


**SUBORDINATION, ATTORNMEN**  
**and**  
**NON-DISTURBANCE AGREEMENT**

**PRICKETT PARTNERS, LLLP**, a Florida limited liability limited partnership ("Lessor"), whose address is P.O. Box 1599, Eustis FL 32727, under that certain Ground Lease (the "Lease") dated as of September 7, 2006 and amended by that First Amendment to Ground Lease dated October 23, 2006, along with **JFC SWEETS, LLC**, an Alabama limited liability company, whose address is 935 1<sup>st</sup> Street North, Alabaster, Alabama 35007 ("Lessee"), certifies, covenants and agrees with and to **REGIONS BANK** (hereinafter, along with its successors and assigns, referred to as "Lender").

1. Lessor is the fee simple owner and is the lessor of that certain real property identified in the Lease as the Premises (the "Leased Premises"), and as more fully described in Exhibit "A" attached hereto.
2. To Lessor's knowledge, the Lessee is the current lessee under the Lease.
3. The Lease has not been canceled, modified, assigned, extended or amended.
4. As of this date, the Lease is in full force and effect; there are no uncured defaults under the Lease; Lessor has no claims against the Lessee under the Lease except as set forth in the Lease; to Lessor's knowledge, Lessee has no offsets against the rent or other charges payable by Lessee under the Lease; and as of the date hereof, Lessee has either satisfied all of its obligations to the Lessor under the Lease or the same have been waived by Lessor.
5. Lessor has received no actual notice of any sale, transfer or assignment, hypothecation or pledge of Lessee's right, title or interest in, to or under the Lease, except to Lender.
6. Lessor has not sold, transferred, assigned, hypothecated or pledged the Leased Premises or its right, title or interest in, to or under the Lease.
7. Lessor acknowledges that Lessor has been notified that Lessee intends to grant to Lender a leasehold mortgage in and to the Leased Premises (hereinafter the "Leasehold Mortgage") and a security interest in the equipment, machinery, furniture and fixtures located on the Leased Premises (the "Equipment") as security for a loan (the "Loan") Lender is making to Lessee. Lessor hereby agrees that the making of the Loan and the encumbering of Lessee's interest in the Leased Premises and the Equipment does not constitute a default under the Lease.
8. Lessor agrees that it will deliver to Lender, at the address set forth below, a duplicate copy of any and all written notices which Lessor may, from time to time, give or

serve upon Lessee under the terms of the Lease, as and when Lessor gives or serves such notices upon Lessee:

REGIONS BANK  
417 North 20<sup>th</sup> Street  
Birmingham, Alabama 35203

  
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Failure to deliver a copy of such notice to Lender shall in no way affect the validity of the notice as it respects Lessee, but shall make the same invalid as it respects the interest of the Lender.

9. Lessor further agrees that Lender shall have (a) sixty (60) days following receipt of written notice from Lessor as to the non-payment of any monetary sum due under the Lease within which to cure such monetary default, and (b) the same period of time as Lessee after Lender has received written notice from Lessor of any non-monetary default by Lessee within which to cure such non-monetary default, or if such default(s) cannot be cured within such time, then such additional time, not to exceed one hundred eighty (180) days, as may be reasonably necessary to cure such default(s) (including, but not limited to, commencement of foreclosure proceedings, if necessary to effect such cure). Upon Lender curing such default in accordance with the foregoing, any notice of Lessor advising of any such event of default or any action of Lessor to terminate this Lease or to interfere with the occupancy, use or enjoyment of the Leased Premises by reason thereof shall be deemed rescinded and this Lease shall be reinstated and shall continue in full force and effect.

10. Lessor further subordinates to Lender all of its rights to the Equipment and the right to claim that such Equipment. Lessor hereby grants Lender the right to enter the Leased Premises for the purposes of repossessing, removing, selling or otherwise dealing with the Equipment. In the event that Lender shall enter the Leased Premises and repossess, remove, or sell the Equipment, Lender shall have the right to maintain the Equipment on the Leased Premises by paying the current rent which shall become due during the period of time that Lender shall occupy the Leased Premises, provided however, that in no event shall Lender remain on the Leased Premises beyond the term of the Lease.

11. Notwithstanding anything to the contrary contained in the Lease or in this agreement, in addition and not in limitation of the foregoing, (a) Lessor and Lessee each agree not to (i) amend or modify the Lease in any respect without the prior written consent of Lender and/or (ii) terminate the Lease without Lender's prior written consent, and (b) Lessor and Lessee acknowledge and agree that the Lease shall not be amended, modified and/or terminated if either Lessor or Lessee attempts to amend, modify and/or terminate the Lease without first obtaining Lender's prior written consent.

12. Without the prior consent of Lender, i) the Lease shall not be surrendered or canceled (other than as a result of a default of Lessee after notice to and opportunity to cure of Lessee and Lender, respectively) prior to the expiration of the term of the Lease, ii) Lessee shall not have the right to exercise any option to terminate the Lease, and iii) any

agreement purporting to surrender, cancel, terminate, modify or amend the Lease or any attempted exercise of such option, without the consent of the Lender, shall be ineffective, null and void.

13. Lessor agrees to accept performance of Lessee's obligations under the Lease by Lender as if it were performance by Lessee. Notwithstanding the foregoing, Lessor acknowledges that while Lender shall have the right to tender performance of Lessee's obligations under the Lease, Lender shall not have the obligation to do so.

14. If Lender or its successors or assigns succeeds to Lessee's interest in the Lease, the Lease shall not be terminated by such action and Lessor agrees to accept performance of Lessee's obligations under the Lease by Lender or its successors or assigns, and the Lease shall continue in full force and effect as a lease between Lessor and Lender or its successors or assigns. Lender shall not be responsible for obligations under the Lease unless and until Lender succeeds to Lessee's interest in the Lease. Lender shall remain responsible for Lessee's obligations under the Lease only so long as Lender is the owner, and Lender will not be liable under the Lease following the sublease or assignment to a third party or its other disposition of Lessee's leasehold estate upon reasonable approval by Lessor of such third party's financial capacity, which approval shall not be unreasonably withheld or delayed.

15. Upon Lender's assumption of Lessee's obligations of performance under the Lease, Lender shall have the right to sublease any interest it may hold under the Lease to those parties of its choosing pursuant to the terms of the Lease.

16. Hazard insurance required under the terms of the Lease shall contain a leasehold mortgagee endorsement in favor of Lender and shall provide that any proceeds distributed pursuant to the terms of the Lease.

17. Lender shall have first right to share in condemnation proceeds awarded, paid or received as a result of any partial or total condemnation (as defined under the terms of the Lease), which shall be allocated according to the laws of Alabama. Lender shall have the right to participate in any proceeding relating to the determination of the amount to be awarded by the condemnor. Lender's portion of that award shall be the equivalent of that award allocated to Lessee under the terms of the Lease and shall be distributed pursuant to the terms thereof.

18. If the Lease terminates before its term expires, including the rejection of the Lease in a bankruptcy proceeding involving Lessee, except by eminent domain, Lessor shall serve upon Lender written notice of that fact, together with a statement of all sums which would at that time be due under the Lease but for the termination, and of all other defaults under the Lease then actually known to Lessor. The Lender may then obtain a new lease and a bill of sale for all personal property and fixtures in the building previously owned by Lessee and then owned by Lessor arising out of such termination, all in accordance with and upon the following terms and conditions. Upon the written request of Lender within thirty (30) days after service of notice that the Lease has been terminated, Lessor shall

enter into a new lease of the Leased Premises with Lender, or its designee (which designee does require the approval of Lessor, which approval shall not be unreasonably withheld, delayed or conditioned; provided, however, said designee does not require the approval of Lessor if the designee has the same or better financial condition as Lessee did at the date of the Lease), which new lease shall: (i) be entered into at the reasonable cost of the new tenant, (ii) be effective as of the date of termination of the Lease, (iii) be for the remainder of the term of the Lease, and (iv) be at the same rent and upon all the agreements, terms, covenants, and conditions of the Lease (including reversion of all personalty upon expiration of earlier termination of the new lease to Lessor); and (v) be executed within fourteen (14) business days after the same has been tendered by Lessor to Lender. The new lease shall require the tenant to perform all of Lessee's unfulfilled obligations under the Lease that are reasonably susceptible of being performed by the Lessee. Upon execution of the new lease, the new tenant shall pay all sums that would then be due under the Lease but for the termination. Subject to the preceding sentence, upon execution of the new lease, Lessor shall allow to the new tenant, and the new tenant shall be entitled to, an adjustment equal to the net income derived by Lessor from the Leased Premises during the period from the date of termination of the Lease to the date of execution of the new lease. Lessor acknowledges that Lender is unwilling to make the Loan to Lessee without this paragraph, and without this paragraph, there is an inadequate remedy at law for Lender, therefore, if Lessor fails to enter into a new lease with Lender upon the terms and conditions set forth above within ten (10) days of the termination of the Lease, Lender may seek specific performance of Lessor's obligation to enter into a new lease upon the terms and conditions set forth above in addition to any other rights or remedies of Lender.

19. Effective upon the commencement of the term of any new lease executed under the above section, all subleases shall be assigned and transferred without recourse by Lessor to the tenant under the new lease. All moneys on deposit with Lessor which Lessee would have been entitled to use but for the termination or expiration of the Lease may be used by the tenant under the new lease for purposes of and in accordance with its provisions. The new tenant shall thereafter indemnify and hold Lessor, its agents and employees harmless from and against any claims of such subtenants with regard to any deposits actually received by the new tenant.

20. The provisions of this agreement notwithstanding, nothing contained herein shall grant Lender any rights greater than those granted to Lessee under the Lease or expand any rights granted to Lessee under the Lease.

21. Lessor has full power and authority to enter into and perform its agreements under this Agreement, and the person executing and delivering this Agreement on behalf of Lessor is fully and properly authorized to do so, and neither the execution, delivery or performance of its obligations under this Agreement is or could result in a violation of any applicable law, rule, regulation, statute, court order or other governmental pronouncement, or a default under any agreement or organizational document, to which Lessor is a signatory or by which its properties may be bound.

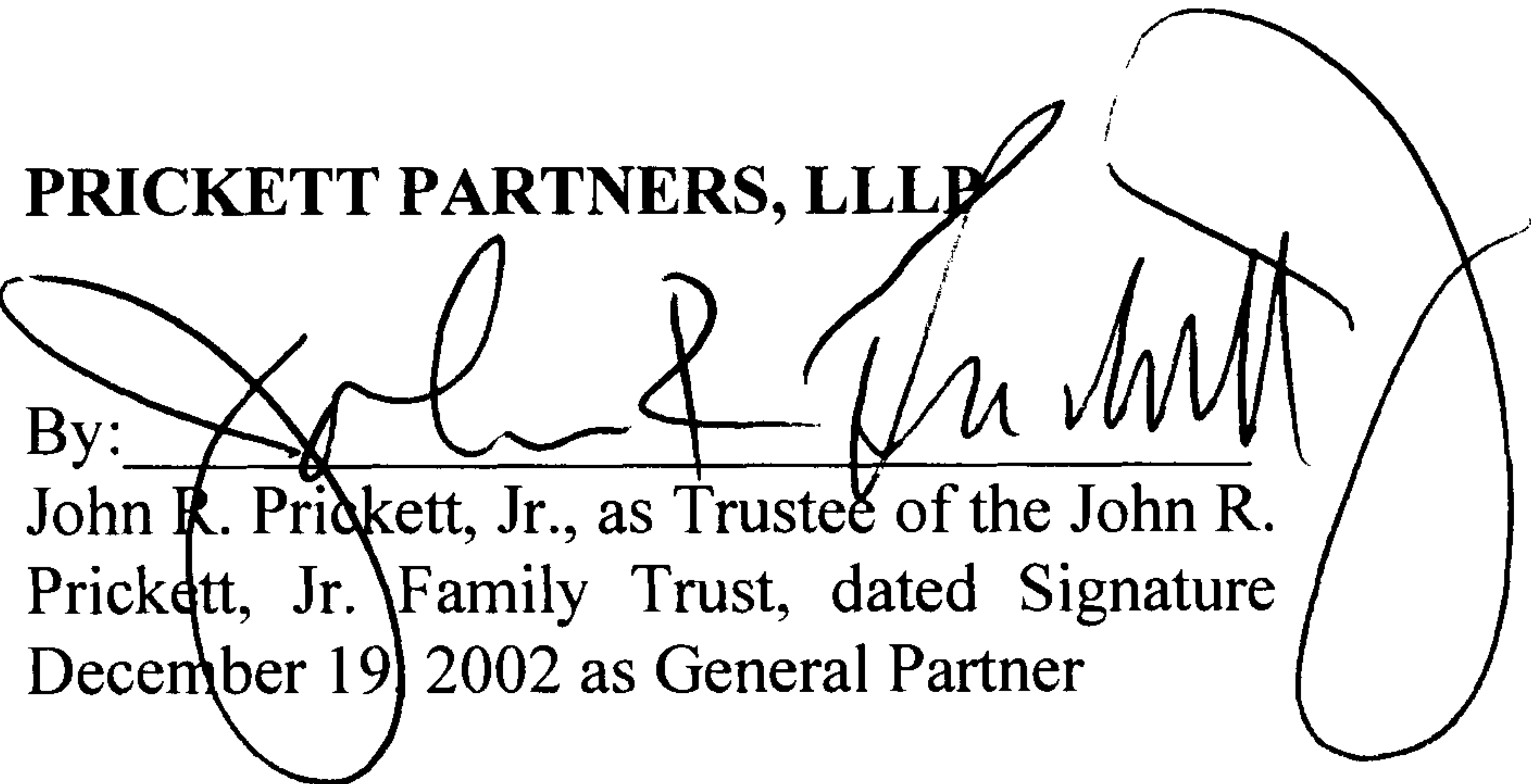
22. This agreement may be executed in one or more counterparts, or by the parties executing separate counterpart signature pages, including facsimiles transmitted by telecopier, all of which shall be deemed the original counterpart of this agreement.

23. Upon payment in full of all obligations due Lender secured by the mortgage given by Lessee to Lender on Lessee's interest in the Leased Premises and Lease, and the satisfaction and termination of such mortgage, then this agreement shall terminate.

IN WITNESS WHEREOF the following parties hereby execute this agreement on this the 22<sup>nd</sup> day of November, 2006.


LESSOR:

**PRICKETT PARTNERS, LLLP**

By:   
John R. Prickett, Jr., as Trustee of the John R. Prickett, Jr. Family Trust, dated Signature December 19, 2002 as General Partner

LESSEE:

**JFC SWEETS, LLC**

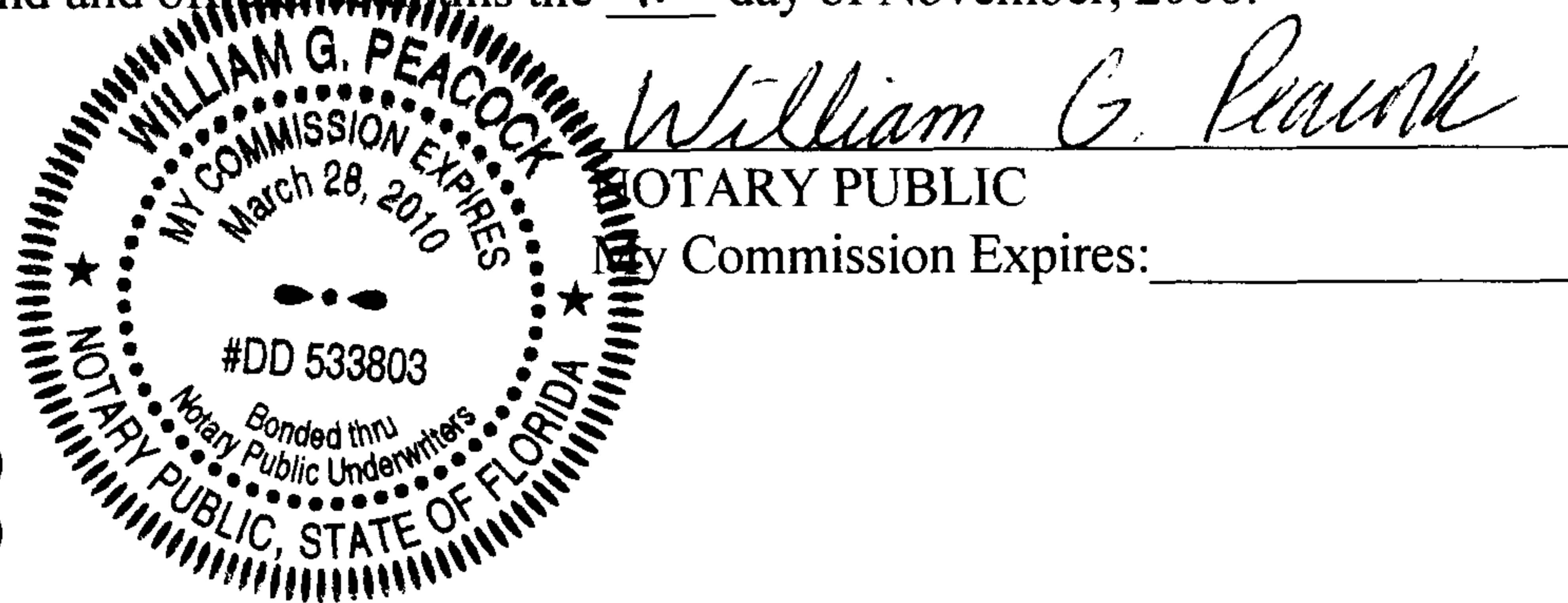
By:   
Thomas Cairns (also known as Thomas C. Cairns and as Ted Cairns, III)  
(Its Manager)

[ACKNOWLEDGEMENTS ON NEXT PAGE]

STATE OF FLORIDA     )  
LAKE COUNTY         )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that John R. Prickett, Jr., whose name as Trustee of the John R. Prickett, Jr. Family Trust, dated Signature December 19, 2002, as General Partner of PRICKETT PARTNERS, LLLP, a Florida limited liability limited partnership, 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 trustee, and with full authority, executed the same voluntarily, as an act of said partnership.

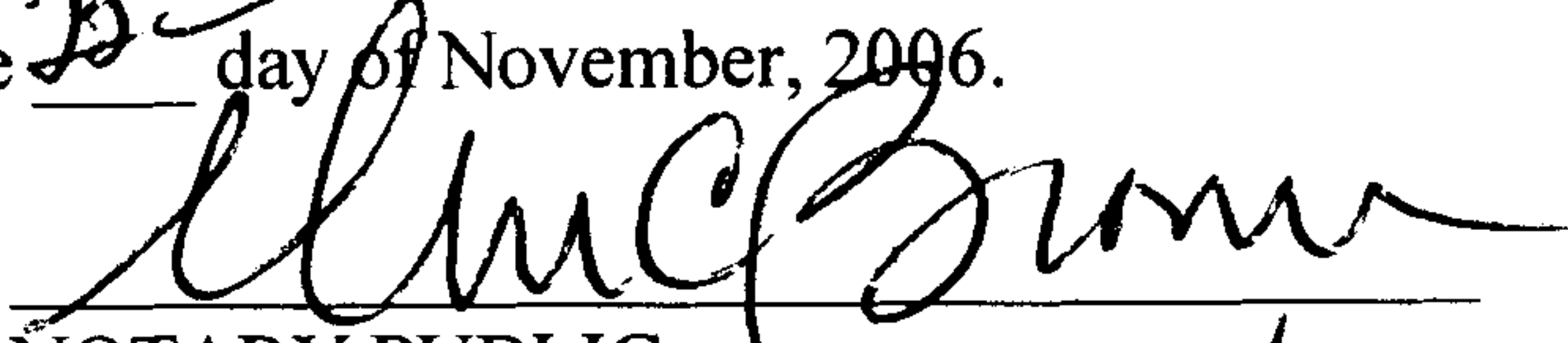
Given under my hand and official seal, this the 22<sup>nd</sup> day of November, 2006.



STATE OF ALABAMA     )  
JEFFERSON COUNTY    )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Thomas Cairns (also known as Thomas C. Cairns and as Ted Cairns, III), whose name as Manager of JFC SWEETS, LLC, 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 manager, and with full authority, executed the same voluntarily, as an act of said company.

Given under my hand and official seal, this the 22<sup>nd</sup> day of November, 2006.

  
NOTARY PUBLIC  
My Commission Expires: 12/14/2008

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## EXHIBIT "A"

A parcel of land situated in a portion of Lot 14, Colonial Promenade Alabaster Survey as recorded in Map Book 35, Page 102 A & B in the Office of Judge of Probate, Shelby County, Alabama, being more particularly described as follows:

Commence at the Northernmost corner of Lot 14 Colonial Promenade Alabaster Survey, said corner being the point of intersection of the Southeasterly Right-of-Way line of Colonial Promenade Parkway, the Northeasterly line of said Lot 14 and the Southwesterly line of Lot 15 Colonial Promenade Alabaster Survey and run in a Southeasterly direction along the common line of said Lots 14 and Lot 15 a distance of 226.48 feet to a point, said point being the point of intersection of said common line and a Northwesterly line of Lot 1 Colonial Promenade Alabaster Survey lying on a curve to the right having a radius of 1000.00 feet and a central angle of 6 degrees 42 minutes 37 seconds; thence 86 degrees 53 minutes 30 seconds to the right (angle measured from tangent) along the arc of said curve in a Southwesterly direction (leaving said common line of Lots 14 and 15) along the common line of said Lots 1 and 14 a distance of 117.12 feet to the P.T. (Point of Tangent) of said curve; thence tangent to said curve in a Southwesterly direction along said common line a distance of 49.42 feet to the POINT OF BEGINNING of the parcel described herein; thence continuing along the last described course in a Southwesterly direction along said common line a distance of 28.66 feet to the P.C. (Point of Curve) of a curve to the right having a radius of 500.00 feet and a central angle of 11 degrees 41 minutes 08 seconds; thence in a Southwesterly direction along said common line and along the arc of said curve a distance of 101.98 feet to the P.C.C. (Point of Compound Curve) of a curve to the right having a radius of 25.00 feet and a central angle of 87 degrees 32 minutes 44 seconds; thence in a Southwesterly, Westerly and Northwesterly direction along said common line and along the arc of said curve a distance of 38.20 feet to the P.T. (Point of Tangent) of said curve; thence tangent to said curve in a Northwesterly direction along said common line a distance of 168.92 feet to the P.C. (Point of Curve) of a curve to the right having a radius of 15.00 feet and a central angle of 82 degrees 35 minutes 50 seconds; thence in a Northwesterly, Northerly and Northeasterly direction along said common line and along the arc of said curve a distance of 21.62 feet to a point lying on the Southeasterly Right-of-Way line of said Colonial Promenade Parkway and being the P.R.C. (Point of Reverse Curve) of a curve to the left having a radius of 350.00 feet and a central angle of 5 degrees 25 minutes 15 seconds; thence in a Northeasterly direction (leaving said common line) along the arc of said curve and along the common line of said Southeasterly Right-of-Way line of Colonial Promenade Parkway and Lot 14 a distance of 33.11 feet to the P.T. (Point of Tangent) of said curve; thence tangent to said curve in a Northeasterly direction along said common line a distance of 111.44 feet to a point; thence 102 degrees 56

minutes 28 seconds to the right in a Southeasterly direction (leaving said common line) a distance of 228.71 feet to the POINT OF BEGINNING.

**SUBJECT TO:** i) taxes for the year 2007 constituting a lien but which is not yet due and payable; ii) Right of Way granted to Alabama Power Company by instrument recorded in Deed Book 48, Page 584; Deed Book 130, Page 89, 91 and 94; Deed Book 145, Page 297; Deed Book 169, Page 335; Deed Book 181, Pages 212 and 229; and Deed Book 207, Page 676 in the Probate Office of Shelby County, Alabama; iii) Agreement for water line easement to Alabaster Water and Gas Board recorded in Instrument 1992-21213, in the Probate Office of Shelby County, Alabama; iv) Restrictions as to uses declared in that certain I-65, Exit 238 Redevelopment Plant adopted by the City of Alabaster, Alabama, as may be amended from time to time, as set out on deed recorded in Instrument 20040218000085110; Instrument 20040218000085140; Instrument 20040211000072140 and Instrument 20040218000085080, in the Probate Office of Shelby County, Alabama; v) Easement with Covenants and Restrictions affecting Land ("ECR") recorded in Instrument 20040507000243250 and First Amendment to Easements with Covenants and Restrictions affecting Land recorded in Instrument 20040507000243260, in the Probate Office of Shelby County, Alabama; vi) Alabaster Development Agreement recorded in Instrument 20050712000346700, in the Probate Office of Shelby County, Alabama; vii) Easement for Alabama Power Company recorded in Instrument 20050802000388790, in the Probate Office of Shelby County, Alabama; viii) Building line, as shown by map recorded in Map Book 35, Page 102 A and B, in Probate Office of Shelby County, Alabama; ix) Declaration of Covenants, Conditions and Restrictions and Operating Agreement between Colonial Properties Services, Inc. and Prickett Partners, LLLP, dated September 20, 2005 and recorded on September 23, 2005, in Instrument 20050923000494710, in the Probate Office of Shelby County, Alabama; x) Restrictions, 50-foot building line on front, 15-foot building line on rear and 5-foot building line on sides as shown by recorded Map; xi) any coal, oil, gas and other mineral and mining rights not owned by Mortgagor.



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