

STATE OF ALABAMA)

LEASE WITH OPTION TO PURCHASE

JEFFERSON COUNTY)

THIS LEASE, entered into this 10th day of October, 2006, by and between Robert A. McRae, (hereinafter referred to as Tenant) and TMS Properties, LLC, an Alabama Limited Liability Company, (hereinafter referred to as Owner).

In referring herein to Owner and Tenant, the singular shall include the plural, and the use of the masculine or neuter gender shall include all genders. The covenants and agreements herein contained shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

WITNESSETH

The Owner, in consideration of rents and covenants contained herein, does hereby lease unto Tenant, and Tenant, subject to the covenants, terms, and conditions set out herein, does hereby rent and lease from the Owner, 2038 Valleydale Terrace, Birmingham, Alabama, situated in Jefferson County, Alabama, more particularly described in Exhibit A attached hereto and made a part hereof.

1. **TERM AND RENT.** The term of this lease shall be for a period of twelve months commencing on the 12th day of October, 2006, and extending to the 11th day of October, 2007, for an annual rent of \$11,250.00, payable in monthly installments of \$937.50, the first of such payments becoming due and payable the 12th day of October, 2006, and on the like day, the 12th, each month during the term of this lease, without demand therefore, at 100 15th Street East, Tuscaloosa, Alabama 35401, or such other place as the Owner may designate in writing. Any payment made by check by McRae which is returned for insufficient funds, shall be assessed a charge of \$35.00 by TMS. Any payment received by Owner after the 17th day of the month shall incur a late charge of 5% of the installment due.
2. **UTILITIES AND SERVICE:** The parties agree that Tenant shall furnish and pay for utilities and shall be responsible for maintenance of the premises, walkways and parking areas, including any buildings on the subject property, regardless of whether existing now, or added later.
3. **QUIET POSSESSION:** So long as Tenant performs its obligations, Owner covenants to Tenant the quiet and peaceful possession of the leased premises.
4. **TENANT'S OBLIGATIONS:** Tenant agrees to pay rent as same comes due, to deliver possession of the premises to Owner, unless the option to purchase is exercised by Mcrae, upon the termination of this lease in the same condition, normal wear and tear and damage by fire, the elements, or other casualty excepted, and to perform all other obligations required by this lease.

5. **OWNER'S REMEDIES:** Owner may terminate this lease and enter and take possession of the premises from Tenant, all without waiving any rights which it may have at law hereafter, without further notice or demand (all such notices and demands being hereby waived) as a result of failure to pay rent.
6. **ALTERATIONS, IMPROVEMENTS, AND SIGNS:** Tenant is granted permission to make alterations and improvements, but entirely at the expense of the Tenant. Except as provided in paragraph 7, Tenant's alterations and improvements shall become Owner's property if this lease is terminated by Tenant.
7. **REMOVAL OF TENANT'S IMPROVEMENTS:** Upon termination of this lease, Tenant must, at Tenant's expense, remove office equipment, construction equipment, and manufacturing equipment and other personal property.
8. **INSPECTION:** Owner reserves the right to enter the premises at reasonable times for inspections and to show the property to prospective buyers upon two (2) days written notice to Tenant.
9. **LIABILITY:** Unless caused by Owner's wanton or willful act or Owner's failure to act, Tenant waives any and all claims against Owner for damages to Tenant, Tenant's property, or guests or guests' property.
10. **CONDITION:** Tenant accepts the premises AS IS and WITH ALL FAULTS as of the date of execution of this lease.
11. **PARKING FACILITIES:** Tenant, its employees, customers and visitors shall have the non-exclusive right to use parking facilities that adjoin, or are otherwise available to the building.
12. **HOLDING OVER BY TENANT:** If a Tenant shall remain in the demised premises after this lease is terminated, then Owner shall have the option to treat Tenant as one not lawfully entitled to possession of the premises and shall be entitled to take all lawful action because of Tenant's unlawful holding over; or Owner may treat Tenant as a month-to-month tenant thereafter, in which case said tenancy may be terminated by Owner upon thirty (30) days written notice, and Tenant shall pay monthly rent at the rate herein stated for each such month. No holding over shall give rise, whether by operation of law or otherwise, to any term or tenancy other than that set forth in this paragraph.
13. **WAIVER OF SUBROGRATION:** Notwithstanding anything to the contrary contained herein, neither Owner nor Tenant shall be liable to the other for any loss or damage caused by fire or any other risk insured against by fire, standard extended coverage and malicious mischief and vandalism insurance in force at the time of such loss or damage.



14. **TAXES:** Ad valorem taxes on the leased premises shall be paid by Tenant when due. Tenant shall pay ad valorem taxes and taxes on machinery, tools, equipment, and other personal property located on the premises that come due after the date hereof.

15. **SUBORDINATION:** Tenant agrees to subordinate this lease and all of Tenant's rights hereunder to any mortgage given by Owner which shall encumber the demised premises, provided that such mortgage shall contain provisions or the holder of the mortgage shall agree by recordable instrument that so long as Tenant shall faithfully discharge its obligations under the terms of this lease, the tenancy will not be disturbed or affected by any default in the mortgage and that in the event of foreclosure or any other enforcement of the mortgage the rights of Tenant under this lease shall expressly survive and that in the event of foreclosure of the mortgage or acquisition of title by the mortgagee by deed in lieu of foreclosure, the purchaser at the foreclosure sale or grantee in that deed will and shall take subject to the rights of under the lease and such purchaser or grantee shall assume the obligations of Owner hereunder. As used in this paragraph, reference to mortgages shall include, but not be limited to, mortgages, trust deeds or any other defeasible conveyance containing power of sale.

16. **BANKRUPTCY:** In the event Tenant shall be adjudged a bankrupt, make assignment for the benefit of creditors, have their leasehold estate taken upon execution against Tenant or file a debtor's petition or any proceeding in the nature of a business reorganization under any bankruptcy law or in the event that a petition in bankruptcy is filed against Tenant which is not dismissed within thirty (30) days after the filing or in the event of the appointment of a receiver, trustee or other custodian of the business, property, assets or affairs of Tenant, then Owner may, at its option, terminate this lease.

17. **NOTICES:** The exercise of options and the deliver of notices provided for herein shall be effective if delivered to **Owner at 100 15th Street East, Tuscaloosa, Alabama 35401**, and to **Tenant at 1124 Cheyenne Blvd., Birmingham, Alabama 35215**. Personal delivery or mailing of the same by United States Certified mail shall constitute delivery.

18. **INSURANCE:** Tenant shall maintain comprehensive, fire and extended insurance coverage on the buildings located on the premises and shall have the Owner named as co-insured on said policy of insurance, may, at its option, produce general liability insurance on the premises, may, at its option and expense, insure its machinery, tools, equipment and other personal property located on the premises, but is not required by Owner to do so.

19. **INDEMNITY:** Tenant agrees to defend, indemnify, and hold Owner harmless from any and all expense, cost, damage, or liability for any injury or damage to, its employees or to third parties, unless same is caused by the wanton or willful act of Owner. As a part of the consideration hereof, the Tenant hereby covenants and agrees to indemnify, to defend, and to hold the Owner, the Lessor's Agents, Servants and Employees, free and harmless from any and all losses, damages,

attorney's fees, expenses of litigation, all other expenses whatsoever, and all liability for claims for damages, or other claims for personal injury, or death, sustained by Tenant, or sustained by any other person, while on the leased premises or adjacent thereto during the terms of this Lease from any cause whatsoever and even though the losses, damages, attorney's fees, expenses of litigation, other expenses, and liability for claims for damages, or other claims for personal injury, or death, are caused in whole or in part by the active or primary negligence, or other conduct, of the Owner, or the Owner's Servants, Agents, or Employees.

20. **USE & EXCLUSIVITY:** Tenant shall have the exclusive use of the leased premises.
21. **SUB-LEASE:** Tenant may not sub-lease the premises, or any part thereof, without prior written consent of Owner.
22. **LATE CHARGES:** If monthly rental payments provided herein are not delivered to Owner at the address shown herein by the 29th day of the month, McRae shall be assessed, and shall pay, a late charge of five percent (5%) of that month's payment. This obligation is in addition to any and all other remedies of the available at law or under this lease for the 's failure to pay the rent as required.
23. **NON-WAIVER:** In the event Owner does not enforce a term of provision of this lease on one or more occasions, same shall not be deemed a waiver of future such requirements under this lease.
24. **DEFAULT AND RENT ACCELERATION:** In the event of non-payment of rent or any other material default by, agrees to pay, in addition to any other remedy, a reasonable attorney fee, interest and costs, and upon such default, all rent provided for in this lease shall become due and payable in full immediately.
- In the event of any default, McRae and Owner agree that McRae shall have 20 days from the notification of such default to cure such default under this lease. If McRae fails to cure such default, McRae waives the right to cure under this Lease, subject to the option of the Owner to reinstate.
25. **CONTAMINATION:** Tenant agrees not to contaminate the demised premises with any petroleum-based substances, paint, varnish, stains, chemicals or other substances that would require removal by state and/or federal regulations; and further agrees to hold harmless and indemnify Owner for the expense of removal of same from the said premises.
26. **OPTION TO PURCHASE:** Tenant shall have the option to purchase the subject property at a sales price of \$70,000.00 plus any remaining rent owed under this Lease at any time between October 12, 2006 and October 11, 2007. Tenant shall notify Owner of its intent to exercise the option. The sale shall be completed and the deed delivered within fifteen (15) days of the exercise of said option, at which time the balance of the purchase shall be due at closing. In the event this option to purchase is exercised by the Tenant, the Tenant shall exercise its option on all three (3)

properties simultaneously, except Tenant may exercise their option to purchase and/or pay off the property at 2068 Valleydale Terrace, Birmingham, Alabama 35244, without any obligation to exercise its options on 2038 Valleydale Terrace, Birmingham, Alabama, and/or 1124 Cheyenne Blvd., Birmingham, Alabama.

27. EXPENSES OF SALE: In the event Tenant exercises its Option to Purchase, Owner shall convey title by limited warranty deed, shall pay for any title insurance and survey that Tenant desires or is required by any lender, and all other closing costs, taxes, or expenses of sale.

28. ENTIRE AGREEMENT: This document states the entire agreement between the parties, and merges into this agreement all statements, representations and covenants made, and any other agreements not incorporated herein are void and of no force and effect.

29. GOVERNING LAWS. This Lease, and all of the rights and duties of the parties arising from or relating in any way to the subject matter hereof or the transaction contemplated hereby, shall be governed by, construed and enforced in accordance with the laws of the State of Alabama (excluding any conflicts-of-law rule or principle that might refer the construction of this Lease to the laws of another jurisdiction); and all obligations of the parties created hereunder shall be performable in Jefferson, Alabama. All parties to this Lease agree and consent to the exclusive jurisdiction, for any legal proceeding involving anything pertaining to this Lease, shall be in the Circuit Court of Jefferson County, Alabama. The prevailing party in a proceeding shall be entitled to an award of a reasonable attorney's fee and costs of court, and Owner hereby waives any right to trial by jury and any right to punitive damages on any claim, counterclaim, setoff, demand, action or cause of actions (a) arising out of or in any way pertaining or relating to this Lease, or (b) in any way connected with or pertaining or related to or incidental to any dealings of the parties hereto with respect to the Lease or in connection with the transactions related thereto or contemplated thereby or the exercise of either party's rights and remedies thereunder, in all of the foregoing cases whether now existing or hereafter arising, and whether sounding in contract, tort or otherwise, and Owner agrees that either party may file a copy of this paragraph with any court as written evidence of the knowing, voluntary and bargained agreement of each party irrevocably waiving their right to trial by jury and to punitive damages, and that any dispute or controversy whatsoever between and Owner shall only be tried in the Circuit Court of Jefferson County, Alabama by a judge sitting without a jury.

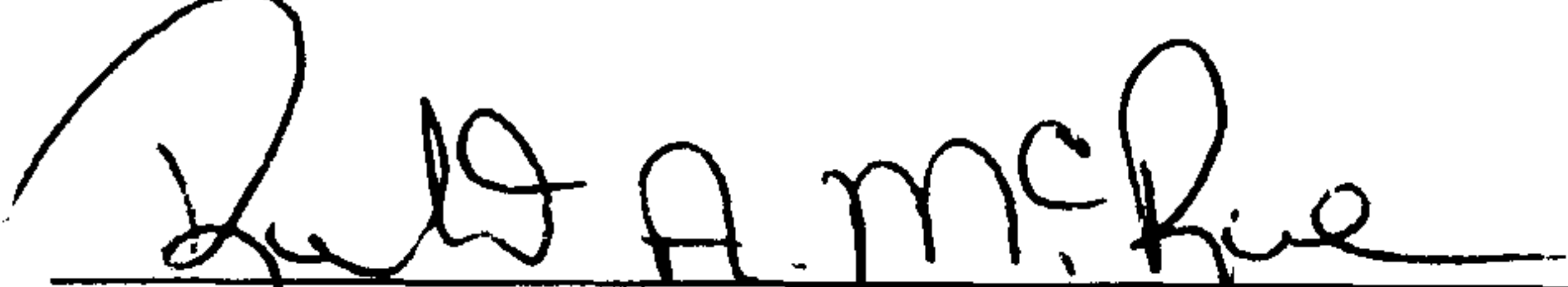
IN WITNESS WHEREOF, the parties have caused this lease to be executed on the date first above written, and hereby bind their respective heirs, assigns, successors, personal representatives and trustees.



20061115000558540 6/7 \$29.00
Shelby Cnty Judge of Probate, AL
11/15/2006 09:17:11AM FILED/CERT

**CAUTION: THIS IS A CONTRACT. IT IS IMPORTANT THAT YOU
THOROUGHLY READ THE CONTRACT BEFORE YOU SIGN IT!**

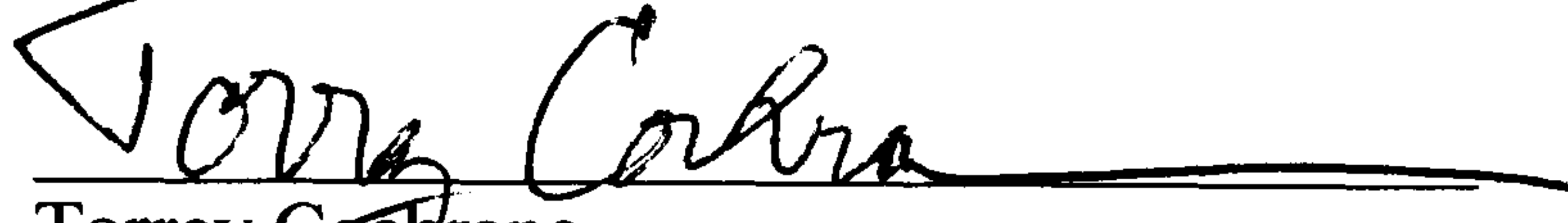
TENANT:



Robert A. McRae

OWNER:

TMS PROPERTIES, LLC



Torrey Cochrane
Its Managing Member

20061115000558540 7/7 \$29.00
Shelby Cnty Judge of Probate, AL
11/15/2006 09:17:11AM FILED/CERT

STATE OF ALABAMA §
COUNTY OF JEFFERSON §

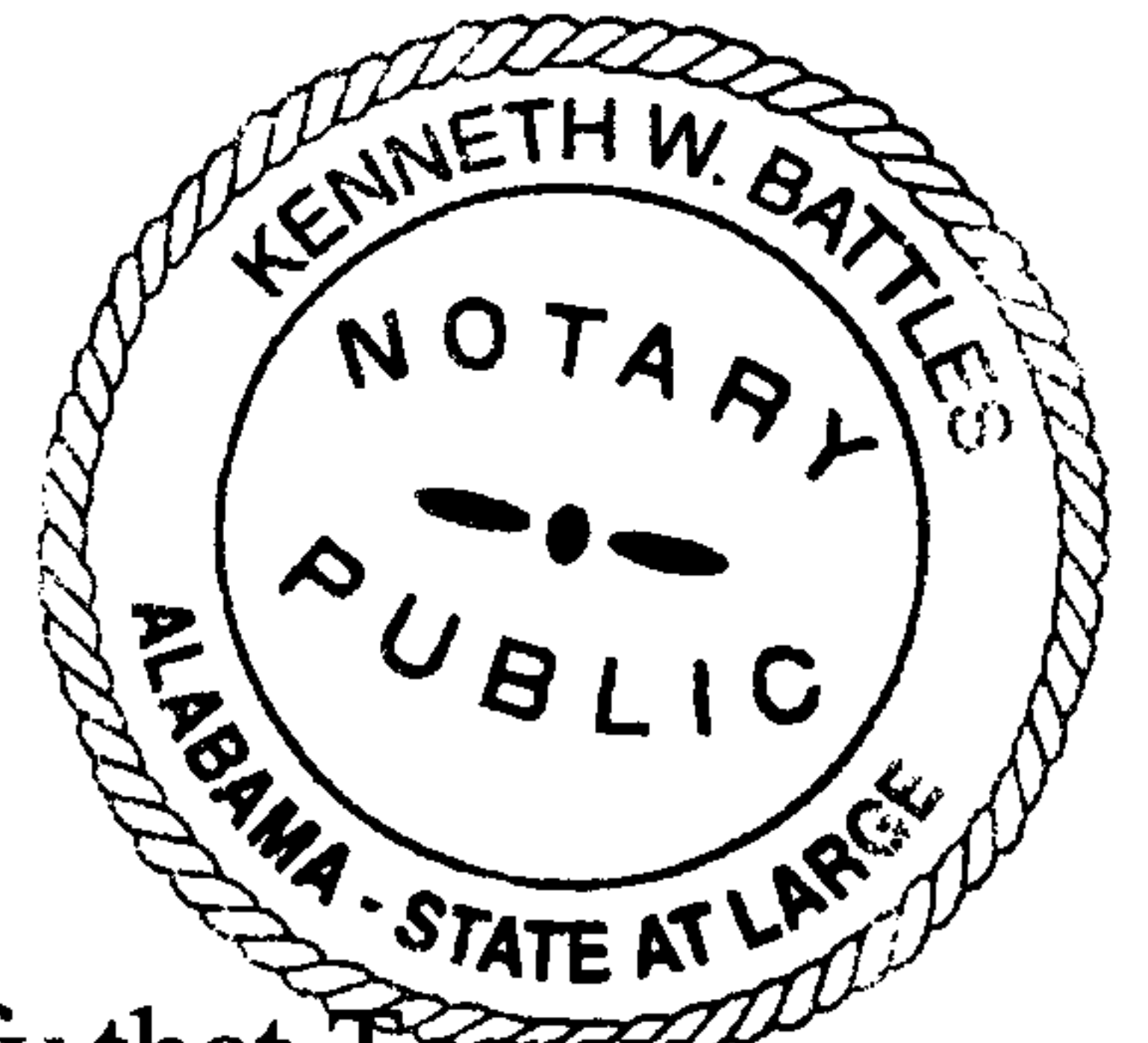
I, the undersigned, a Notary in and for said County, in said State hereby certify that Robert A. McRae, whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the foregoing conveyance, he, executed the same voluntarily.

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



Notary Public

My Commission Expires:



STATE OF ALABAMA §
COUNTY OF TUSCALOOSA §

I, the undersigned, a Notary in and for said County, in said State hereby certify that Torrey Cochrane, as Managing Member of TMS Properties, LLC, whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the foregoing conveyance, he, as managing member and with full authority to act on behalf of the limited liability company, executed the same voluntarily.

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



Notary Public

My Commission Expires:

