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Shelby Cnty Judge of Probate, AL  
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STATE OF ALABAMA           )  
                                     :  
SHELBY COUNTY             )

This Instrument Prepared By:  
Guy V. Martin, Jr.  
✓ Martin, Rawson & Woosley, P.C.  
#2 Metroplex Drive, Suite 102  
Birmingham, Alabama 35209

### FIRST MODIFICATION TO LOAN DOCUMENTS

THIS AGREEMENT made as of the 30<sup>th</sup> day of November, 2006, by and between JROCK DEVELOPMENT, L.L.C., an Alabama limited liability company ("JRock"), and STEVEN P. ROCKCO ("Rockco") (JRock and Rockco are referred to collectively as "Borrower" or as "Obligors"), and CITIZENS TRUST BANK ("Lender").

### **RECITALS:**

A Lender is the holder of a Promissory Note in the face amount of \$730,000.00, made by JRock, dated July 20, 2005 (such note, as modified herein, is referred to as the "Note"). The Note is secured by various documents and instruments all dated July 20, 2005, unless otherwise indicated, including (*inter alia*) the following, all as modified by this agreement:

1. Mortgage and Security Agreement recorded under Instrument Number 20050729000381100, pages 1/16, in the Probate Office of Shelby County, Alabama (the "Indenture").
2. Guaranty executed by Rockco in favor of Lender ("Guaranty").
3. Borrowers Affidavit.
4. Environmental Affidavit.

All the documents and instruments referred to or described in this Paragraph A, and all other documents and instruments further securing the Note, as modified herein, are referred to as the "Loan Documents." The real and personal properties pledged and mortgaged under the Loan Documents are referred to as the "Project."

B. JRock wishes to convey a portion of the Project and has requested Lender to finance the sale, by means of a loan from Lender to the buyer, Ridgecrest Homes, LLC ( the "Buyer" or "Ridgecrest"). The portion of the project remaining after the conveyance to Buyer is referred to as the "Remaining Land". Obligors have requested Lender to release Obligors from a portion of the indebtedness secured by the Note in connection with the conveyance, so that the remaining indebtedness owed by Obligors is One Hundred Thirty-Eight Thousand Eighty-Four and 80/100 (\$138,084.80) (the "Remaining Debt"). The collateral value of the Remaining Land, however, is insufficient to secure the Remaining Debt. Lender has agreed to such transaction, therefore, on condition that (a) Borrower mortgage additional collateral to secure the Remaining Debt, (b) the Indenture is fragmented into two indentures, one securing the Remaining Debt (and mortgaging the Remaining Land and the additional collateral), and the other securing the portion of the indebtedness assumed by the Buyer (and mortgaging the portion of the Project being conveyed by Borrower to Buyer), to the end that Lender will not lose lien priority with respect to its collateral, and (c) the Note is fragmented into two notes, one made by Borrower, and the other by Buyer, for the portion of the debt each is obligated for. The purpose of this document is to provide record notice of the agreement of the parties that the Indenture and the Note are each being fragmented as aforesaid, of the debt evidenced and secured by each, and to cause additional property to be secured by the Loan Documents.

If not defined herein, capitalized terms used herein shall have the meanings given to them in the Loan Documents.



**WITNESSETH:**

NOW THEREFORE, in consideration of the premises, One Dollar (\$1.00), and of other due, good, and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Indenture.** The legal description attached as Exhibit A to the Indenture and other Loan Documents is hereby amended to add the property (the "Added Property") located in Chilton County, Alabama, and owned by Rockco, described in "Exhibit A (JRock)" hereto.

Accordingly, the property described in Exhibit A to the Indenture and other Loan Documents heretofore, is modified by adding thereto the Added Property. Rockco grants, bargains, sells, conveys, mortgages and transfers to Lender the Added Property, subject to all the terms and conditions of the Loan Documents.

2. **Note.** The Note is fragmented into two notes. The first, referred to as the "JRock Note", is for the face amount of \$138,084.80. The second, referred to as the "Ridgecrest Note" is for the face amount of \$537,500.00.

3. **Indenture.** The Indenture is fragmented into two indentures. The first, referred to as the "JRock Indenture", secures the JRock Note. The JRock Indenture is amended and restated this day, by a Mortgage and Security Agreement executed by JRock and Rockco. The second, referred to as the "Ridgecrest Indenture", secures the Ridgecrest Note. The Ridgecrest Indenture is amended and restated this day, by a Mortgage and Security Agreement executed by Ridgecrest.

4. **Loan Documents.** (a) The JRock Note, JRock Indenture, and other Loan Documents executed by JRock, are referred to as the "JRock Loan Documents". All references to the Note, Secured Indebtedness, or Secured Obligations appearing in the JRock Loan Documents shall also include the JRock Note and the indebtedness and obligations added by the JRock Note. The JRock Note, together with any extensions, renewals, amendments or modifications thereof, are secured by the JRock Loan Documents, whether now existing or hereafter executed.

(b) The Ridgecrest Note, Ridgecrest Indenture, and other Loan Documents executed by Ridgecrest, are referred to as the "Ridgecrest Loan Documents". All references to the Note, Secured Indebtedness, or Secured Obligations appearing in the Ridgecrest Loan Documents shall also include the Ridgecrest Note and the indebtedness and obligations added by such Ridgecrest Note. The Ridgecrest Note, together with any extensions, renewals, amendments or modifications thereof, are secured by the Ridgecrest Loan Documents, whether now existing or hereafter executed.

(c) The property secured by the JRock Indenture and other JRock Loan documents is described in the "Exhibit A (JRock)" attached hereto. The property secured by the Ridgecrest Indenture and other Ridgecrest Loan documents is described in the "Exhibit A (Ridgecrest)" attached hereto.

5. **Guaranty.** Rockco consents to this agreement; the term "Note" as defined in the Guaranty is modified to include the JRock Note as executed today, which JRock Note Rockco guarantees under the terms of the Guaranty; and the Guaranty is ratified, confirmed and modified to include this instrument as one of the Loan Documents described therein. Without limiting the foregoing, Rockco also joins in the JRock Note and the JRock Indenture as a maker and mortgagor thereof, respectively.

6. **Representations and Warranties.** As used in this paragraph, the term "Loan Documents" shall refer to the "JRock Loan Documents". Obligors represent and warrant to Lender that the following are true, correct and complete as of the date of this agreement:

6.1 **Due Organization, Authority.** Borrower is duly organized and validly existing under the state in which such Borrower is stated as being organized herein and in good standing under the laws of such state and



has power adequate to carry on its businesses in each such State as presently conducted, to own and/or lease the Properties, to make and enter into those Loan Documents executed by Borrower and to carry out the transactions contemplated therein.

6.2 Execution, Delivery and Effect of Loan Documents. Obligors represent that the Loan Documents have each been duly authorized, executed and delivered by Obligors, as the case may be, that each is a legal, valid and binding obligation of Obligors, enforceable in accordance with its terms, that there are no defenses, counterclaims, or set-offs to any of the Loan Documents, and that upon default Lender shall be entitled to exercise any one or more remedies under any one or more of the Loan Documents including without limitation suit, receivership, foreclosure, and/or other remedies available under law or equity.

6.3 Other Obligations. No Obligor is in violation of any term or provision of any document governing its organization or existence or in default under any material instruments or obligations relating to the leases executed by any Obligor of portions of (or space in) the Properties or the personal or real property or other thing of value secured by the Loan Documents (the "Collateral"). No tenant or other party has asserted any claim or default relating to any such lease or to any of the Collateral. The execution and performance of the Loan Documents and the consummation of the transactions contemplated thereby will not result in any material breach of, or constitute a material default under, any contract, agreement, document or other instrument to which any Obligor is a party or by which any Obligor may be bound or affected, and do not and will not violate or contravene any laws to which any Obligor is subject; nor do any such instruments impose or contemplate any obligations which are or will be materially inconsistent with the Loan Documents.

6.4 Legal Actions. There are no material actions, suits or proceedings including, without limitation, any condemnation, insolvency or bankruptcy proceedings, pending or, to the best of any Obligor's knowledge and belief, threatened, against or affecting any Obligor, its business or the Collateral, or investigations, at law or in equity, before or by any court or governmental authority, pending or, to the best of any Obligor's knowledge and belief, threatened against or affecting any Obligor, any Obligor's business or the Collateral, except actions, suits and proceedings fully covered by insurance and heretofore fully disclosed in writing to Lender or which if resolved adversely to any Obligor would not have a material adverse effect on any Obligor or the Collateral. No Obligor is in default with respect to any order, writ, injunction, decree or demand of any court or any governmental authority affecting any such Obligor or the Collateral.

6.5 Financial Statements. All statements, financial or otherwise, submitted to Lender in connection with the loan evidenced by the Notes ("Loan") are true, correct and complete in all material respects, and all such financial statements have been prepared in accordance with generally accepted accounting principles consistently applied (or other basis of accounting practices permitted by Lender) and fairly present the financial condition of the parties or entities covered by such statement as of the date thereof. Since the date thereof, no Obligor has experienced any material, adverse change in its finances, business, operations, affairs or prospects.

6.6 Title to Collateral. Obligors represent that Borrower has good and clear record and marketable title to the Collateral, free of all liens, encumbrances or restrictions other than the exceptions reflected in the title policies heretofore delivered to and approved by Lender ("Permitted Encumbrances").

6.7 Compliance with Laws and Private Covenants. The Collateral complies in all material respects with all laws. Obligors have examined and are familiar with the Permitted Encumbrances and there now exists no material violation thereof. Obligors have no notice that any of the Improvements are inconsistent with any easement over the Collateral or encroach upon adjacent property.

6.8 Hazardous Waste. To the best knowledge and belief of Obligors, no release of any hazardous waste or hazardous substance (as defined under applicable laws) is present on, in, under, or at the Collateral, nor has any Obligor received any notice from any governmental agency or from any other person with respect to any such hazardous waste or substance.





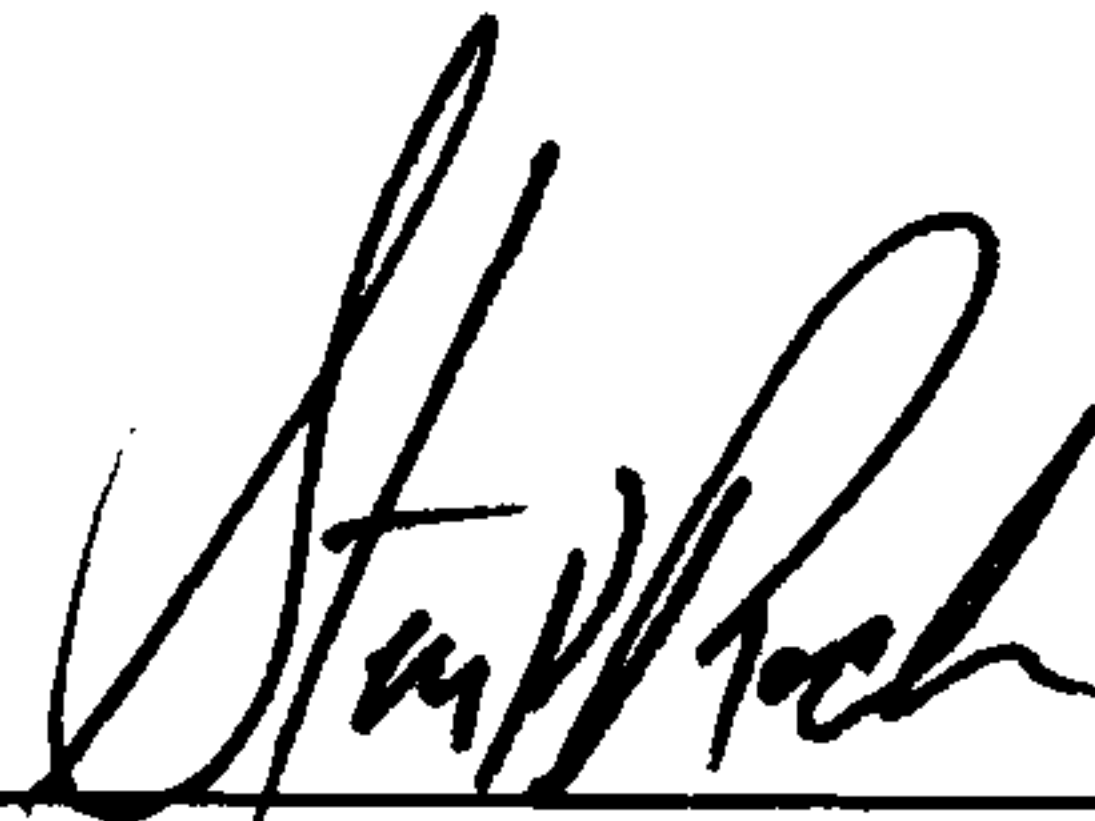
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Shelby Cnty Judge of Probate, AL  
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7. **Miscellaneous.** Except as expressly modified herein, all of the terms, covenants, conditions, agreements and stipulations of the JRock Loan Documents shall remain in full force and effect and are hereby ratified and confirmed by each Obligor.

8. **Counterparts.** This agreement may be executed in counterparts, but all counterparts shall constitute but one and the same document.

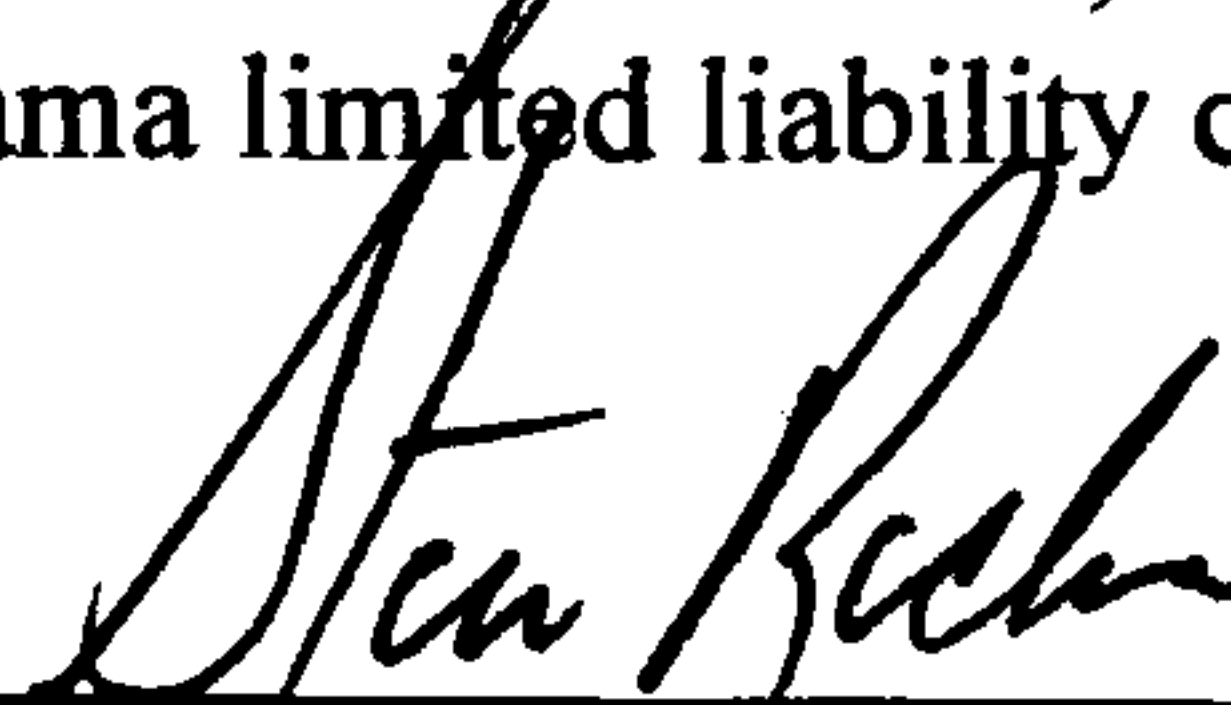
9. **Waiver of Jury Trial.** After consultation with counsel and recognizing that any dispute hereunder will be commercial in nature and complex, and in order to minimize the costs and time involved in any dispute resolution process, the parties hereto knowingly, voluntarily, and intentionally waive any right to a trial by jury with respect to any litigation based upon, arising out of, relating to, or in connection with this transaction, this instrument, or any of the other Loan Documents executed in connection with this transaction, or respecting any course of conduct, course of dealing, statement (whether verbal or written) or action of any party and acknowledge that this provision is a material inducement for entering into this loan transaction by all parties.

**"GUARANTOR:"**

  
\_\_\_\_\_[SEAL]  
Steven P. Rockco

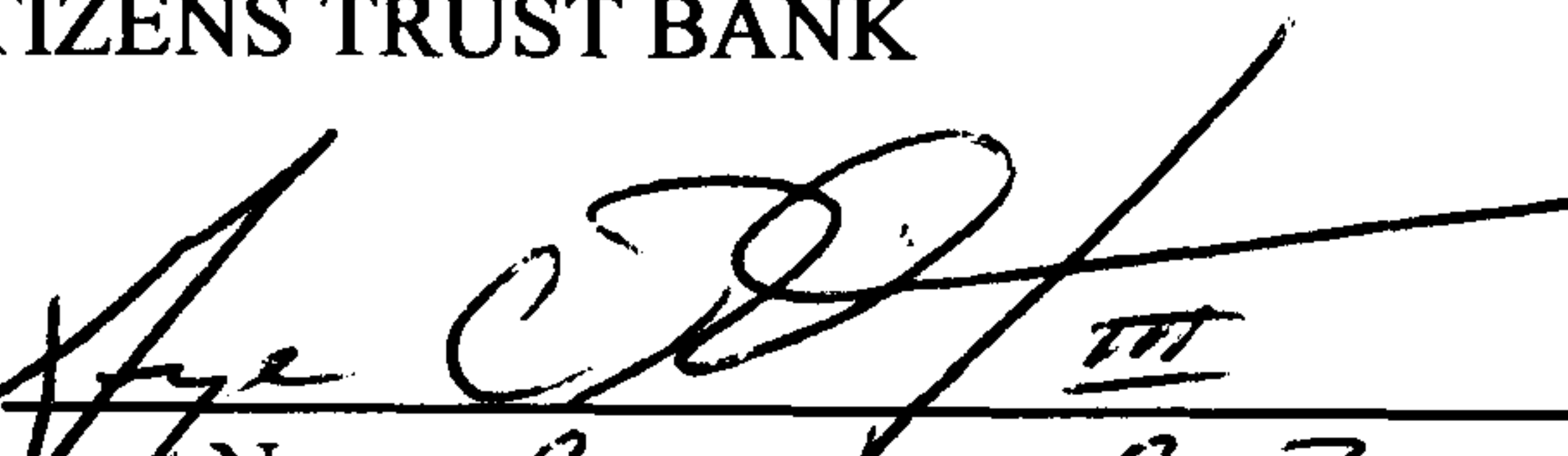
**"BORROWER:"**

JROCK DEVELOPMENT, L.L.C.  
an Alabama limited liability company

By:   
\_\_\_\_\_[SEAL]  
Steve Rockco, Managing Member

**"LENDER:"**

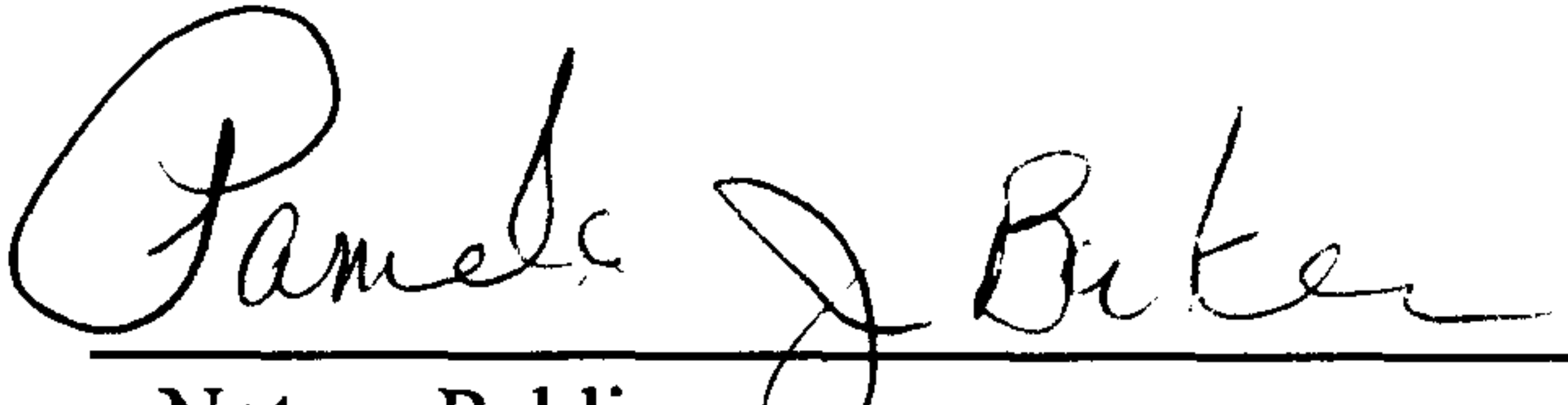
CITIZENS TRUST BANK

By:   
\_\_\_\_\_[SEAL]  
Name: GEORGE C RICHARDSON, III  
Its: COMMERCIAL LOAN OFFICER

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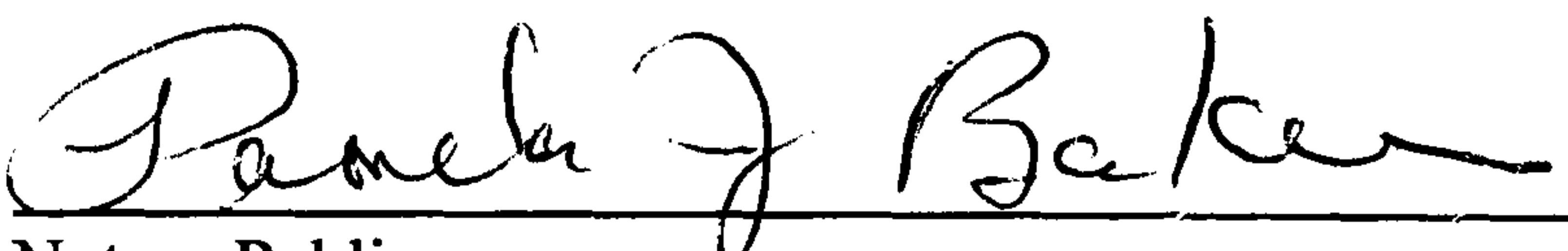
STATE OF ALABAMA           )  
                                     :  
COUNTY OF JEFFERSON       )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Steve Rockco, Managing Member of JROCK DEVELOPMENT, L.L.C., an Alabama 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 managing member and with full authority, executed the same voluntarily for and as the act of said limited liability company on the day the same bears date. Given under my hand and official seal this 30th day of November, 2006.

  
\_\_\_\_\_  
Notary Public      **Notary Public State of Alabama at Large**  
My Commission Expires: **My Commission Expires: July 25, 2010**

STATE OF ALABAMA           )  
                                     :  
COUNTY OF JEFFERSON       )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that George C. Richardson III, as Comm. Loan Officer of Citizens Trust Bank, 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 banking institution on the day the same bears date. Given under my hand and official seal this 1<sup>st</sup> day of December, 2006.

  
\_\_\_\_\_  
Notary Public      **Notary Public State of Alabama at Large**  
My Commission Expires: **My Commission Expires: July 25, 2010**  
**My Commission Expires: July 25, 2010**  
**Notary Public State of Alabama at Large**

STATE OF ALABAMA           )  
                                     :  
COUNTY OF JEFFERSON       )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Steven P. Rockco, whose name 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 executed the same voluntarily on the day the same bears date. Given under my hand and official seal this 30th day of November, 2006.

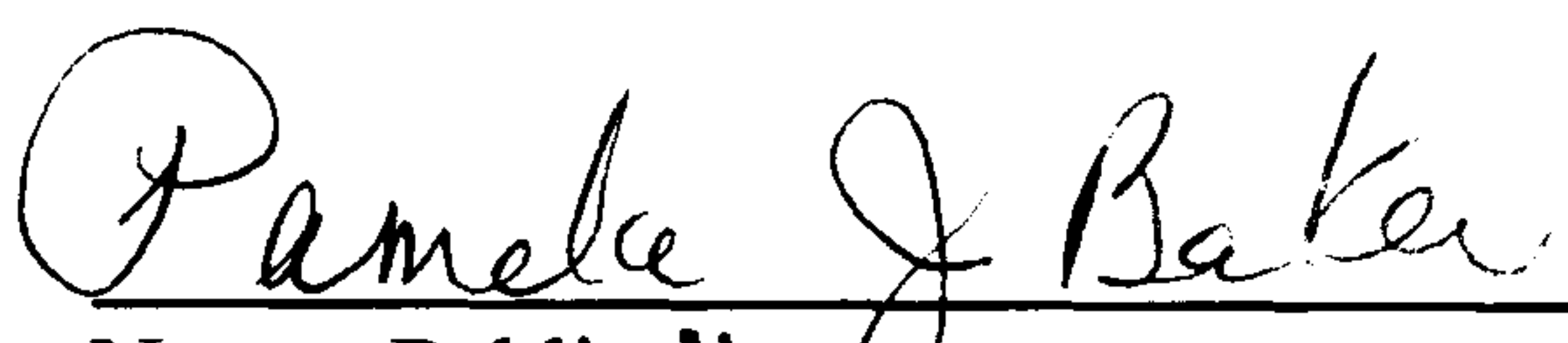
  
\_\_\_\_\_  
Notary Public      **Notary Public State of Alabama at Large**  
My Commission Expires: **My Commission Expires: July 25, 2010**



Exhibit "A" (JROCK)

Parcel I

From the NE corner of the SW  $\frac{1}{4}$  of SE  $\frac{1}{4}$ , Section 16, Township 24 North, Range 12 East Chilton County, Alabama, run along the East  $\frac{1}{4}$   $\frac{1}{4}$  line South 04 deg. 37 min. 57 sec. West 615.28 feet to the beginning point of subject lot; from said point, continue said course 725.06 feet to the SE  $\frac{1}{4}$   $\frac{1}{4}$  corner; thence along the South  $\frac{1}{4}$   $\frac{1}{4}$  line North 85 deg. 07 min. 41 sec. West 1111.28 feet to a point on the East right of way line of the existing county paved highway; thence along said highway right of way line North 28 deg. 12 min. 22 sec. East 785.16 feet; thence South 85 deg. 25 min. 24 sec. East 797.26 feet, back to the beginning point, being situated in Chilton County, Alabama.


Parcel II

Commence at the southwest corner of Section 2, Township 24 North, Range 13 East, thence run North along the West line of Section 2 for 210.00'; thence turn an angle to the right of 93°48'52" and run East for 15.03' to a point on the East R/W of Shanda Drive and the point of beginning; thence continue along the last described course for 404.77'; thence turn an angle to the left of 45°30'24" and run Northeast for 203.18'; thence turn an angle to the right of 21°43'48" and run Northeast for 237.90'; thence turn an angle to the right of 104°49'56" and run Southeast for 262.47' to a point on the North R/W of Ridgelynn Road; thence run an angle to the left of 98°16'10" and run Northeast along the North R/W for 501.34'; thence turn an angle to the left of 74°17'29" and run North for 373.14' to a point on the South R/W of Bonneville Drive; thence turn an angle to the left of 87°03'36" and run West along the South R/W for 641.64' to the point of commencement of a curve to the left having a central angle of 45°37'22" and a radius of 243.42'; thence run along the arc of said curve along the south R/W for 193.83'; thence run along the tangent if extended to said curve along the southeast R/W for 317.09' to the point of commencement of a curve to the right having a central angle of 34°05'16" and a radius of 438.41'; thence run along the arc of said curve along the South R/W for 260.83' to a point of the East R/W of Shanda Drive; thence turn an angle to the left from the tangent if extended to said curve of 83°42'52" and run south along the East R/W for 211.20' to the point of beginning. The above described property lying and being situated in Shelby County, Alabama.

LESS AND EXCEPT Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19, according to the map of Ridgecrest Subdivision, Phase One, , Sector One, as recorded in Map Book 34, page 17, in the Probate Office of Shelby County, Alabama.

AND ALSO LESS AND EXCEPT Lots 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48 and 49, according to the Final Plat of Ridgecrest Subdivision, Phase One, , Sector Two, as recorded in Map Book 37, page 43, in the Probate Office of Shelby County, Alabama.

**Exhibit "A" (Ridgecrest)**

  
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**Parcel I**

**Lot 3, according to the Final Plat of Ridgecrest Subdivision, Phase One, Sector One, as recorded in Map Book 34, page 17, in the Probate Office of Shelby County, Alabama.**

**Parcel II**

**Lots 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45 and 49, according to the Final Plat of Ridgecrest Subdivision, Phase One, Sector Two, as recorded in Map Book 37, page 43, in the Probate Office of Shelby County, Alabama.**