

This instrument prepared by:

Melissa F. Laskey, Esquire  
Nuyen, Tomtishen & Aoun, P.C.  
640 Griswold  
Northville, MI 48167

STATE OF ALABAMA

SHELBY COUNTY

**REAL ESTATE MORTGAGE AND SECURITY AGREEMENT**

**KNOW ALL MEN BY THESE PRESENTS:**

**THAT WHEREAS SOUTH POINTE DEVELOPMENT, LTD.**, an Alabama limited partnership, has become justly indebted to **RAYMOND JAMES TAX CREDIT FUNDS, INC.**, a Florida corporation, in the aggregate principal amount of One Million Two Hundred Thousand and NO/100 DOLLARS (\$1,200,000.00), as evidenced by a promissory note dated September 6, 2007;

**NOW, THEREFORE**, in consideration of the premises and in order to secure the payment of said indebtedness and any renewals or extensions thereof and the interest thereon, and all other indebtedness (including future advances) now or hereafter owed by the above named to **RAYMOND JAMES TAX CREDIT FUNDS, INC.**, and whether such indebtedness is primary or secondary, direct or indirect, contingent or absolute, matured or unmatured, joint or several, and otherwise secured or not, and to secure compliance with all of the covenants and stipulations hereinafter contained, the undersigned **SOUTH POINTE DEVELOPMENT, LTD.** (hereinafter called the "**Mortgagor**"), does hereby grant, bargain, sell, and convey unto **RAYMOND JAMES TAX CREDIT FUNDS, INC.** (hereinafter called the "**Mortgagee**"), all of the property described under (1) through (13) below (hereinafter referred to as the "**Mortgaged Property**"), subject to the matters set forth on Schedule B (the "**Permitted Encumbrances**") attached hereto and made a part hereof:

(1) All of Mortgagor's right, title and interest in and to certain real property (the "**Real Estate**") more particularly described in Schedule A attached hereto and made a part hereof;

(2) All of Mortgagor's title and interest in and to any and all buildings, constructions and improvements now or hereafter erected in or on the Real Estate, including the fixtures and those attachments, appliances, equipment, machinery and other articles that are attached to said buildings, constructions and improvements, all of which shall be deemed and construed to be a part of the realty;

(3) All right, title and interest of Mortgagor in and to all of the items incorporated as part of or attributed or affixed to any of the Real Estate or any other interest of Mortgagor, whether now owned or hereafter acquired, in, to or relating to the Real Estate, in such a manner that such items are no longer personal property under the law of the state where the property is situated;

(4) All personal property including, without limitation, all supplies, equipment, tools, furniture, furnishings, fixtures, machinery and construction materials that Mortgagor now or hereafter owns or in which Mortgagor now or hereafter acquires an interest or right and that are now or hereafter located on or affixed to the Real Estate or used or useful in the operation, use or occupancy of the Real Estate or the construction of any improvement on the Real Estate, including any interest of Mortgagor in and to personal property that is leased or subject to any superior security interest and including all heating, lighting, plumbing, ventilating, air conditioning, refrigerating, incinerating and/or compacting plants, systems, fixtures and equipment, elevators, escalators, sprinkler systems and other fire prevention and extinguishing apparatus and materials, vacuum cleaners, office furniture, telephones and telecommunication equipment, compartment safes, carpeting, window coverings and all proceeds of and substitutions and replacements for any such items;



(5) All of Mortgagor's:

(i) inventory, including all goods, merchandise, raw materials, supplies and other tangible personal property, now owned or hereafter acquired, and all documents now and at any time or times covering or representing any of said property;

(ii) accounts, accounts receivable, contract receivables, contract rights, notes, drafts, acceptances, instruments, chattel paper and general intangibles, and all guarantees and suretyship agreements relating thereto and all security for payment thereof, now or hereafter existing or arising; and

(iii) equipment, including all furniture, furnishings, machinery, storage shelves and other goods used in the conduct of Mortgagor's business, now owned or hereafter acquired;

(6) All rents, issues, profits, royalties, income and other benefits derived from the Real Estate (collectively, the "**Rents**"), now or hereafter existing or entered into;

(7) All interests, estates or other claims, both in law and in equity, that Mortgagor now has or may hereafter acquire in the Real Estate including, but not limited to all of Mortgagor's interest in any and all options to purchase the Real Estate that Mortgagor may have or may hereafter acquire;

(8) All easements, rights-of-way and rights now owned or hereafter acquired by Mortgagor used in connection with or as a means of access to the Real Estate including all rights pursuant to any trackage agreement and all rights to the nonexclusive use of common drive entries, and all tenements, hereditaments and appurtenances of and to such easements rights-of-way and rights, and all water and water rights and shares of stock evidencing the same;

(9) All interests of Mortgagor as lessor or sublessor (and similar interests) in and to all leases or subleases covering all or any portion of the Real Estate, now or hereafter existing or entered into, and all right, title and interest of Mortgagor under such leases and subleases, including, without limitation, all cash or security deposits, advance rentals, and deposits or payments of similar nature;

(10) All right, title and interest now owned or hereafter acquired by Mortgagor in and to any greater estate in the Real Estate;

(11) All right, title and interest now owned or hereafter acquired by Mortgagor in and to any land lying within the right-of-way of any street, open or proposed, adjoining the Real Estate, and any and all sidewalks, alleys and strips and gores of land adjacent to or used in connection with the Real Estate;

(12) All rights and interests of Mortgagor in, to and under all plans, specifications, maps, surveys, studies, reports, permits, licenses, architectural, engineering and construction contracts, books of account, insurance policies and other documents, of whatever kind or character, relating to use, construction upon, occupancy, leasing, sale or operation of the Real Estate; and

(13) All of the estate, interest, right, title, other claim or demand, both in law and in equity, including claims or demands with respect to the proceeds of insurance, that Mortgagor now has or may hereafter acquire in the Real Estate, and other proceeds from sale or disposition of real or personal property hereby secured that Mortgagor now has or may hereafter acquire and any and all awards made for the taking by eminent domain, or by any proceeding or purchase in lieu of eminent domain, of the whole or any part of the Real Estate, including any award resulting from a change of grade of streets and any award for severance damages.

**TO HAVE AND TO HOLD** the same and every part thereof unto the Mortgagee, its heirs and assigns forever.

And for the purpose of further securing the payment of said indebtedness, the Mortgagor warrants, covenants, and agrees with Mortgagee, its heirs and assigns, as follows:

1. That Mortgagor is lawfully seized in fee and possessed of said Mortgaged Property and has a good right to convey the same as aforesaid, that Mortgagor will warrant and forever defend the title against the lawful



claims of all persons whomsoever, and that said property is free and clear of all encumbrances, easements, and restrictions not herein specifically mentioned.

2. That Mortgagor will pay all taxes, assessments, or other liens taking priority over this mortgage when imposed legally upon said Mortgaged Property, and should default be made in the payment of same or any part thereof, said Mortgagee may pay the same (but Mortgagee is not obligated to do so).

3. That Mortgagor will keep the buildings on said premises continuously insured in such amounts, in such manner, and with such companies as may be satisfactory to the Mortgagee against loss by fire, wind, and such other hazards as Mortgagee may specify with loss, if any, payable to said Mortgagee, and will deposit with Mortgagee policies of such insurance or, at Mortgagee's election, certificates thereof and will pay premiums therefor as the same become due. Mortgagor shall give immediate notice in writing to Mortgagee of any loss or damages to said premises caused by any casualty. If Mortgagor fails to keep said property insured as above specified, the Mortgagee may insure said property (but Mortgagee is not obligated to do so) for its insurable value against loss by fire, wind, and other hazards for the benefit of Mortgagor and Mortgagee, or Mortgagee alone, at Mortgagee's election. The proceeds of such insurance shall be paid by insurer to Mortgagee, who is hereby granted full power to settle and compromise claims under all policies and to demand, receive, and receipt for all sums becoming due thereunder; said proceeds, if collected, to be credited on the indebtedness secured by this mortgage, less costs of collection of same, or to be use in repairing or reconstructing the premises, as the Mortgagee may elect.

4. That all amounts so expended by the Mortgagee for insurance or for the payment of taxes or assessments or to discharge prior liens shall become a debt due the Mortgagee, shall be at once payable without demand upon or notice to any person, shall bear interest at the rate of interest payable on the principal sum of the note described above or, if no such rate of interest is specified or if the rate specified would be unlawful, at the rate of eight percent (8%) per annum from date of payment by Mortgagee, and such debt and the interest thereon shall be secured by the lien of this mortgage; and upon failure of Mortgagor to reimburse Mortgagees for all amounts so expended, at the election of the Mortgagee and with or without notice to any person, Mortgagee may declare the entire indebtedness secured by this mortgage due and payable and this mortgage subject to foreclosure and the same may be foreclosed as hereinafter provided.

5. To take good care of the Mortgaged Property described above and not to commit or permit any waste thereon and to keep the same repaired and at all times to maintain the same in as good condition as it now is, reasonable wear and tear alone excepted.

6. That no delay or failure of the Mortgagee to exercise any option to declare the maturity of any debt secured by this mortgage shall be taken or deemed as a waiver of the right to exercise such option or to declare such forfeiture either as to past or present defaults on the part of said Mortgagor, and that the procurement of insurance or payment of taxes or other liens or assessments by the Mortgagee shall not be taken or deemed as a waiver of the right to declare the maturity of the indebtedness hereby secured by reason of the failure of the Mortgagor to procure such insurance or to pay such taxes, liens, or assessments, it being agreed that no terms or conditions contained in this mortgage can be waived, altered, or changed except as evidenced in writing signed by the Mortgagor and the Mortgagee.

7. That Mortgagor will well and truly pay and discharge every indebtedness hereby secured as it shall become due and payable including the note above described, any renewals or extensions thereof, and any other notes or obligations of Mortgagor to Mortgagee whether now or hereafter incurred.

8. The indebtedness hereby secured shall become due and payable in full upon the assignment, transfer, or conveyance of all or any portion of the subject real estate or of any beneficial interest of the Mortgagor therein unless the prior written consent of Mortgagee is first obtained.

9. That after any default on the part of the Mortgagor, the Mortgagee shall, upon complaint filed or other proper legal proceeding being commenced for the foreclosure of this mortgage, be entitled as a matter of right to the appointment by any competent court or tribunal, without notice to any party, or a receiver of the rents, issues, and profits of said premises, with power to lease and control the said premises and with such other powers as may be deemed necessary, and that a reasonable attorney's fee shall, among other expenses and costs, be fixed, allowed, and paid out of such rents, issues, and profits or out of the proceeds of the sale of said Mortgaged Property.



10. That all the covenants and agreements of the Mortgagor herein contained shall extend to and bind their heirs, executors, administrators, successors, and assigns, and that such covenants and agreements and all options, rights, privileges, and powers herein given, granted, or secured to the Mortgagee shall inure to the benefit of the heirs and assigns of the Mortgagee.

11. That the debt hereby secured shall at once become due and payable and this mortgage subject to foreclosure as herein provided at the option of the holder hereof when and if any statement of lien is filed under the statutes of Alabama relating to liens of mechanics and materialmen, without regard to the form and contents of such statement and without regard to the existence or nonexistence of the debt or any part thereof or of the lien on which such statement is based.

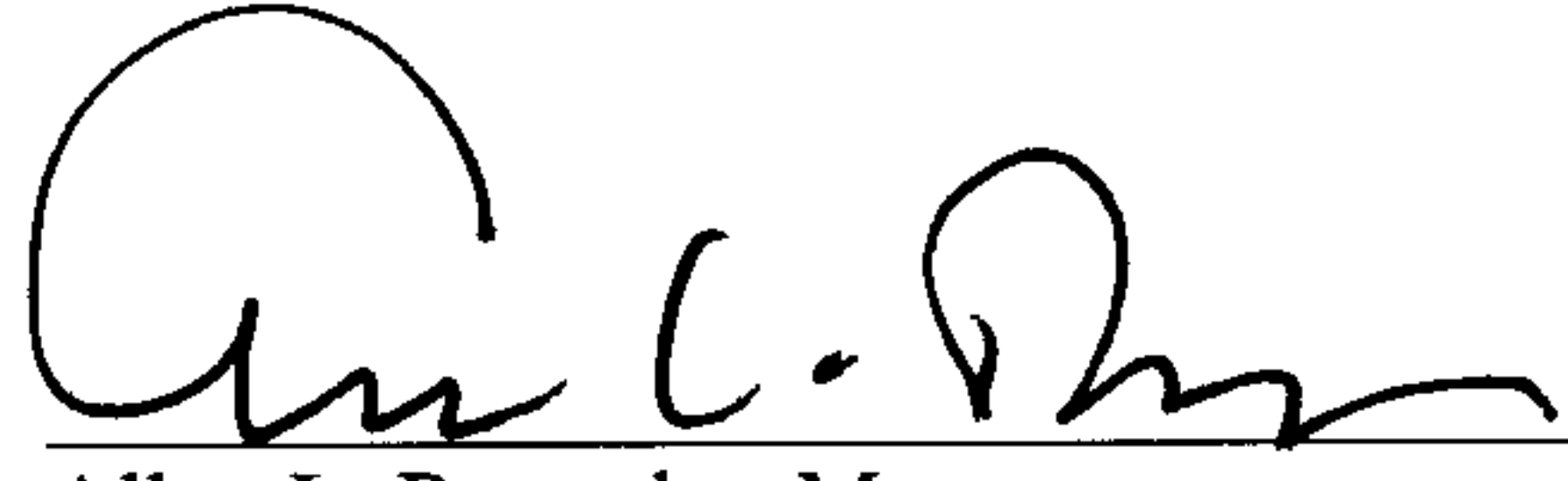
12. That the provisions of this mortgage and of the note secured hereby are severable and that the invalidity or unenforceability of a provision shall not affect the validity and enforceability of any other provision of this mortgage or of such note.

**UPON CONDITION, HOWEVER,** that if the Mortgagor shall well and truly pay and discharge all the indebtedness hereby secured as the same shall become due and payable and shall in all things do and perform all acts and agreement by them herein agreed to be done according to the tenor and effect thereof, then and in that event only this conveyance shall be and become null and void; but should default be made in the payment of any indebtedness hereby secured or any renewals or extensions thereof or any part thereof or should any interest thereon remain unpaid at maturity, or should default be made in the repayment of any sum expended by said Mortgagee under the authority of any of the provisions of this mortgage or should the interest of said Mortgagee in said property become endangered by reason of the enforcement of any lien or encumbrance thereon so as to endanger the debt hereby secured, or should a petition to condemn any part of the Mortgaged Property be filed by any authority having power of eminent domain, or should any law, either federal or state, be passed imposing or authorizing the imposition or a specific tax upon this mortgage or the debt hereby secured or permitting or authorizing the deduction of any such tax from the principal or interest secured by this mortgage or by virtue of which any tax or assessment upon the mortgaged premises shall be charged against the owner of this mortgage or should at any time any of the stipulations contained in this mortgage be declared invalid or inoperative by any court of competent jurisdiction or should the Mortgagor fail to do and perform any other act or thing herein required or agreed to be done, then in any of said events the whole of the indebtedness hereby secured, or any portion or part of same which may not at said date have been paid, with interest thereon, shall at once become due and payable and this mortgage subject to foreclosure at the option of the Mortgagee, notice of the exercise of such option being hereby expressly waived; and the Mortgagee shall have the right to enter upon and take possession of the property hereby conveyed and after or without taking such possession to sell the same before the Courthouse door of the county (or the division thereof) where said property, or a substantial part of said property, is located, at public outcry for cash, after first giving notice of the time, place, and terms of such sale by publication once a week for three consecutive weeks prior to said sale in some newspaper published in said county and upon the payment of the purchase money, the Mortgagees or auctioneer is authorized to execute to the purchaser for and in the name of the Mortgagor a good and sufficient deed to the property sold. The Mortgagee shall 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 may then be necessary to expend in paying insurance, taxes, and other encumbrances, with interest thereon; third, to the payment in full of the indebtedness hereby secured and interest thereon, whether the same shall or shall not have fully matured at the date of said sale; and fourth, the balance, if any, to be paid over to the said Mortgagor or to whomsoever then appears of record to be the owner of Mortgagor's interest in said property. The Mortgagee may bid and become the purchaser of the Mortgaged Property at any foreclosure sale hereunder. The Mortgagor hereby waives any requirement that the Mortgaged Property be sold in separate tracts and agrees that Mortgagee may, at her option, sell said property en masse regardless of the number of parcels hereby conveyed.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on or as of the 6<sup>th</sup> day of September, 2007.

**SOUTH POINTE DEVELOPMENT, LTD.,**  
an Alabama limited partnership,

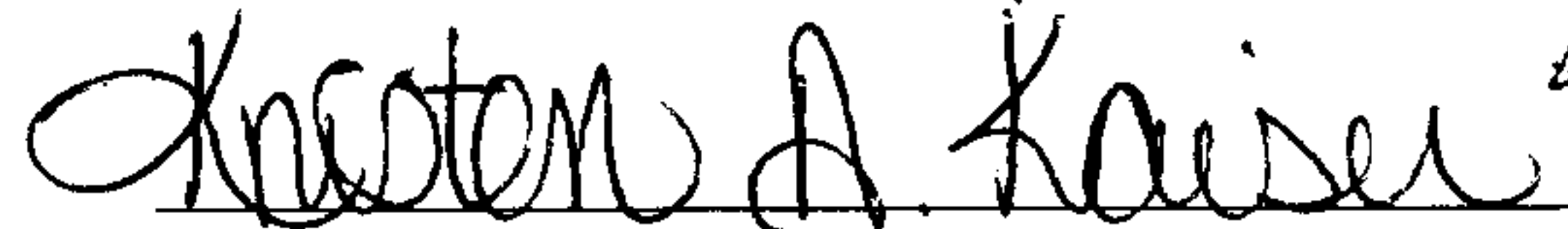
By: Gateway South Pointe, LLC,  
an Alabama limited liability company  
Its: General Partner

By:   
Allan L. Rappuhn, Manager

STATE OF ALABAMA           )  
                                      :  
SHELBY COUNTY            )

I, the undersigned, a notary public in and for said county in said state, hereby certify that ALLAN L. RAPPUHN, whose name as manager of Gateway South Pointe, LLC, an Alabama limited liability company, the general partner of South Pointe Development, Ltd., an Alabama 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 manager and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand and official seal this 5<sup>TH</sup> day of September, 2007.

  
Notary Public  
\* Kristen A. Kaiser F/K/A Kristen Anderson  
My commission expires: 05/25/2011

[NOTARIAL SEAL]



**SCHEDULE A**

**LEGAL DESCRIPTION**

That certain parcel of land situated in Shelby County, Alabama, which is more particularly described as follows:

Lots 62 through 81 and 86 through 115, according to the FINAL PLAT, SHILOH CREEK SECTOR  
ONE PLAT ONE, as recorded in Map Book 38, Page 54, in the Probate Office of Shelby County,  
Alabama.




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SCHEDULE B

Permitted Encumbrances

1. Right of Way granted to Alabama Power Company as contained in instrument(s) recorded in Deed Book 98, Page 77; Deed Book 121, Page 359; Deed Book 136, Page 292; Instrument #2006-17399 and Instrument #2006-60101.
2. Title to all minerals within and underlying the premises, together with all mining rights and other rights, privileges, immunities and release of damages relating thereto, as recorded in Deed Book 121, Page 175.
3. Right of Way granted to South Central Bell Telephone Company as contained in instrument(s) recorded in Book 58, Page 274 and Book 52, Pages 990, 981, 982 and 989.
4. Easements and building line as shown on recorded map of Final Plat, Shiloh Creek Sector One Plat One, as recorded in Map Book 38, Page 54, in the Probate Office of Shelby County, Alabama.
5. Notes as shown on map of Final Plat, Shiloh Creek Sector One Plat One, as recorded in Map Book 38, Page 54, in the Probate Office of Shelby County, Alabama.
6. Access easement as set out in Deed Book 349, Page 903; Deed Book 195, Page 579; Deed Book 355, page 429 and Deed Book 351, Page 252.
7. Declaration of protective covenants and restrictions as set out in Instrument No.20070907000422020.

  
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Shelby Cnty Judge of Probate, AL  
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