

\$3,000,000

THIS INSTRUMENT PREPARED BY:

Leonard Wertheimer, III, Esq.

2000 SouthBridge Parkway

Suite 500

Birmingham, Alabama 35209



20070123000036200 1/11 \$4543.00
Shelby Cnty Judge of Probate, AL
01/23/2007 03:25:00PM FILED/CERT

MORTGAGE & SECURITY AGREEMENT

(Future Advances)

STATE OF ALABAMA)

COUNTY OF SHELBY)

KNOW ALL MEN BY THESE PRESENTS:

**THIS MORTGAGE AND SECURITY AGREEMENT SERVES AS A
FINANCING STATEMENT FILED AS A FIXTURE FILING PURSUANT TO
SECTION 7-9-402(6), CODE OF ALABAMA.**

THAT WHEREAS, Kenneth C. Nolen, Jr., A.C. Moss and M.D. Breeding, each an Alabama resident (each a "Borrower" and collectively the "Borrowers") purchased limited liability company interests in MSR Properties, LLC (the "Company") from James A. Woods pursuant to a Sale and Assignment of Membership Interest of even date herewith; and

WHEREAS, the purchase price under such Sale and Assignment of Membership Interest was evidenced by a Promissory Note between each Borrower as Maker and James A. Woods as Holder of even date herewith in the maximum amount of \$1,000,000.00 advanced in the amount of \$825,000.00 upon execution thereof (collectively, the "Promissory Notes") and Borrowers acknowledge they are justly indebted to James A. Woods ("Mortgagee") pursuant to the terms of those Promissory Notes (the "Indebtedness"); and

WHEREAS, as additional security for Indebtedness, including future advances under the Promissory Notes, the Mortgagee required Borrowers to cause Company to execute this Mortgage and Security Agreement as an accommodation to Mortgagee, and Company ("Mortgagor") desires to accommodate the Mortgagee by executing same; and

NOW THEREFORE, in consideration of the said Indebtedness, and to secure the prompt payment of the same at maturity, the undersigned Mortgagor, does hereby grant, bargain, sell and convey unto the said Mortgagee, the following (herein together called the "Mortgaged Property"):

1. The land described in *Exhibit A* attached hereto and made a part hereof (the "Land") as well as all development rights, air rights, water, water rights and water stock relating to the Land, and all estates, rights, titles, interest, privileges, liberties, tenements, hereditaments and appurtenances whatsoever in any way belonging, relating or appertaining to any of the Land, and the reversion and reversions, remainder and remainders, rents, issues, profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever at law and in equity of the Mortgagor of, in and to the same, including but not limited to the other rights herein enumerated.

2. All present and future structures, buildings, improvements and appurtenances of any kind now or hereafter situated on the Land (herein called the "Improvements") and all fixtures, fittings, apparatus, equipment and appliances of every kind and character now or hereafter attached or appertaining to the Improvements and all extensions, additions, improvements, betterments, renewals, substitutions, accessions, attachments and replacements to any of the foregoing, including, without limitation, all plumbing fixtures, ornamental and decorative fixtures, elevators, gas, steam, electric, solar and other heating, lighting, ventilating, air conditioning, refrigerating, cooking and washing equipment and appliances and sprinkling, smoke, fire and intrusion detection devices, it being intended and agreed that all such items will be conclusively considered to be a part of the real property conveyed by this Mortgage, whether or not attached or affixed to the Land.

3. All appurtenances to the Land and all rights of the Mortgagor in and to any streets, roads, public places, easements or rights of way relating to the Land, including, without limitation, all rights of the Mortgagor to any septic system, sewer line, agreements, permits, easements, equipment, licenses, resolutions and related rights pertaining to any sewer and septic system on the Land.

4. All the rents, revenues, receipts, royalties, issues, income and profits of the Land and the Improvements and all rights of the Mortgagor under all present and future leases and subleases affecting the Land and the Improvements.

5. All proceeds and claims arising on account of any damage to or taking of the Land or any Improvements thereon or any part thereof and all causes of action and recoveries for any loss or diminution in the value of the Land or any Improvements.

6. All building materials, equipment, fixtures, fittings and appliances of every kind and character now owned or hereafter acquired by the Mortgagor for the purpose of being used for or in connection with the Improvements, whether such building materials, equipment, fixtures, fittings and appliances are actually located on or adjacent to the Land and whether in storage or otherwise, wheresoever the same may be located, including, without limitation, all lumber and lumber products, bricks, building stones and blocks, sand, cement, roofing and flooring material, paint, doors, windows, hardware, nails, insulations, wires and wiring, plumbing and plumbing fixtures, heating and air conditioning equipment and appliances, electrical and gas equipment and appliances, pipes and piping, ornamental and decorative fixtures and all gas, steam, electric, solar and other heating, lighting, ventilating, air conditioning, refrigerating, cooking and washing equipment and appliances.

7. All furniture, machinery, equipment, appliances and other personal property of every kind and character now owned or hereafter acquired by the Mortgagor located on or used in connection with the Land and the Improvements and all extensions, additions, improvements, betterments, renewals, substitutions, accessions, attachments and replacements to any of the foregoing, including, without limitation, all furniture (including desks, tables, chairs, sofas, shelves, lockers and cabinets), office furnishings, appointments and supplies, office machines, equipment, appliances and apparatus, gas, steam, electric, solar and other heating, lighting, ventilating, air conditioning, refrigerating, cooking, washing and cleaning equipment and appliances, floor and window coverings and treatments (including rugs, carpets, draperies, shades, curtains and awnings),

building maintenance equipment, appliances and apparatus, tools, implements and instruments, and machinery, equipment and apparatus used or useful in the manufacture, fabrication, production, processing, assembly, handling, conversion, treatment, storage and distribution of goods, raw materials, products, merchandise, articles, stock, wares and commodities.

8. All general intangibles relating to the development or use of the Land, including, without limitation, all governmental permits relating to construction on the Land, all names under or by which the Land or any Improvements on the Land may at any time be operated or known, and all rights to carry on business under any such names or any variant thereof, and all trademarks and goodwill in any way relating to the Land; and

9. All membership interests or other evidence of ownership of any part of the Land that is owned by the Mortgagor in common with others and all documents of membership in any owners' or members' association or similar group having responsibility for managing or operating any part of the Land.

TO HAVE AND TO HOLD the above Mortgaged Property unto the said Mortgagee forever; and for the purpose of further securing the payment of said Indebtedness of Borrowers, the undersigned, agrees to pay all taxes, or assessments, when legally imposed upon said Mortgaged Property, and should default be made in the payment of same, said Mortgagee has the option of paying off the same; and to further secure said Indebtedness, the undersigned agrees to keep the improvements on said real estate insured against loss or damage by fire, lightning and tornado for the reasonable insurable value thereof, in companies satisfactory to the Mortgagee, with loss, if any, payable to said Mortgagee, as the interest of said Mortgagee may appear, and promptly to deliver said policies, or any renewals of said policies to said Mortgagee; and if the undersigned fail to keep said property insured as above specified, or fail to deliver said insurance policies to said Mortgagee then said Mortgagee has the option of insuring said Mortgaged Property for said sum for the benefit of said Mortgagee, the policy, if collected, to be credited on said Indebtedness, less cost of collecting same; all amounts so expended by said Mortgagee for taxes, as Mortgagee, additional to the Indebtedness hereby specifically secured and shall be covered by this Mortgage, and bear interest from the date of payment by said Mortgagee and be at once due and payable.

Upon condition however, that if the said Borrowers pay said Indebtedness and reimburse said Mortgagee for any amounts Mortgagee may have expended for taxes, assessments and insurance, and the interest thereon, then this conveyance to be null and void, but should default be made in the payment of any sum expended by the said Mortgagee or should said Indebtedness hereby secured, or any part thereof or the interest thereon remain unpaid at maturity, or should the interest of said Mortgagee in said Mortgaged Property become endangered by reason of the enforcement of any prior lien or encumbrance thereon, so as to endanger the Indebtedness hereby secured, or if any statement of lien is filed under the statutes of Alabama relating to the liens of mechanics and materialmen without regard to form and contents of such statement and without regard to the existence or nonexistence of the Indebtedness or any part thereof or of the lien on which such statement is based, or if any other "Event of Default" (as hereinafter defined) shall occur then in any one of said events, the whole of said Indebtedness hereby secured shall at once become due and payable and this mortgage shall be subject to foreclosure as now provided by law in case of past due mortgages and

the said Mortgagee shall be authorized to take possession of the Mortgaged Property hereby conveyed and with or without first taking possession, after giving twenty-one (21) days notice by publishing once a week for three (3) consecutive weeks, the time, place and terms of sale, in some newspaper of general circulation published in said County and State, to sell the same in lots or parcels, or en masse, as Mortgagee may deem best in front of the Courthouse door in said County, at public outcry, to the highest bidder for cash and apply the proceeds of said sale: First, to the expense of advertising, selling and conveying, including a reasonable attorney's fee; Second, to the payment of any amounts that may have been expended, or that it may be necessary then to expend in paying insurance, taxes, or other encumbrances, with interest thereon; Third, to the payment of said Indebtedness in full, whether the same shall or shall not have fully matured at the date of said sale, but no interest shall be collected beyond the day of sale, and Fourth, the remainder if any, to be turned over to the said Mortgagor, and the undersigned, further agree that said Mortgagee may bid at said sale and purchase said Mortgaged Property, if the highest bidder therefore, as though a stranger hereto, and the person acting as auctioneer at such sale is hereby authorized and empowered to execute a deed to the purchaser thereof in the name of the Mortgagor by such auctioneer as agent, or attorney in fact, and the undersigned further agree to pay a reasonable attorney's fee to said Mortgagee for the foreclosure of this mortgage in Chancery, should the same be so foreclosed, said fee to be a part of the Indebtedness hereto secured.

It is expressly understood that the word "Mortgagee" wherever used in this mortgage refers to the person, or to the persons or to the corporation named as grantee or grantees in the granting clause herein.

Any estate or interest herein conveyed to said Mortgagee, or any right or power granted to said Mortgagee in or by this mortgage is hereby expressly conveyed and granted to the heirs, and agents, and assigns, of said Mortgagee, or to the successors and agents and assigns of said Mortgagee, if a corporation.

If all or any part of the Mortgaged Property or any interest therein is sold or transferred by Mortgagor without Mortgagee's prior written consent, excluding the creation of a lien or encumbrance subordinate to this mortgage, Mortgagee may, at Mortgagee's option, declare all the sums secured by this mortgage to be immediately due and payable. Mortgagee shall have waived such option to accelerate if, prior to the sale or transfer, Mortgagor and the person to whom the Mortgaged Property is to be sold or transferred reach agreement in writing that the credit of such person is satisfactory to the Mortgagee and that the interest payable on assumption secured by this mortgage shall be at such rate as Mortgagee shall request. If Mortgagee has waived the option to accelerate provided in this paragraph, and if the Mortgagor's successor in interest has executed a written assumption agreement accepted in writing by the Mortgagee, Mortgagee may release Mortgagor from all obligations under this mortgage. If Mortgagee exercises such option to accelerate, Mortgagee shall mail Mortgagor notice of acceleration which notice shall provide a period of not less than thirty (30) days from the date the notice is mailed within which Borrowers may pay the sum declared due. If Borrowers fail to pay such sum prior to the expiration of such period, Mortgagee may, without further notice or demand on Mortgagee, invoke any remedies or rights available to the Mortgagee as contained herein as relates to default of payment of money indebtedness due or any and all other remedies available by law.

In addition to the foregoing, any of the following shall constitute an "Event of Default", however before taking foreclosure action, Mortgagor must allow cure pursuant to the transfer provisions in Section 6 of the Company's Operating Agreement, where applicable:

(a) the insolvency or filing by or with respect to any Borrower or the Mortgagor of a voluntary or involuntary petition seeking protection under any State or Federal bankruptcy statute;

(b) the adjudication of any Borrower or the Mortgagor as a bankrupt or insolvent;

(c) a final judgment or judgments for the payment of money in excess of an aggregate of \$10,000.00 shall be rendered against any Borrower or the Mortgagor and the same shall remain undischarged for a period of 30 days during which execution shall not be effectively stayed;

(d) the death of any Borrower;

(e) the Mortgagor shall fail:

(i) to permit Mortgagee, or his financial or legal advisors, to examine the books and records of the Mortgagor and to make copies thereof at any or all reasonable times after written request therefor; or

(ii) to pay or discharge, before they become delinquent, all taxes, assessments and governmental charges or levies implored upon the Mortgagor or its properties or income, except to the extent any such taxes or charges are being contested in good faith by appropriate proceedings, diligently conducted;

(f) the Mortgagor, without the prior written consent of the Mortgagee, shall:

(i) incur any material liability other than in the ordinary course of business;

(ii) dispose of or contract to dispose of any of the Mortgagor's properties or assets other than in the ordinary course of business; or

(iii) enter into any contract involving the acquisition or purchase of the stock or assets of any other company or business;

(g) an event of default under the terms of any mortgage of the subject Mortgaged Property which is subservient to this Mortgage; or

(h) any Borrower shall fail to make any payment due under the Promissory Notes.


IN WITNESS WHEREOF, MSR Properties, LLC has caused this instrument to be executed on this the 18 day of Jan, 2007 to be effective January 1, 2007.

MSR PROPERTIES, LLC

By: Kenneth C. Nolan, Jr.
Kenneth C. Nolan, Jr.
Its Class I and Class II Member

By: A.C. Moss
A.C. Moss
Its Class I and Class II Member

By: M.D. Breeding
M.D. Breeding
Its Class I and Class II Member


20070123000036200 6/11 \$4543.00
Shelby Cnty Judge of Probate, AL
01/23/2007 03:25:00PM FILED/CERT

STATE OF ALABAMA)
 :
Jefferson COUNTY)

I, the undersigned, a Notary Public in and for said county in said state, hereby certify that **Kenneth C. Nolen, Jr.**, whose name as Class I and Class II member of MSR Properties, LLC a limited liability company organized and existing under the laws of the State of Alabama, 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 such instrument, he, as such Member-Manager and with full authority, executed the same voluntarily on the day the same bears date for and as the act of said limited liability company.

GIVEN under my hand and official seal of office, this 18th day of January, 2007.

[NOTARIAL SEAL]

Notary Public *Donna M. Bailer*
My Commission Expires: 9-15-07

STATE OF ALABAMA)
 :
Jefferson COUNTY)

I, the undersigned, a Notary Public in and for said county in said state, hereby certify that **A.C. Moss**, whose name as Class I and Class II member of MSR Properties, LLC a limited liability company organized and existing under the laws of the State of Alabama, 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 such instrument, he, as such Member-Manager and with full authority, executed the same voluntarily on the day the same bears date for and as the act of said limited liability company.

GIVEN under my hand and official seal of office, this 18th day of January, 2007.

[NOTARIAL SEAL]

Notary Public *Donna M. Bailer*
My Commission Expires: 9-15-07

F:\TMDOCS\30444002\DOCS\60366.wpd

STATE OF ALABAMA)
 :
Jefferson COUNTY)

I, the undersigned, a Notary Public in and for said county in said state, hereby certify that **M.D. Breeding**, whose name as Class I and Class II member of MSR Properties, LLC a limited liability company organized and existing under the laws of the State of Alabama, 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 such instrument, he, as such Member-Manager and with full authority, executed the same voluntarily on the day the same bears date for and as the act of said limited liability company.

GIVEN under my hand and official seal of office, this 18th day of January, 2007.

[NOTARIAL SEAL]

Notary Public Donna M. Butler

My Commission Expires: 9-15-07



20070123000036200 8/11 \$4543.00
Shelby Cnty Judge of Probate, AL
01/23/2007 03:25:00PM FILED/CERT

Exhibit A
Legal Description of Mortgaged Property

NATIONAL HEADQUARTERS
RICHMOND, VIRGINIA

SCHEDULE A CONT'D:
LEGAL DESCRIPTION:

PARCEL I:

A parcel of land situated in the Southeast Quarter of the Northwest Quarter and the Southwest Quarter of the Northeast Quarter Section 12, Township 20 South, Range 3 West, Shelby County, Alabama, and being more particularly described as follows:

Commence at the Southwest corner of the Southeast Quarter of the Northwest Quarter Section 12, Township 20 South, Range 3 West, Shelby County, Alabama, and run East along the South line of the SE 1/4 of the NW 1/4 for 1091.30 feet (Deed 1091.42 feet) to a point in the center of the Old Birmingham-Montgomery Highway; thence 69 degrees 30 minutes 13 seconds left (Deed 69 degrees 30 minutes) and in a Northeasterly direction along the center of the Old Birmingham-Montgomery Highway 480.00 feet; thence 1 degree 30 minutes 55 seconds right and in a Northeasterly direction along said center of road for 115.69 feet to the point of beginning; thence continue Northeasterly along said center of the Old Birmingham-Montgomery Highway 215.65 feet; thence 112 degrees 00 minutes 42 seconds left and in a Westerly direction parallel to the South line of said 1/4-1/4 for 967.61 feet; thence 91 degrees 25 minutes left and in a Southerly direction for 200 feet; thence 88 degrees 35 minutes left and in an Easterly direction parallel to the South line of said 1/4-1/4 for 881.84 feet to the point of beginning.

PARCEL II:

A parcel of land situated in the Southeast Quarter of the Northwest Quarter, Section 12, Township 20 South, Range 3 West, Shelby County, Alabama, and being more particularly described as follows:

Commence at the Southwest corner of the Southeast Quarter of the Northwest Quarter, Section 12, Township 20 South, Range 3 West, Shelby County, Alabama and run East along the South line of the SE 1/4 of the NW 1/4 for 1091.30 feet (Deed 1091.42 feet) to a point in the center of the Old Birmingham-Montgomery Highway; thence 69 degrees 30 minutes 13 seconds left (Deed 69 degrees 30 minutes) and in a Northeasterly direction along the center of the Old Birmingham-Montgomery Highway 480.00 feet; thence 1 degree 30 minutes 55 seconds right and in a Northeasterly direction along said center of road for 115.69 feet to the point of beginning; thence 112 degrees 00 minutes 42 seconds left and in a Westerly direction parallel to the South line of said 1/4-1/4 for 143.14 feet; thence 134 degrees 03 minutes 36 seconds left and in a Southeasterly direction for 111.86 feet; thence 29 degrees 39 minutes 54 seconds left and in a Southeasterly direction 30.61 feet to a point on the center of the Old Birmingham-Montgomery Highway; thence 84 degrees 15 minutes 48 seconds left and run Northeasterly along the center of said Old Birmingham-Montgomery Highway 95.96 feet to the point of beginning.

Situated in Shelby County, Alabama.

Exhibit A



20070123000036200 10/11 \$4543.00
Shelby Cnty Judge of Probate, AL
01/23/2007 03:25:00PM FILED/CERT

STATE OF ALABAMA
SHELBY COUNTY

THE FOLLOWING IS A LEGAL DESCRIPTION OF A TRACT OF LAND SITUATED IN THE S.E. 1/4 OF THE N.W. 1/4 AND THE S.W. 1/4 OF THE N.W. 1/4 OF SECTION 12, TOWNSHIP 20 SOUTH, RANGE 3 WEST, SHELBY COUNTY, ALABAMA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE S.W. CORNER OF THE S.E. 1/4 OF THE N.W. 1/4 OF SECTION 12, TOWNSHIP 20 SOUTH, RANGE 3 WEST; THENCE EAST ALONG THE SOUTH LINE OF SAID 1/4 SECTION 1091.42 FEET TO THE CENTERLINE OF OLD U.S. HIGHWAY 31; THENCE 69° 30' 00" LEFT IN A NORTHEASTERLY DIRECTION ALONG SAID CENTERLINE 497.46 FEET; THENCE 94° 13' 30" LEFT 191.58 FEET; THENCE 09° 46' 30" RIGHT 80.00 FEET; THENCE 26° 02' 30" LEFT 589.60 FEET TO THE POINT OF BEGINNING; THENCE 88° 35' 00" RIGHT 400.00 FEET; THENCE 86° 35' 00" LEFT 631.35 FEET TO A POINT, SAID POINT BEING 35 FEET EAST OF THE CENTERLINE OF THE CANADA VALLEY CREEK WHICH IS THE PROPERTY LINE; THENCE 119° LEFT TO A LINE, SAID LINE BEING A RANDOM SURVEY LINE LOCATED APPROXIMATELY 35 FEET NORTHEASTERLY AND PARALLEL TO THE CENTERLINE OF SAID CREEK; THENCE CONTINUE ALONG SAID COURSE 98.70 FEET TO A POINT; THENCE 10° 38' 49" LEFT 265.19 FEET; THENCE 16° 00' 00" RIGHT 119.36 FEET TO A POINT, SAID POINT BEING 45 FEET EAST OF THE CENTERLINE OF SAID CREEK; THENCE LEAVING THE RANDOM SURVEY LINE 66° 21' 11" LEFT 376.30 FEET TO THE POINT OF BEGINNING AND CONTAINING 4.953 ACRES MORE OR LESS.

I, RONALD F. GOSS FOR GOSS ENGINEERING COMPANY, OF BIRMINGHAM, ALABAMA HEREBY CERTIFY TO THE CORRECTNESS OF THIS SURVEY AND PLAT OF THE PROPERTY SHOWN AND DESCRIBED HEREON, THAT THERE ARE NO VISIBLE ENCROACHMENTS, EXCEPT THOSE SHOWN, FROM ADJOINING PROPERTIES.

ACCORDING TO OUR SURVEY THIS THE 14TH DAY OF SEPTEMBER, 1977.

GOSS ENGINEERING COMPANY, INC.

BY: Ronald F. Goss
REG. NO. 9248



20070123000036200 11/11 \$4543.00
Shelby Cnty Judge of Probate, AL
01/23/2007 03:25:00PM FILED/CERT