required pursuant to the terms of this Section shall contain a provision that such policies will not be canceled or materially amended (including any reduction in the scope or limits of coverage) without at least thirty (30) days prior written notice to Mortgagee. If Mortgagor fails to provide, maintain, keep in force, or deliver to Mortgagee the policies of insurance required by this Section, Mortgagee may procure such insurance or single-interest insurance for such risks covering Mortgagee's interest, and Mortgagor will pay all premiums thereon promptly upon demand by Mortgagee. Until such payment is made by Mortgagor, the amount of all such premiums, together with interest as hereinafter set forth, shall be added to the Secured Obligations.

(f) Lender shall be entitled to apply insurance proceeds at Lender's option either (i) to the full or partial payment of the Secured Obligations, whether then matured or to mature in the future, in such order as Lender shall elect, or (ii) to the repair and/or restoration of the Premises.

1.4. Monthly Tax Deposits. Upon the request of Mortgagee, Mortgagor will pay to Mortgagee on the due date of and in addition to each scheduled monthly installment of principal and/or interest under the Note, until the Secured Obligations are fully paid, an amount equal to one-twelfth (1/12th) of the yearly taxes, assessments, and insurance premiums as estimated by Mortgagee to be sufficient to enable Mortgagee to pay, at least thirty (30) days before they become due, all taxes, assessments, and other similar charges against the Premises or any part thereof and all premiums for the insurance policies required under Section 1.3 above. Such added payments shall not be, nor be deemed to be, trust funds, but may be commingled with the general funds of

Mortgagee, and no interest shall be payable in respect thereof. Upon demand of Mortgagee, Mortgagor agrees to deliver to Mortgagee such additional moneys as are necessary to make up any deficiencies in the amounts necessary to enable Mortgagee to pay such taxes, assessments, charges, and insurance premiums when due. Upon the occurrence of an Event of Default, Mortgagee may apply to the reduction of the Secured Obligations, in such manner as Mortgagee determines, any amount under this Section remaining to Mortgagor's credit.

1.5. Condemnation. If all or any material portion of the Premises shall be damaged or taken through condemnation (which term when used in this Mortgage shall include any damage or taking by any governmental or quasi-governmental authority and any transfer by private sale in lieu thereof), either temporarily or permanently, other than an insubstantial taking for the purpose of widening existing roads bordering the Land or obtaining utility easements which does not adversely affect access or the use of the Land for its intended purposes and is not so substantial as to permit any tenant (whether or not then in possession) to terminate its lease or reduce the term thereof or the rent payable thereunder, then a portion of or the entire Secured Obligations shall, at the option of Mortgagee, immediately become due and payable. Mortgagor, immediately upon obtaining knowledge of the institution, or the proposed, contemplated or threatened institution of any action or proceeding for the taking through condemnation of the Premises or any part thereof will notify Mortgagee, and Mortgagee is hereby authorized, at its option, to commence, appear in and prosecute, through counsel selected by Mortgagee, in its own or Mortgagor's name, any action or proceeding relating to any condemnation. Mortgagor may compromise or settle any claim for compensation, but shall not make any compromise or settlement for an award that is more than \$100,000.00 or less than the Secured Obligations without the prior written consent of Mortgagee. All such compensation, awards, damages, claims, rights of action, and proceeds and the right thereto are hereby assigned by Mortgagor to Mortgagee, and after the occurrence of an Event of Default, Mortgagee is authorized, at its option, to collect and receive all such compensation awards or damages and to give proper receipts and acquittances therefor without any obligation to question the amount of any such compensation, awards or damages. After deducting from said condemnation proceeds all of its expenses incurred in the collection and administration of such sums, including reasonable attorney's fees actually incurred at ordinary hourly rates, the net proceeds shall be dealt with by the Mortgagee in accordance with, and subject to, the same terms and conditions as set forth in paragraph (f) of Section 1.3 hereof as if the condemnation proceeds were insurance proceeds.

1.6. Care of Premises.

(a) Mortgagor will not commit or suffer any waste at the Premises, and will not do or suffer to be done anything that will increase the risk of fire or other hazard to the Premises or any part thereof. Mortgagee is hereby authorized to enter upon and inspect the Premises at any time during normal business hours. Mortgagor will comply promptly with all present and future laws, ordinances, rules, and regulations of any governmental authority applicable to and affecting the Premises or any part thereof, including, without limitation, the Americans with Disabilities Act and regulations thereunder, and all applicable laws, ordinances, rules and regulations relating to zoning, building codes, set back requirements, and environmental matters.

(b) No buildings, fixtures, personal property, or other part of the Premises which exceeds \$100,000 in the aggregate during any one consecutive twelve (12) month period shall be removed, demolished, or substantially altered without the prior written consent of Mortgagee, or as otherwise provided in the Loan Agreement. Mortgagor may sell or otherwise dispose of, free from the lien of

this Mortgage, furniture, furnishings, equipment, tools, appliances, machinery, fixtures, or appurtenances, that might become worn out, undesirable, obsolete, disused or unnecessary for use in the operation of the Premises, 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 Mortgagor 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 security title and security interest of this Mortgage.

(c) If the Premises or any part thereof is damaged by fire or any other cause, or any portion of the Premises is taken through eminent domain or expropriation proceedings, Mortgagor will give immediate written notice of the same to Mortgagee. The proceeds from any insurance policy or condemnation award will be paid according to the Loan Agreement.

1.7. Further Assurances; After Acquired Property. At any time, and from time to time, upon written request by Mortgagee, Mortgagor will make, execute and deliver or cause to be made, executed and delivered, to Mortgagee, any and all other further instruments, certificates and other documents as may, in the reasonable opinion of Mortgagee, be necessary or desirable in order to effectuate, complete, continue and preserve the obligation of Mortgagor under the Note and to continue, preserve and perfect the security title and security interest of, and the priority of, this Mortgage. Upon any failure by Mortgagor so to do, Mortgagee may make, execute and record any and all such instruments, certificates and documents for and in the name of Mortgagor, and Mortgagor hereby irrevocably appoints Mortgagee the agent and attorney in fact of Mortgagor so to do after the expiration of fifteen (15) days after written notice of such failure is sent to Mortgagor, which power of attorney is coupled with an interest and irrevocable. The security title and security interest hereof shall attach automatically without any further act or deed required of Mortgagor or Mortgagee to all after-acquired property of the kind described herein attached to or used in connection with the operation of the Premises or any part thereof.

1.8. Security Interest in Personal Property. Subject to the terms of Section 1.6(b), this Mortgage creates a lien on and grants a security interest in the personal property of Mortgagor that constitutes part of the Premises, and it shall constitute a security agreement under the Alabama Uniform Commercial Code or other law applicable to the creation of security interests in personal property. Mortgagor covenants and agrees to execute, file, and refile such financing statements, continuation statements, or other documents as Mortgagee shall require from time to time with respect to such personal property. This Mortgage constitutes a financing statement under the Alabama Uniform Commercial Code with Mortgagor as the "debtor" and Mortgagee as the "secured party", and their respective addresses are set forth in the heading to this Mortgage. If an Event of Default occurs, Mortgagee shall have all rights and remedies of a secured party under the Alabama Uniform Commercial Code.

1.9. Use and Management of Premises. Mortgagor will cause the Premises to be operated for its intended use on a continuous basis and in a first-class manner. Mortgagor will comply with and observe its obligations as landlord under all leases affecting the Premises or any part thereof. Mortgagor will not accept payment of rent more than one (1) month in advance without the express written consent of Mortgagee. If requested by Mortgagee, Mortgagor will separately assign to Mortgagee as additional security any and all such leases whether now existing or hereafter created, including, without limitation, all rents, royalties, issues, and profits of the premises from time to time accruing, and will not cancel, surrender, or modify any lease so assigned without the written consent of Mortgagee.



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1.10. Expenses. Mortgagor will pay or reimburse Mortgagee for all reasonable attorneys' fees actually incurred at standard hourly rates, costs and expenses incurred by Mortgagee in any proceedings involving the estate of a decedent or an insolvent, or in any action, legal proceeding or dispute of any kind in which Mortgagee is made a party, or appears as party plaintiff or defendant, affecting the Secured Obligations, this Mortgage or the interest created herein, or the Premises, including but not limited to the exercise of the power of sale of this Mortgage, any condemnation action involving the Premises, any dispute or other matter involving a lease of any of the Premises or any tenant thereunder, or any action to protect the security hereof, and any such amounts paid by Mortgagee shall be added to the Secured Obligations.

1.11. Estoppel Affidavits. Mortgagor, upon ten (10) days' prior written notice, shall furnish Mortgagee a written statement, signed by a duly authorized officer of Mortgagor, setting forth the unpaid principal of, and interest on, the Secured Obligations and whether or not any offsets or defenses are known to exist against the Secured Obligations.

1.12. Subrogation. Mortgagee shall be subrogated to the claims and liens of all parties whose claims or liens are discharged or paid by Mortgagee in order to protect or preserve the Premises and the value thereof as security for Secured Obligations.

1.13. Performance by Mortgagee of Defaults by Mortgagor. If Mortgagor defaults in the payment of any tax, lien, assessment, or charge levied or assessed against the Premises (and such tax, lien, assessment or charge is not being contested in good faith and in accordance with the procedures as described in the Loan Agreement or in this Mortgage), or in the payment of any utility charge, whether public or private, or in the payment of any insurance premium, or in the procurement of insurance coverage and the delivery of the insurance policies required herein, or in the performance or observance of any other covenant, condition, or term of this Mortgage, then Mortgagee, at its option, may perform or observe the same, and all payments made or costs incurred by Mortgagee in connection therewith shall constitute Secured Obligations and shall be, without demand, immediately repaid by Mortgagor to Mortgagee with interest thereon at the default rate specified in the Note. Mortgagee 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 connection therewith. Mortgagee 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 Mortgagor.

1.14. Assignment of Rents. All rents, issues, and profits from the Premises are hereby assigned to Mortgagee to be applied against the Secured Obligations. This Mortgage constitutes an absolute and present assignment of the rents, issues, and profits from the Premises so long as this Mortgage remains in effect. The foregoing assignment shall be fully operative without any further action on the part of either party, and specifically, Mortgagee shall be entitled, at its option upon any such Event of Default hereunder, to all such rents, issues, and profits whether or not Mortgagee takes possession of the Premises. Exercise by Mortgagee of its rights under this Section and the application of any such rents, issues, and profits to the Secured Obligations shall not cure or waive any Event of Default or notice of an Event of Default hereunder or invalidate any act done pursuant hereto or any such notice, but shall be cumulative of all other rights and remedies. Mortgagor shall not, without the prior written consent of Mortgagee, further assign the rents, issues, or profits from the Premises, and any such assignment without the express written consent of Mortgagee shall be

void as against Mortgagee. If requested by Mortgagee, Mortgagor will separately assign to Mortgagee as additional security any leases of the Premises, or any part thereof, whether now existing or hereafter created, including, without limitation, all rents, royalties, issues, and profits of the premises from time to time accruing, and will not cancel, surrender, or modify any lease so assigned without the written consent of Mortgagee.

1.15. Appraisals. For so long as any Secured Obligations remains outstanding, (a) if any Event of Default shall occur hereunder, or (b) if any external regulatory authority having jurisdiction over Mortgagee shall so require, or if, in Mortgagee's judgment, a material depreciation in the value of the Premises shall have occurred, then in any such event Mortgagee may cause the Premises to be appraised by an appraiser selected by Mortgagee, and in accordance with Mortgagee's appraisal guidelines and procedures then in effect. Mortgagor will reimburse Mortgagee for the cost of any such appraisals requested.

1.16. Limit of Validity. To the extent the fulfillment of any provision of this Mortgage at the time such provision is to be performed shall involve transcending the limit of validity presently prescribed by any applicable usury or similar law, the obligation to be fulfilled under such provision shall *ipso facto* be reduced to the limit of such validity.

ARTICLE II

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

(a) Failure by Mortgagor to pay any amount payable to Mortgagee under the Note, this Mortgage, the Loan Agreement, or any of the other Loan Documents, which failure is not cured within any applicable notice or cure period provided for in the Loan Agreement, or the occurrence of any other "Event of Default" under, and as defined in, the Note, the Loan Agreement, or any other Loan Document;

(b) Any default or failure of Mortgagor duly to observe and perform any other covenant, condition, or agreement of this Mortgage (other than a monetary default, which shall be governed by paragraph (a) above, or a non-monetary default that cannot be cured) that is not cured within thirty (30) days after written notice is sent by Mortgagee to Mortgagor specifying such default; or

(c) Except as expressly provided in the Loan Agreement, the sale or other transfer of the Premises or any interest therein, or the creation or suffering to exist by Mortgagor of any lien or encumbrance on the Premises, other than the lien of this Mortgage, the lien for ad valorem taxes not then delinquent, and the Permitted Encumbrances, unless the written consent of Mortgagee is first obtained, which consent may be granted or refused by Mortgagee in its sole discretion, or unless such lien or encumbrance is bonded, removed of record, or dismissed within thirty (30) days after Mortgagor is notified by Mortgagee or otherwise thereof, or unless Mortgagor has made other arrangements satisfactory to Mortgagee with respect thereto.

Notwithstanding anything herein, any requirement of notice specified above shall be deemed deleted if Mortgagee is prevented from giving notice by bankruptcy or other applicable law, and the cure period shall be measured from the date of the event or failure rather than from the date of notice.

2.2. Acceleration of Maturity. If an Event of Default occurs, then the whole outstanding principal balance of the Secured Obligations, together with all accrued but unpaid interest thereon, shall, at the option of Mortgagee, become due and payable without notice or demand, time being of the essence of this Mortgage, and no delay or omission on the part of Mortgagee to exercise such option when entitled so to do shall be considered as a waiver of such right.

2.3. Right of Mortgagee to Enter and Take Possession. If an Event of Default occurs, Mortgagor, upon demand of Mortgagee, shall forthwith surrender to Mortgagee the actual possession of the Premises, and to the extent permitted by law, Mortgagee may enter and take possession of the Premises and may exclude Mortgagor and Mortgagor's agents and employees wholly therefrom. Upon every such entering and taking of possession, Mortgagee may hold store, use, operate, manage, control, and maintain the Premises and conduct any then operating business at the Premises and from time to time (i) make all necessary and proper repairs, renewals, replacements, additions, betterments, and improvements thereto and purchase or otherwise acquire additional fixtures, personalty, and other property in connection with the operation of any then existing business at the Premises; (ii) insure or keep the Premises insured; (iii) manage and operate the Premises and exercise all the rights and powers of Mortgagor, in its name or otherwise, 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 Mortgagee, all as Mortgagee may from time to time determine to be to its best advantage. Mortgagee may collect and receive all of the income, rents, profits, issues, and revenues of the Premises, including those past due as well as those accruing thereafter, and after deducting (aa) all expenses of taking, holding, managing, and operating the Premises (including compensation for the services of all persons employed for such purposes), (bb) the cost of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements, purchases, and acquisitions, (cc) the cost of such insurance, (dd) such taxes, assessments, and other charges as Mortgagee may reasonably determine to pay, (ee) other proper charges upon the Premises or any part thereof, and (ff) the reasonable compensation and expenses of attorneys and agents of Mortgagee actually incurred, Mortgagee shall apply the remainder of the money so received to the other Secured Obligations in such order as Mortgagee may elect. For the purpose of carrying out the provisions of this Section, Mortgagor hereby constitutes and appoints Mortgagee the true and lawful attorney in fact of Mortgagor, which power of attorney is coupled with an interest and irrevocable, to do and perform, from time to time, any and all actions necessary and incidental to such purpose and does, by these presents, ratify and confirm any and all actions of said attorney in fact on the Premises. Whenever all such Events of Default have been cured and satisfied, Mortgagee may surrender possession of the Premises to Mortgagor, provided that the right of Mortgagee to take possession of the Premises, from time to time, pursuant to this Section shall exist if any subsequent Event of Default occurs.

2.4. Appointment of a Receiver. If an Event of Default occurs, Mortgagee, upon application to a court of competent jurisdiction, shall be entitled, without regard to the adequacy of any security for the Secured 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 Premises and to collect the rents, profits, issues and revenues thereof. Mortgagor will pay to Mortgagee upon demand all expenses, including, without limitation, all receivers' fees, reasonable attorneys' fees, and agent's compensation, actually incurred pursuant to the provisions of this Section, and all such expenses shall constitute Secured Obligations.

2.5. Power of Sale.

(a) Upon the occurrence of any Event of Default, and whether or not Mortgagee shall have accelerated the maturity of the Secured Obligations pursuant to Section 2.2 hereof, Mortgagee, at its option, may:

(1) upon the breach or default by Mortgagor of any of the foregoing, or at any time thereafter, this Mortgage shall be subject to foreclosure and may be foreclosed as now provided by law in case of past-due mortgages, and the Mortgagee shall be authorized, at its option, whether or not possession of the Premises is taken, to sell the Premises (or such part or parts thereof as the Mortgagee may from time to time elect to sell) under the power of sale which is hereby given to the Mortgagee, at public outcry, to the highest bidder for cash, at the front or main door of the courthouse of the county in which the Land to be sold, or a substantial and material part thereof, is located, after first giving notice by publication once a week for three successive weeks of the time, place and terms of such sale, together with a description of the Premises to be sold, by publication in some newspaper published in the county or counties in which the Land to be sold is located. If there is Land to be sold in more than one county, publication shall be made in all counties where the Land to be sold is located, but if no newspaper is published in any such county, the notice shall be published in a newspaper published in an adjoining county for three successive weeks. The sale shall be held between the hours of 11:00 a.m. and 4:00 p.m. on the day designated for the exercise of the power of sale hereunder. The Mortgagee may bid at any sale held under this Mortgage and may purchase the Premises, or any part thereof, if the highest bidder therefor. The purchaser at any such sale shall be under no obligation to see to the proper application of the purchase money. At any sale all or any part of the Premises, real, personal or mixed, may be offered for sale in parcels or en masse for one total price, and the proceeds of any such sale en masse shall be accounted for in one account without distinction between the items included therein and without assigning to them any proportion of such proceeds, the Mortgagor hereby waiving the application of any doctrine of marshalling or like proceeding;

(2) exercise any or all rights or remedies of a secured party under the Alabama Uniform Commercial Code, including, but not limited to the right to enter upon any the Premises on which any personal property of Mortgagor may be situated and remove the same;

(3) either with or without taking possession of the Premises, sell, lease or otherwise dispose of the Premises in its then condition or following such preparation as Mortgagor deems advisable;

(4) apply all or any portion of the Premises, or the proceeds thereof, towards (but not necessarily in complete satisfaction of) the Secured Obligations;

(5) foreclose any and all rights of Mortgagor in and to the Premises, whether by sale, entry or in any other manner provided for hereunder or under the laws of the State of Alabama;

(6) in the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Mortgagor or the creditors or property of Mortgagor, Mortgagee, 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 Mortgagee allowed in such proceedings for the entire amount of the Obligations at the date of the institution of such proceedings and for any additional portion of the Obligations accruing after such date; or

(7) exercise any other right or remedy of a mortgagee or secured party under the laws of the State of Alabama.

(b) At any sale conducted pursuant to this Section, Mortgagee may execute and deliver to the purchaser a conveyance of the Premises, or any part of the Premises, or any personal property or fixtures included in or located on the Premises, in fee simple, which conveyance may contain recitals as to the occurrence of an Event of Default hereunder, and to this end Mortgagor hereby constitutes and appoints Mortgagee its agent and attorney in fact to make such sale and conveyance and thereby to divest Mortgagor of all right, title, or equity in and to the Premises and to vest the same in the purchaser or purchasers at such sale or sales, and all the reasonable acts and doings of said agent and attorney in fact are hereby ratified and confirmed. The aforesaid power of sale and agency hereby granted are coupled with an interest and are irrevocable by dissolution or otherwise, are granted as cumulative of the other remedies provided by law for collection of the Secured Obligations, and shall not be exhausted by one exercise thereof but may be exercised until full payment of the Secured Obligations.

(c) Upon any such public sale pursuant to the power of sale and agency conferred by this Section, the proceeds of such sale shall be applied first to payment of the Secured Obligations and to the expenses of such sale and of all proceedings in connection therewith, including reasonable attorneys' fees actually incurred, in such manner and in such amounts as Mortgagee elects, and, the remainder, if any, shall be paid to the parties entitled thereto or interpleaded into court in the event any other secured party or lien or having an interest in the Premises or any part thereof should make a claim thereto.

2.6. Mortgagor as Tenant Holding Over. If any public sale of the Premises or any part thereof occurs pursuant to the aforesaid power of sale and agency, Mortgagor shall be deemed a tenant 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.

2.7. Discontinuance of Proceedings; Restoration of Parties. If Mortgagee proceeds to enforce any right of remedy under this Mortgage by receiver, entry, or otherwise and such proceedings are discontinued or abandoned for any reason or are determined adversely to Mortgagee, then and in every such case Mortgagor and Mortgagee shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Mortgagee shall continue as if no such proceeding had been taken.

2.8. Remedies Cumulative. No right, power, or remedy conferred upon or reserved to Mortgagee by this Mortgage or any of the other Loan Documents is intended to be exclusive of any other right, power, or remedy, but each and every such right, power, and remedy shall be cumulative and concurrent and shall be in addition to any other right, power, and remedy given under this Mortgage, any such other Loan Document, or now or hereafter existing at law or in equity or by statute. The exercise by Mortgagee of any such right, power, and remedy shall not operate as an election of remedies by Mortgagee and shall not preclude the exercise by Mortgagee of any or all other such rights, powers, or remedies. If the sale of all or any part of the Premises is permitted hereunder, then such sale of the Premises may be in one or more parcels and in such manner and order as Mortgagee, in its sole discretion, may elect, it being expressly understood and agreed that the right of sale arising out of an Event of Default shall not be exhausted by any one or more sales, but other and successive sales may be made until all of the Premises has been sold or until the Secured Obligations have been fully satisfied.

2.9. Waiver of Exemption. To the extent allowed by law, Mortgagor waives all rights of exemption pertaining to real or personal property as to any indebtedness secured by or that may be secured by this Mortgage, and Mortgagor waives the benefit of any statute regulating the obtaining of a deficiency judgment or requiring that the value of the premises be set off against any part of the Secured Obligations.

2.10. Suits to Protect the Premises. Mortgagee shall have power (i) to institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Premises by any acts which may be unlawful or any violation of this Mortgage, (ii) to preserve or protect its interest in the Premises and in the income, revenues, rents, and profits arising therefrom, and (iii) 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 impair the security hereunder or be prejudicial to the interest of Mortgagee.

2.11. Mortgagor to Pay the Note on Any Default in Payment. If an Event of Default occurs, then, upon demand of Mortgagee, Mortgagor will pay to Mortgagee the whole amount due and payable under the Note, and in case Mortgagor shall fail to pay the same forthwith upon such demand, Mortgagee shall be entitled to sue for and to recover judgment for the whole amount so due and unpaid together with costs, which shall include the reasonable compensation, expenses, and disbursements actually incurred of Mortgagee's agents and attorneys.

2.12. Delay or Omission No Waiver. No delay or omission of Mortgagee or of any holder of the Note to exercise any right, power, or remedy accruing upon any Event of Default shall exhaust or impair any such right, power, or remedy or shall be construed to be a waiver of any such Event of Default, or acquiescence therein, and every right, power, and remedy given by this Mortgage to Mortgagee may be exercised from time to time and as often as may be deemed expedient by Mortgagee.



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2.13. No Waiver of Event of Default to Affect Another, etc. No waiver of any Event of Default hereunder shall extend to or shall affect any subsequent or any other then existing Event of Default or shall impair any rights, powers, or remedies consequent thereon. If Mortgagee (i) grants forbearance or an extension of time for the payment of any of the Secured Obligations, (ii) takes other or additional security for the payment of the Secured Obligations, (iii) waives or does not exercise any right granted in the Note, this Mortgage, or any of the other Loan Documents, (iv) releases any part of the Premises from the security title and interest of this Mortgage or otherwise changes any of the terms of the Note, this Mortgage, or any of the other Loan Documents, (v) consents to the filing of any map, plat, or replat pertaining to the Premises, (vi) consents to the granting of any easement or license affecting the Premises, or (vii) makes or consents to any agreement subordinating the security title and interest of this Mortgage, then any such act or omission shall not release, discharge, modify, change, or affect the original liability under the Note, this Mortgage, or otherwise of Mortgagor or any subsequent purchaser of the Premises or any part thereof, or any maker, co-signer, endorser, surety, or guarantor, nor shall any such act or omission preclude Mortgagee from exercising any right, power, or privilege herein granted or intended to be granted in the event of any other Event of Default then made or of any subsequent Event of Default, nor, except as otherwise expressly provided in an instrument or instruments executed by Mortgagee, shall the lien of this Mortgage be altered thereby. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Premises (Except as pursuant to Section 1.6(b)), Mortgagee, at its option, without notice to any person or corporation hereby is authorized and empowered to deal with any such vendee or transferee with reference to the Premises or the Secured Obligations, or with reference to any of the terms or conditions 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 of the liabilities or undertakings hereunder.

ARTICLE III

3.1. Successors and Assigns. Whenever in this Mortgage one of the parties hereto is named or referred to, the heirs, legal representatives, successors and assigns of such parties shall be included and all covenants and agreements contained in this Mortgage by or on behalf of Mortgagor or by or on behalf of Mortgagee shall bind and inure to the benefit of their respective legal representatives, successors and assigns, whether so expressed or not, and any assignment of this Mortgage by Mortgagee shall vest in Mortgagee's assignee Mortgagee's title to the premises and all rights and powers herein conferred on Mortgagee.

3.2. Headings. The headings of the sections, paragraphs and subdivisions of this Mortgage are for convenience of reference only, are not to be considered a part hereof and shall not limit or otherwise affect any of the terms hereof.

3.3. Notices. Any and all notices, elections, or demands permitted or required to be made under this Mortgage shall be given in accordance with the provisions of the Loan Agreement.

3.4. Governing Law. This instrument shall be governed by the internal laws of the State of Georgia, except that the remedial provisions of this instrument relating to Mortgagee's rights in and to the Premises shall be governed by the laws of the State of Alabama.

3.5. Invalid Provisions to Affect No Others. If any provision hereof is held to be invalid or the enforcement of any provision is prohibited by law or governmental action or regulation, only such invalid or unenforceable provision shall be affected, and the remainder of this Mortgage shall remain operative and in full force and effect.

3.6. Number and Gender. Whenever the singular or plural number, masculine or feminine or neuter gender is used herein, it shall equally include the other.

3.7. Amendment. Neither this Mortgage nor any of the provisions hereof may be changed, waived, discharged, or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

3.8. Attorneys' Fees. All references herein to attorneys' fees payable by Mortgagor shall include, without limitation reasonable attorneys' fees actually incurred at standard hourly rates by Mortgagee at trial, on appeal by either party, in connection with matters pertaining to the estate of any decedent, and in any bankruptcy proceedings.

3.9. Replacement of Note. Upon receipt of evidence reasonably satisfactory to Mortgagor of the loss, theft, destruction, or mutilation of the Note, and in the case of any such loss, theft, or destruction, upon delivery of an indemnity agreement reasonably satisfactory to Mortgagor or, in the case of any such mutilation, upon surrender and cancellation of the Note, Mortgagor at Mortgagee's expense will execute and deliver, in lieu thereof, a replacement note, identical in form and substance to the Note and dated as of the date of the Note, and upon such execution and delivery all references in this Mortgage to the Note shall be deemed to refer to such replacement note.

3.10. Time of the Essence. Time is of the essence with respect to each and every covenant, agreement, and obligation of Mortgagor under this Mortgage, the Note, and any and all other Loan Documents.

3.11. Venue and Jurisdiction. Mortgagor, by the execution of this Mortgage, expressly and irrevocably assents and submits to the personal jurisdiction of the state and federal courts sitting or presiding within the State of Alabama in any legal action or proceeding under, arising out of, or in any manner relating to this Mortgage or the Premises and acknowledges that the negotiation, execution, and delivery of this Mortgage constitutes the transaction of business within the State of Alabama for any such action or proceeding. Mortgagor further agrees that the venue of any cause of action or action arising out of or in any manner relating to the Note, this Mortgage, any or all other Loan Documents, or the Premises shall, at Mortgagee's option, be either (i) as provided in the Loan Agreement, or (ii) in the Circuit Court of Shelby County, Alabama, or the United States District Court for the Northern District of Alabama, Birmingham Division, and Mortgagor waives any and all rights under any state or federal law to object to the venue in said courts.

3.12. Waiver of Jury Trial. Mortgagor has waived its right to trial by jury in any suit or controversy involving this Mortgage or the Property in accordance with the provisions of the Loan Agreement, which waiver is by this reference incorporated herein in its entirety.

{Signatures on next page}

IN WITNESS WHEREOF, Mortgagor has executed this Mortgage under seal, as of the day and year first above written.

Witness:

Victor Roberts
Print Name: VICTOR ROBERTS

Rachel D. Bowen
Print Name: Rachel D. Bowen

2801 RIVERVIEW, LLC, a Georgia limited liability company

By: *Bluffs Management, Inc., a Georgia corporation*
Its: Manager

By: *Donald Lippman*
Name: *Donald Lippman*
Title: *President*
[CORPORATE SEAL]

STATE OF GEORGIA)
COUNTY OF Fulton)

I, the undersigned authority, a notary public in and for said county in said state, hereby certify that Donald Lippman, whose name as President of Bluffs Management, Inc., a Georgia corporation and manager of 2801 Riverview, LLC, a Georgia limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation and said limited liability company.

Given under my hand and official seal this 10th day of March, 2006.

Susan M. Sloan
Notary Public
[NOTARIAL SEAL]

My commission expires: _____

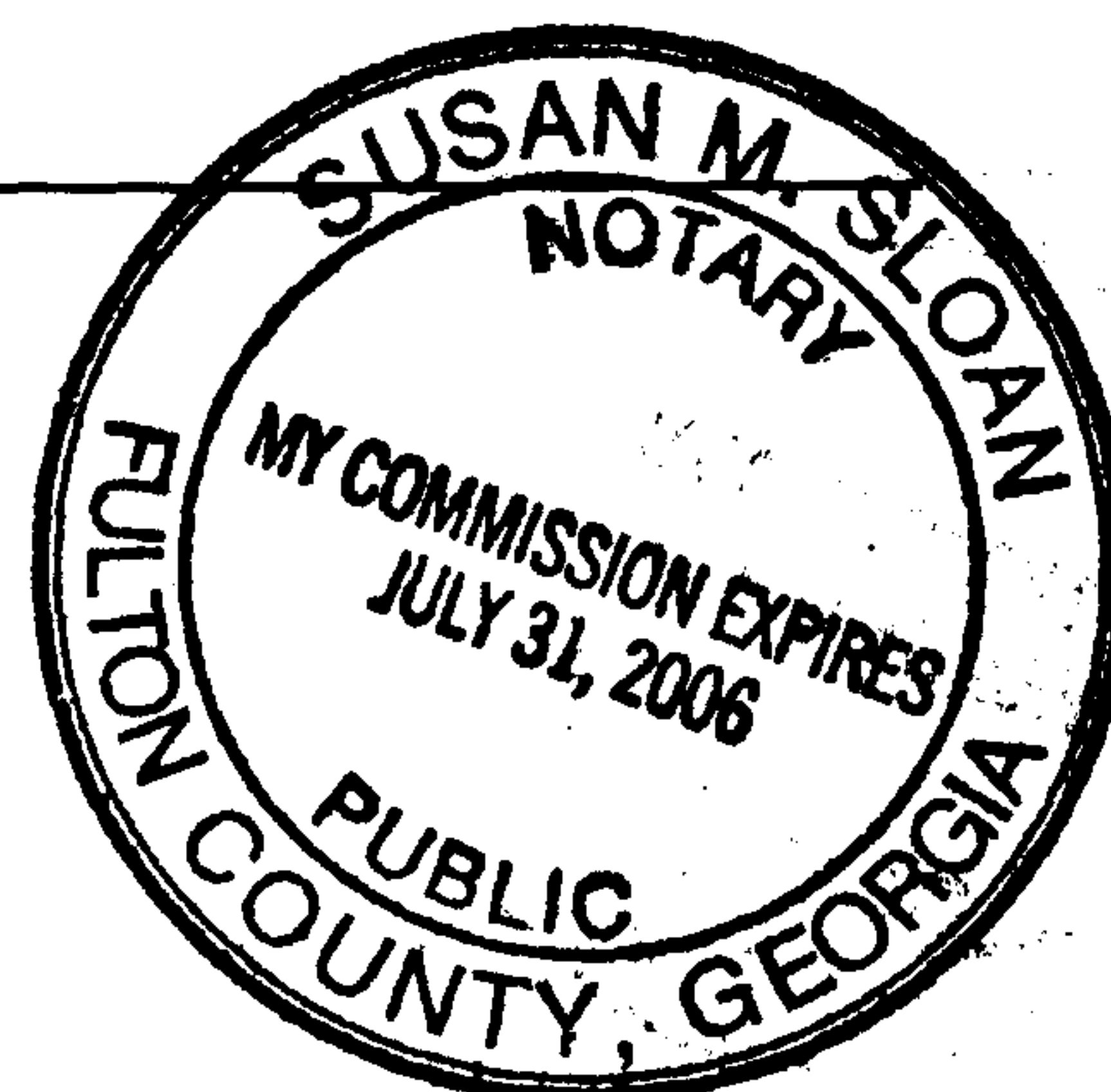


Exhibit A

Legal Description of Land

Lot 2B, Cahaba River Park First Addition – Phase II, as recorded in Map Book 32, Page 77 in the Office of the Judge of Probate of Shelby County, Alabama, being more particularly described as follows:

Begin at the Northwest corner of said Lot 2B, said point lying on the West line of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 35, Township 18 South, Range 2 West, Shelby County, Alabama, said point also being a common corner of Lot 1B, Cahaba River Park First Addition – Phase II, and lying on the Easterly line of Lot 16, Cahaba River Lake Estates First Sector, as recorded in Map Book 67, Page 13 in the Office of the Judge of Probate of Jefferson County, Alabama; thence North 90 degrees, 00 minutes, 00 seconds East along the common line of said Lot 2B and Lot 1B a distance of 240.00 feet to a found W.S. capped iron; thence South 39 degrees, 30 minutes, 23 seconds East along the common line of said Lot 2B and Lot 1B a distance of 508.99 feet to a found rebar, said point being the P.C. (Point of Curve) of a curve to the left having a radius of 377.38 feet, a central angle of 39 degrees, 05 minutes, 50 seconds and a chord bearing of South 59 degrees, 03 minutes, 18 seconds East; thence in a Southeasterly direction along the arc of said curve and along the common line of said Lot 2B and Lot 1B a distance of 257.51 feet to a found rebar; said point lying on a curve to the left having a radius of 75.00 feet, a central angle of 151 degrees, 28 minutes, 09 seconds and a chord bearing of South 89 degrees, 47 minutes, 47 seconds East; thence in a Southeasterly, Easterly, and Northeasterly direction along the arc of said curve and along the common line of said Lot 2B and Lot 1B a distance of 198.27 feet to a found rebar; thence North 81 degrees, 27 minutes, 42 seconds East along the common line of said Lot 2B and Lot 1B a distance of 185.70 feet to a found rebar, said point being the P.C. (Point of Curve) of a curve to the right having a radius of 197.54 feet, a central angle of 37 degrees, 15 minutes and a chord bearing of South 79 degrees, 54 minutes, 48 seconds East; thence in an Easterly and Southeasterly direction along the arc of said curve and along the common line of said Lot 2B and Lot 1B a distance of 128.43 feet to a found rebar being the P.T. (Point of Tangent) of said curve; thence tangent to said curve South 61 degrees, 17 minutes, 08 seconds East along the common line of said Lot 2B and Lot 1B a distance of 14.61 feet to a found rebar lying on the Northwestern right of way line of Riverview Road, said point also lying on a curve to the right having a radius of 3779.83 feet, a central angle of 1 degree, 29 minutes, 07 seconds and a chord bearing of South 29 degrees, 49 minutes, 50 seconds West; thence in a Southwesterly direction along the arc of said curve and said Northwestern right of way line a distance of 97.98 feet to a set W.S. capped iron being the P.T. (Point of Tangent) of said curve; thence tangent to said curve South 30 degrees, 34 minutes, 20 seconds West along said Northwestern right of way line a distance of 80.84 feet to a found rebar, being the P.C. (Point of Curve) of a curve to the right having a radius of 228.06 feet, a central angle of 53 degrees, 38 minutes, 30 seconds and chord bearing of South 57 degrees, 23 minutes, 35 seconds West; thence in a Southwesterly direction along the arc of said curve and said Northwestern right of way line a distance of 213.52 feet to a found rebar being the P.T. (Point of Tangent) of said curve; thence tangent to said curve South 84 degrees, 12 minutes, 50 seconds West along said Northwestern right of way line a distance of 95.62 feet to a found rebar, said point being the P.C. (Point of Curve) of a curve to the left having a radius of 499.28 feet, a central angle of 27 degrees, 06 minutes, 30 seconds and chord bearing of South 70 degrees, 39 minutes, 35 seconds West; thence in a Southwesterly direction along the arc of said curve and along said Northwestern right of way line a distance of 236.22 feet to a found rebar being the P.T. (Point of Tangent) of said curve; thence tangent to said curve South 57 degrees, 06 minutes, 20 seconds West along said Northwestern right of way line a distance of 565.19 feet to a found rebar, being the P.C. (Point of Curve) of a curve to the right having a radius of 256.63 feet, a central angle of 43 degrees, 19 minutes, 57 seconds and a chord bearing of South 78 degrees, 46 minutes, 18 seconds West;

SEE ATTACHED PAGE 2 FOR CONTINUATION OF LEGAL DESCRIPTION:



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Exhibit A

Legal Description of Land

Page 2

thence in a Southwesterly and Westerly direction along the arc of said curve and along the Northwesterly, Northerly and Northeasterly right of way line of said Riverview Road a distance of 194.09 feet to a found rebar, being the P.T. (Point of Tangent) of said curve; thence tangent to said curve North 79 degrees, 33 minutes, 43 seconds West along said Northeasterly right of way line a distance of 7.35 feet to a found rebar lying on the West line of the Northeast $\frac{1}{4}$ of said Section 35; thence North 00 degrees, 01 minute, 06 seconds East along the West line of said $\frac{1}{4}$ section, the West line of said Lot 2B and along the East line of Lots 26, 25, 24, 23, 22 and 21 of Cahaba River Lake Estates Second Sector, as recorded in Map Book 70, Page 43 in the Office of the Judge of Probate of Jefferson County, Alabama, and along the East line of the aforementioned Lot 16 of Cahaba River Lake Estates First Sector a distance of 1219.81 feet to a found W.S. capped iron and the point of beginning.

Being situated in Shelby County, Alabama.