



STATE OF ALABAMA)
SHELBY COUNTY)

MORTGAGE
(Construction Loans)

**THIS IS A FUTURE
ADVANCE MORTGAGE**

This Mortgage (hereinafter called the "Mortgage") is made and entered into this **17th** day of **April, 2008** by and between **W. A. Jones Construction Co., Inc.**, (hereinafter called the "Mortgagor," whether one or more), whose address is **241 Applegate Trace, Pelham, AL 35124**, and Regions Bank (hereinafter called the "Mortgagee"), whose address is **2964 Pelham Pkwy, Pelham, AL 35124**, Attention: Residential Construction Lending.

WHEREAS, the Mortgagor is or hereinafter shall be justly indebted to the Mortgagee in the principal sum of **Two Hundred Ninety Six Thousand** dollars (**\$296,000.00**) as evidenced by a promissory note (the "Note") of even date herewith, which note bears interest as provided therein and is payable as set forth therein; and

WHEREAS, this is a FUTURE ADVANCE MORTGAGE and the Note evidences a construction loan (the "Loan"), the proceeds of which are to be advanced by the Mortgagee to the Mortgagor pursuant to a construction loan agreement of even date herewith (the "Construction Loan Agreement"), and, in addition to the indebtedness evidenced by the Note, this mortgage shall also secure all other indebtedness, obligations and liabilities of the Mortgagor to the Mortgagee, whether now existing or hereafter arising; and

WHEREAS, the Mortgagor, in order to secure the Note, and in order to induce the Mortgagee to extend credit to the Mortgagor under the Construction Loan Agreement on the strength of the security provided by this mortgage and in order to convey the property described herein to the Mortgagee as hereinafter set forth, has agreed to execute and deliver this mortgage to the Mortgagee.

NOW, THEREFORE, in consideration of the premises, the Mortgagor hereby agrees with the Mortgagee as follows:

I. DEBT AND GRANTING CLAUSES

SECTION 1.01. Debt. This Mortgage is given to secure and shall secure the payment of the following (hereinafter collectively referred to as the "Debt"):

(a) the payment of the indebtedness evidenced by the Note, and interest thereon and any and every extension, renewal and modification thereof;

(b) all other indebtedness, obligations and liabilities of the Mortgagor to the Mortgagee of every kind and description whatsoever, arising directly between the Mortgagor and the Mortgagee or acquired outright, as a participation or as collateral security from another by the Mortgagee, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter incurred, contracted or arising, joint or several, liquidated or unliquidated, regardless of how they arise or by what agreement or instrument they may be evidenced or whether they are evidenced by agreement or instrument, and whether incurred as maker, endorser, surety, guarantor, member of a partnership, syndicate, joint venture, association or other group, or otherwise, and any and all extensions, renewals and modifications of any of the same; and

(c) the compliance with all the stipulations, covenants, agreements, representations, warranties and conditions contained in this mortgage.

SECTION 1.02. Granting Clauses. As security for the payment of the Debt the Mortgagor does hereby grant, bargain, sell and convey unto the Mortgagee, its successors and assigns, the property and interests in property described in the following Granting Clauses (a) through (e), both inclusive, and does grant to the Mortgagee a security interest in, said property and interests in property.

(a) The real estate described below (the "Real Estate") and all Improvements, structures, buildings and fixtures now or hereafter situated thereon (the "Improvements").

Lots 360 and 381, according to the Survey of Cedar Grove at Sterling Gate Sector 2, Phase 12A, as recorded in Map Book 38, page 45, in the Probate Office of Shelby County, Alabama.

(b) All permits, easements, licenses, rights-of-way, contracts, privileges, immunities, tenements and hereditaments now or hereafter pertaining to or affecting the Real Estate or the Improvements.

(c) (i) All leases, written or oral, and all agreements for use or occupancy of any portion of the Real Estate, the improvements or any of the Personal Property described below with respect to which the Mortgagor is the lessor, including any and all extensions and renewals of said leases and agreements and any and all further leases or agreements, now existing or hereafter made, including subleases thereunder, upon or covering the use or occupancy of all or any part of the Real Estate or the Improvements, all such leases, subleases, agreements and tenancies heretofore mentioned being hereinafter collectively referred to as the "Leases";

(ii) any and all guaranties of the Lessee's and any sublessee's performance under any of the Leases;

(iii) the immediate and continuing right to collect and receive all of the rents, income, receipts, (revenues, issues and profits now due or which may become due or to which the Mortgagor may now or shall hereafter (including during the period of redemption, if any)) become entitled or may demand or claim, arising or issuing from or out of the Leases or from or out of the Real Estate or any of the Improvements, or any part thereof, together with any and all rights and claims of any kind that the Mortgagor may have against any such lessee under the leases or against any subtenants or occupants of the Real Estate or any of the Improvements, all such moneys, rights and claims in this paragraph described being hereinafter referred to as the "Rents"; and

(iv) any award, dividend or other payment made hereafter to the Mortgagor in any court procedure involving any of the lessees under the Leases in any bankruptcy, insolvency or reorganization proceedings in any state or federal court and any and all payments made by lessees in lieu of rent. The Mortgagor hereby appoints the mortgagee as the Mortgagor's irrevocable attorney in fact to appear in any action and or to collect any such award, dividend or other payment.

(d) All building materials, equipment, fixtures, tools, apparatus and fittings of every kind or character now owned or hereafter acquired by the mortgagor for the purpose of, or used or useful in connection with, the Improvements, wherever the same may be located, including, without limitation, all lumber and lumber products, bricks, stones, building blocks, sand, cement, roofing materials, paint, doors, windows, hardware, nails, wires, wiring, engines, boilers, furnaces, tanks, motors, generators, switchboards, elevators, escalators, plumbing, plumbing fixtures, air-conditioning and heating equipment and appliances, electrical and gas equipment and appliances, stoves, refrigerators, dishwashers, hot water heaters, garbage disposals, trash compactors, other appliances, carpets, rugs, window treatments, lighting fixtures, pipes, piping, decorative fixtures, and all other building materials, equipment and fixtures of every kind and character used or useful in connection with the Improvements.

(e) Any and all other real or personal property of every kind and nature from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned or transferred to mortgagee, or in which the Mortgagee is granted a security interest, as and for additional security hereunder by the Mortgagor, or by anyone on behalf of, or with the written consent of, the Mortgagor.

(All of the property and interests in property described in the foregoing Granting Clauses (a) through (e), both inclusive, of this Section 1.02 are herein sometimes collectively called the "Property". The personal property described in Granting Clause (d) of this Section 1.02 and all other personal property covered by this mortgage is herein sometimes collectively called all the "Personal Property".)

To have and to hold the Property unto the Mortgagee, its successors and assigns forever.

II. REPRESENTATIONS AND WARRANTIES

The Mortgagor represents and warrants to the Mortgagee that:

SECTION 2.02. Rents and Leases. (a) The Mortgagor has good title to the Rents and Leases hereby assigned and good right to assign the same, and no other person, corporation or entity has any right, title or interest therein; (b) the Leases are not in default (on the part of the Mortgagor or the lessee); (c) the Mortgagor has not previously sold, assigned, transferred, mortgaged or pledged the Leases or the Rents; (d) no Rents or deposits have been collected in advance or waived, released, set-off, discharged or compromised; and (e) no Lease is in existence on the date of this mortgage except as heretofore disclosed in writing to the Mortgagee.

III. COVENANTS AND AGREEMENTS OF MORTGAGOR

The Mortgagor covenants and agrees with the Mortgagee as follows:

SECTION 3.01. Maintenance of Lien Priority. The Mortgagor shall take all steps necessary to preserve and protect the validity and priority of the liens on, security interests in, and assignment of, the Property created hereby. The Mortgagor shall execute, acknowledge and deliver such additional instruments as the mortgagee may deem necessary in order to preserve, protect, continue, extend or maintain the liens, security interests and assignments created hereby as first liens on, security interests in, and assignments of, the Property, except as otherwise permitted under the terms of the mortgage. All costs and expenses incurred in connection with the protection, preservation, continuation, extension or maintaining of the liens, security interests and assignments hereby created shall be paid by the Mortgagor.

SECTION 3.02. Liens and Insurance. For the purpose of further securing the payment of the Debt, the Mortgagor agrees to: (a) pay all taxes, assessments, and other Liens taking priority over this mortgage, and if default is made in the payment of the Liens, or any part thereof, the Mortgagee, at its option, may pay the same; (b) keep the Property continuously insured, in such manner and with such companies as may be satisfactory to the Mortgagee, against loss by flood (if the Property is located in flood-prone area), fire, windstorm, vandalism and malicious mischief and other perils usually covered by a fire insurance policy with standard extended coverage endorsement, with loss, if any, payable (pursuant to loss payable clauses in form and content satisfactory to the Mortgagee) to the Mortgagee, as its interest may appear, subject to the rights of the holders of any prior mortgages. Mortgagor further agrees to cause all contractors to maintain builders risk coverage acceptable to Mortgagee and workers compensation insurance. Such insurance shall be in an amount at least equal to the full insurable value of the Personal Property and Improvements unless the Mortgagee agrees in writing that such insurance may be in a lesser amount. The original insurance policy and all replacements therefore, shall be delivered to, and held by, the Mortgagee, until the Debt is paid in full. The original insurance policy and all replacements therefor must provide that they may not be canceled without the insurer's giving at least fifteen days' prior written notice of such cancellation to the Mortgagee.

SECTION 3.03. Assignment of Insurance Policies, etc. The Mortgagor hereby assigns and pledges to the Mortgagee, as further security for the payment of the Debt, each and every policy of hazard insurance now or hereafter in effect which insures the Property, or any part thereof (including without limitation the Personal Property and Improvements, or any part thereof) together with all right, title and interest of the Mortgagor in and to each and every such policy, including, but not limited to, all the Mortgagor's right, title and interest in and to any premiums paid on each such policy, including all rights to return premiums. If the Mortgagor fails to keep the Property insured as specified above, then, at the election of the Mortgagee and without notice to any person, the Mortgagee may, but shall not be obligated to, insure the Property for its full insurable value (or for such lesser amount as the Mortgagee may wish) against such risks of loss and for its own benefit. The proceeds from such insurance (less the costs of collecting the same), if collected, shall be credited against the Debt, or, at the election of the Mortgagee, such proceeds may be used to purchase additional Personal Property to replace Personal Property which has been damaged or destroyed and to repair or reconstruct the Improvements. All amounts spent by the Mortgagee for insurance or for the payment of Liens shall become a debt due by the Mortgagor to the Mortgagee and at once payable, without demand upon, or notice to, the Mortgagor, and shall be secured by this mortgage, and shall bear interest at the rate of interest set forth in the note, or such lesser rate of interest as shall then be the maximum amount permitted by law, from the date of payment by the Mortgagee until paid by the Mortgagor.

SECTION 3.04. Assignment of Condemnation Proceeds, etc. As further security for the Debt and the full and complete performance of each and every obligations, covenant, agreement and duty of the Mortgagor contained herein, and to the extent of the full amount of the Debt secured hereby and of the costs and expenses (including reasonable attorney's fees) incurred by the Mortgagee in the collection of any award or payment, the Mortgagor hereby assigns to the Mortgagee any and all awards or payments, including all interest thereon, together with the right to receive the same, that may be made to the Mortgagor with respect to the Property as a result of (a) the exercise of the right of eminent domain, (b) the alteration of the grade or of any street or (c) any other injury to or decrease in value of the Property. Subject to the rights of the holders of any prior mortgages, all such damages, condemnation proceeds and consideration shall be paid directly to the Mortgagee, and, after first applying said sums to the payment of all costs and expenses (including reasonable attorneys' fees) incurred by the Mortgagee in obtaining such sums, the Mortgagee may, at its option, apply the balance on the Debt in any order and amount and whether or not then due, or hold such balance as a cash collateral reserve against the Debt, or apply such balance to the restoration of the Property, or release the balance to the Mortgagor. No such application, holding in reserve or release shall cure or waive any default of the Mortgagor.

SECTION 3.05. Waste; Inspection. The Mortgagor agrees to take good care of the Real Estate and all Improvements and Personal Property and not to commit or permit any waste thereon, and at all times to maintain such Improvements and Personal Property in as good condition as they now are, reasonable wear and tear excepted. The Mortgagee may, at the Mortgagee's discretion, inspect the Property, or have the Property inspected by Mortgagee's servants, employees, agents or independent contractors, at any time, and the Mortgagor shall pay all costs incurred by the Mortgagee in executing any such inspection.

SECTION 3.06. Rents and Leases. The Mortgagor covenants and agrees that the Mortgagor shall: (a) comply with all of its obligations under the terms of the Leases and give prompt notice to the Mortgagee of any default of the Mortgagor or any lessee; (b) enforce the performance of the obligations to be performed by any lessee under the terms of the Leases; (c) appear in and defend any action or proceeding related to the Leases (upon request by the Mortgagee, in the name and on behalf of the Mortgagee but at the expense of the Mortgagor) and pay all costs and expenses of the Mortgagee, including reasonable attorneys' fees, in any action or proceeding in which the Mortgagee may appear; (d) not receive or collect any Rents for a period of more than one month in advance, or pledge, transfer, mortgage or otherwise encumber or assign future payments of the Rents; (e) not waive, compromise or in any manner release or discharge any lessee of any obligations under any Lease; (f) not cancel, terminate or amend any Lease, without the prior written consent of the Mortgagee; (g) not renew or otherwise extend the term of any Lease; (h) promptly upon the execution by the mortgagor of any lease, furnish the Mortgagee with a copy of such Lease, and execute all such further assignments of such Lease and the Rents therefrom as the Mortgagee may require; and (i) not enter into any Lease without the prior written consent of the Mortgagee, which consent may be withheld for any reason whatsoever in the sole discretion of the Mortgagee; and nothing contained in this mortgage shall be construed as consent by the mortgagee for the Mortgagor to enter into or execute any Lease.

SECTION 3.07. Sale, Lease or Transfer, etc. Notwithstanding any other provisions of this mortgage or the Note, if the Real Estate or the Improvements, or any part thereof, or any interest therein, is sold, leased, conveyed or transferred, without the Mortgagee's prior written consent, or if the Real Estate or the Improvements, or any part thereof, or any interest therein, becomes subject to any additional lien, mortgage or other encumbrance, either voluntarily or involuntarily, without the Mortgagee's prior written consent, the Mortgagee may, at its sole option: (a) declare the Debt immediately due and payable in full, or (b) require the payment, after the date of such sale, lease conveyance or transfer, of a higher rate of interest on the unpaid principal portion of the Debt as a condition to not exercising such option to accelerate the Debt, whether such rights be exercised by the Mortgagee to obtain a higher rate of interest on the Debt or to protect the security of this mortgage.

Loan Agreement), which expenses have been approved by the Mortgagee; or (c) if the Mortgagor fails to comply with any of the provisions of this mortgage or of the Note, the Construction Loan Agreement or the other Security Documents; or (d) if any statement, representation or warranty contained in this mortgage, the Construction Loan Agreement or any of the other Security Documents or any report, certificate or other instrument delivered to Mortgagee in connection with any of the same shall be untrue in any material respect as of the time made; or (e) if the Mortgagor conveys or further encumbers all or part of the Collateral (as defined in the Construction Loan Agreement); or (f) if any Lien, statement of Lien or suit to enforce a Lien is filed against any of the Collateral and the Mortgagor fails to have such Lien satisfied or suit dismissed or to secure the payment of the amount claimed thereby by a bond, letter of credit or other security satisfactory to the Mortgagee within ten days after the filing thereof; (g) if the Mortgagor at any time prior to completion of the Project abandons the Project, or ceases to work thereon for a period of more than ten consecutive calendar days, or fails diligently to prosecute the work on the Project; or (h) if any unreasonable delay in the construction and development of the Project and the Improvements occurs, whether as the result of energy shortages, any governmental law, order, rule or regulation relating to environmental protection, sewage treatment, zoning, energy conservation or other matter, lack of utilities (including but not limited to gas, electricity, water and sewage treatment), or other reason whatsoever, or if it reasonably appears to the Mortgagee that, upon completion of the Project, energy and utilities will not be available in sufficient quantities to permit the operation of the Project; or (i) if the Mortgagor or any comaker, endorser, surety, or guarantor of the Note or any of the other Debts (hereinafter collectively called the "Obligors" and singularly an "Obligor") fails to pay such Obligor's debts generally as they become due, or if a receiver, trustee, liquidator or other custodian is appointed for any Obligor or for any of the property of any Obligor, or if a petition in bankruptcy (whether for liquidation, reorganization, arrangement, wage earner's plan or otherwise) is filed by or against any Obligor, or if any Obligor applies for the benefits of, or takes advantage of, any law for the relief of debtors, or enters into an arrangement or composition with, or makes an assignment for the benefit of, creditors, or (j) if any Obligor dies, if an individual; or dissolves, if a corporation or partnership, any general partner becomes insolvent, dies or is replaced or withdraws; or, if a corporation, any principal officer thereof becomes insolvent, dies or ceases to be employed by such Obligor; or (k) the interest of the mortgagee in any of the Property becomes endangered by reason of the enforcement of any prior Lien thereon; or (l) any law is passed imposing, or authorizing the imposition of, any specific tax upon this mortgage or the Debt or permitting or authorizing the deduction of any such tax from the principal of, interest on, the Debt, or by virtue of which any tax, lien or assessment upon the Property shall be chargeable against the owner of its mortgage; or (m) any of the stipulations contained in this mortgage is declared invalid or inoperative by any court of competent jurisdiction; or (n) if any other event of default occurs under the Construction Loan Agreement, the note, or any of the other Security Documents; or (o) if the Mortgagee at any time in good faith deems itself insecure for any reason with respect to the Loan or the Collateral.

SECTION 4.02. Rights and Remedies of Mortgagee Upon Default.

(a) **Acceleration of Debt.** Upon the occurrence of an Event of Default or at any time thereafter, the Mortgagee may at its option and without demand or notice to the Mortgagor, declare all or any part of the Debt immediately due and payable, whereupon all such Debt shall forthwith become due and payable, without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by the Mortgagor, and the Mortgagee may immediately enforce payment of all such amounts and may exercise any or all of its rights and remedies under this mortgage, the Note, any of the other Security Documents and applicable law. The Mortgagor also waives any and all rights the mortgagor may have to a hearing before any judicial authority prior to the exercise by the Mortgagee of any of its rights under this mortgage, the Note, any of the other Security Documents and applicable law.

(b) **Operation of Property by Mortgagee.** Upon the occurrence of an Event of Default or at any time thereafter, in addition to all other rights herein conferred on the Mortgagee, the Mortgagee (or any person, firm or corporation designated by the Mortgagee) may, but will not be obligated to, enter upon and take possession of any or all of the Property, exclude the Mortgagor therefrom, and hold, use, administer, manage and operate the same to the extent that the Mortgagor could do so, without any liability to the Mortgagor resulting therefrom, and the Mortgagee may collect, receive and receipt of all proceeds accruing from such operation and management, make repairs and purchase needed additional property, and exercise every power, right and privilege of the Mortgagor with respect to the Property.

(c) **Judicial Proceedings; Right to Receiver.** Upon the occurrence of an Event of Default or at any time thereafter, the Mortgagee, in lieu of or in addition to exercising the power of sale hereinafter given, may proceed by suit to foreclose its lien on, security interest in, and assignment of, the Property to sue the Mortgagor for damages on account of or arising out of said default or breach, or for specific performance of any provision contained herein, or to enforce any other appropriate legal or equitable right or remedy. The Mortgagee shall be entitled, as a matter of right, upon bill filed or other proper legal proceedings being commenced for the foreclosure of this mortgage, to the appointment by any competent court or tribunal, without notice to the Mortgagor or any other party, of a receiver of the rents, issues and profits of the Property, with power to lease and control the Property and with such other powers as may be deemed necessary.

(d) **Foreclosure Sale.** Upon the occurrence of any Event of Default, or at any time thereafter, this mortgage shall be subject to foreclosure and may be foreclosed as now provided by law in case of past due mortgages, and the Mortgagee shall be authorized, at its option, whether or not possession of the Property is taken, after giving twenty-one days notice by publication once a week for three consecutive weeks of the time, place and terms of each such sale by publication in some newspaper published in the county wherein the Property is located (or in which any portion thereof is located if the Property is located in more than one county), to sell the Property (or such part or parts thereof as the Mortgagee may from time to time effect to sell) in front of the courthouse door of any county in which the Property to be sold (or any portion thereof if the Property to be sold is located in more than one county) is located, at public outcry, to the highest bidder for cash. The Mortgagee, its successors and assigns, may bid at any sale or sales had under the terms of this mortgage and may purchase the Property, or any part thereof, if the highest bidder therefore. The purchaser at any such sale or sales shall be under no obligation to see to the proper application of the purchase money. At any foreclosure sale, any part or all of the Property, real, personal or mixed, may be offered for sale in parcels or en masse for one total price, the proceeds of any such sale en masse to be accounted for in one account without distinction between the items included therein or without assigning to them any proportion of such proceeds, the Mortgagor hereby waiving the application of any doctrine or marshaling or like proceeding. In case the Mortgagee, in the exercise of the power of sale herein given, elects to sell the Property in parts or parcels, sales thereof may be held from time to time, and the power of sale granted herein shall not be fully exercised until all of the Property not previously sold shall have been sold or all the Debt secured hereby shall have been paid in full.

(e) **Personal Property and Fixtures.** On the happening of any Event of Default or at any time thereafter, the Mortgagee shall have and may exercise with respect to the Personal Property and fixtures included in the Property (the "PP&F Collateral") all rights, remedies and powers of a secured party under the Alabama Uniform Commercial Code with reference to the PP&F Collateral or any other items in which a security interest has been granted herein, including without limitation the right and power to sell at public or private sale or sales or otherwise dispose of, lease or utilize the PP&F Collateral and any part or parts thereof in any manner to the fullest extent authorized

as security for, any of the Debt that is not then due and payable, and (iv) the remainder, if any, shall be paid to the Mortgagor or such other person or persons as may be entitled thereto by law, after deducting therefrom the cost of ascertaining their identity.

(h) Multiple Sales. Upon the occurrence of any Event of Default or at any time thereafter, the mortgagee shall have the option to proceed with foreclosure, either through the courts or by proceeding with foreclosure as provided for in this mortgage, but without declaring the whole Debt due. Any such sale may be made subject to the unmatured part of the Debt secured by this mortgage, and such sale, if so made, shall not in any manner affect the unmatured part of the Debt secured by this mortgage, but as to such unmatured part of the Debt this mortgage shall remain in full force and effect as though no sale had been made under the provisions of this paragraph. Several sales may be made under the provisions of this paragraph without exhausting the right of sale for any remaining part of the Debt whether then matured or unmatured, the purpose hereof being to provide for a foreclosure and sale of the Property for any matured part of the Debt without exhausting any power of foreclosure and the power to sell the Property for any other part of the Debt, whether matured at the time or subsequently maturing.

(i) Waiver of Appraisal Laws. The Mortgagor waives, to the fullest extent permitted by law, the benefit of all laws now existing or hereafter enacted providing for (i) any appraisal before sale of any portion of the Property (commonly known as appraisal laws), or (ii) any extension of time for the enforcement of the collection of the Debt or any creation or extension of a period of redemption from any sale made in collecting the Debt (commonly known as stay laws and redemption laws).

(j) Prerequisites of Sales. In case of any sale of the Property as authorized by this Section 4.02, all prerequisites to the sale shall be presumed to have been performed, and in any conveyance given hereunder all statements of facts, or other recitals therein made, as to the nonpayment of any of the Debt or as to the advertisement of sale, or the time, place and manner of sale or as to any other fact or thing, shall be taken in all courts of law or equity as prima facie evidence that the facts so stated or recited are true.

V. MISCELLANEOUS

SECTION 5.01. Collection Costs. The Mortgagor agrees to pay all costs, including reasonable attorneys' fees, incurred by the Mortgagee in collecting or securing, or attempting to collect or secure, the Debt, or any part thereof, or in defending or attempting to defend the priority of this mortgage against any Lien on the Property, unless this mortgage is herein expressly made subject to any such Lien; and/or all costs incurred in the foreclosure of this mortgage, either under the power of sale contained herein, or by virtue of the decree of any court of competent jurisdiction (including without limitation any costs of title examination, notice of foreclosure and appraisals). The full amount of such costs incurred by the Mortgagee shall be a part of the Debt and shall be secured by this mortgage.

SECTION 5.02. No Obligations with Respect to Leases. The Mortgagee shall not by virtue of this mortgage or otherwise assume any duties, responsibilities, liabilities or obligations with respect to Leases, the Improvements, the Personal Property, the Real Estate or any of the other Property (unless expressly assumed by the Mortgagee under a separate agreement in writing), and this mortgage shall not be deemed to confer on the Mortgagee any duties or obligations that would make the Mortgagee directly or derivatively liable for any person's negligent, reckless or willful conduct. The Mortgagor agrees to defend, indemnify and save harmless the Mortgagee from and against any and all claims, causes of action and judgments relating to the Mortgagor's performance of its duties, responsibilities and obligations under Leases and with respect to the Real Estate, the Improvements, the Personal Property, or any of the other Property.

SECTION 5.03. Construction of Mortgage. This mortgage is and may be construed as a mortgage, deed of trust, chattel mortgage, conveyance, assignment, security agreement, pledge, financing statement, hypothecation or contract, or any one or more of them, in order fully to effectuate the lien hereof and the assignment and security interest created hereby and the purposes and agreements herein set forth.

SECTION 5.04. Successors and Assigns. All covenants and agreements herein made by the undersigned shall bind the undersigned and their heirs, personal representatives, successors and assigns of the undersigned; and every option, right and privilege herein reserved or secured to the Mortgagee shall inure to the benefit of the Mortgagee's successors and assigns.

SECTION 5.05. Waiver and Election. The exercise by the Mortgagee of any option given under the terms of this mortgage shall not be considered as a waiver of the right to exercise any other option given herein, and the filing of a suit to foreclose the lien, security interest and assignment granted by this mortgage, either on any matured portion of the Debt or for the whole of the Debt, shall not be considered an election so as to preclude foreclosure under power of sale after a dismissal of the suit; nor shall the publication of notices for foreclosure preclude the prosecution of a later suit thereon. No failure or delay on the part of the Mortgagee in exercising any right, power or remedy under this mortgage shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy hereunder or thereunder. The remedies provided in this mortgage and in the other Security Documents are cumulative and not exclusive of any remedies provided by law. No amendment, modification, termination or waiver of any provisions of this mortgage or any of the Security Documents, nor consent to any departure by the Mortgagor therefrom, shall be effective unless the same shall be in writing and signed by an executive officer or the Mortgagee, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No notice to or demand on the Mortgagor in any case shall entitle the Mortgagor to any other or further notice or demand in similar or other circumstances.

SECTION 5.06. Landlord-Tenant Relationship. Any sale of the Property under this mortgage shall, without further notice, create the relationship of landlord and tenant at sufferance between the purchaser and the Mortgagor.

SECTION 5.07. Enforceability. If any provision of this mortgage is now or at any time hereafter becomes invalid or unenforceable, the other provisions hereof shall remain in full force and effect, and the remaining provisions hereof shall be construed in favor of the Mortgagee to effectuate the provisions hereof.

SECTION 5.08. Application of Payments. If the lien, assignment or security interest created by this mortgage is invalid or unenforceable as to any part of the Debt or is invalid or unenforceable as to any part of the Property, the unsecured or partially secured portion of the Debt shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the Debt, and all payments made on the Debts, whether voluntary or under foreclosure or other enforcement action or procedures, shall be considered to have been first paid on and applied to the full payment of that portion of the Debt which is not secured or not fully secured by said lien, assignment or security interest created hereby.

SECTION 5.09. Other Mortgages Encumbering the Real Estate. The Mortgagor hereby authorizes the holder of any other mortgage encumbering the Real Estate or the Improvements to disclose to the Mortgagee from time to time and at any time the following information: (a) the amount of Debt secured by such mortgage; (b) the amount of such Debt that is unpaid; (c) whether such Debt is or has been in arrears; (d) whether there is or has been any default with respect to such mortgage or the Debt secured thereby; and (e) any other information regarding such mortgage or the Debt secured thereby that the Mortgagee may request from time to time.

The Mortgagor expressly agrees that if default should be made in the payment of principal, interest or any other sum secured by any other mortgage encumbering the Real Estate or the Improvements, the Mortgagee may (but shall not be required to) pay all or any part of such amount in default without notice to the Mortgagor. The Mortgagor agrees to repay any such sum advanced upon demand, with interest from the date such advance is made at the rate provided for in the Note, or the highest rate permitted by law, whichever shall be less, and any sum so advanced with interest shall be a part of the Debt secured by the Mortgage.

SECTION 5.10. Meaning of Particular Terms. Whenever used, the singular number shall include the plural and the plural the singular, and pronouns of one gender shall include all genders; and the words "Mortgagor" and "Mortgagee" shall include their respective successors and assigns. Plural or singular words used herein to designate the undersigned shall be construed to refer to the maker or makers of this instrument, whether one or more natural persons, corporations, associations, partnerships

SECTION 5.16. Satisfaction of Mortgage. The Mortgagor agrees to pay all costs and expenses associated with the release or satisfaction of this mortgage.

IN WITNESS WHEREOF, the undersigned W. A. Jones Construction Co., Inc. has executed this instrument (has caused this instrument) to be executed by its duly authorized President on the date first written above.

[Corporate, Limited Liability Company or Partnership Signature]

W. A. Jones Construction Co., Inc.
By: W. A. Jones, Jr.

Its: President

ATTEST:

By: _____

Its: _____

[Individual Signature]

STATE OF ALABAMA

_____ COUNTY)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that _____, 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/she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this _____ day of _____, _____.

Notary Public

AFFIX SEAL

My commission expires: _____

[Corporate]

STATE OF ALABAMA

Shelby COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that W. A. Jones, Jr., whose name as President of W. A. Jones Construction Co., Inc., a corporation, 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/she is, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 17th day of April, 2008.

Katheryn H. Neeley
Notary Public

AFFIX SEAL

My commission expires: 04-15-2009



[Limited Liability Company]

STATE OF ALABAMA

_____ COUNTY)

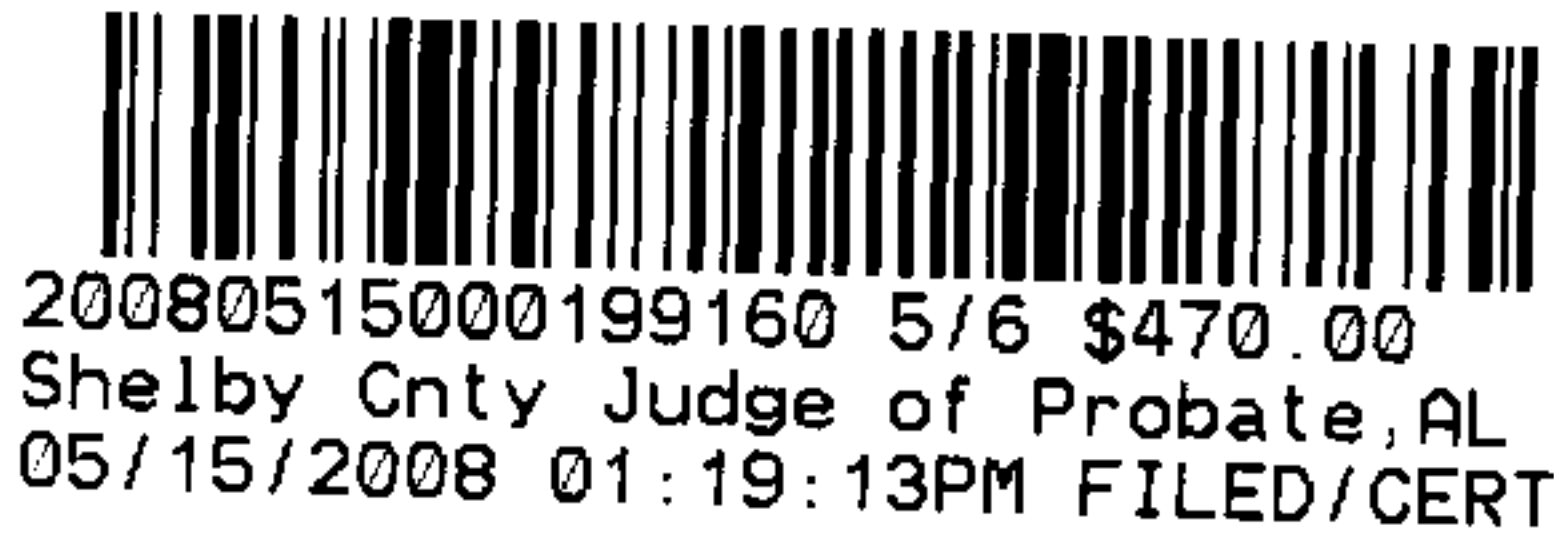
I, the undersigned, a Notary Public in and for said County in said State, hereby certify that _____, whose name as _____ of _____, an Alabama Limited Liability Company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she is, as such _____ and with full authority, executed the same voluntarily for and as the act of said Alabama Limited Liability Company.

Given under my hand and official seal this _____ day of _____, _____.

Notary Public

AFFIX SEAL

My commission expires: _____



STATE OF ALABAMA

_____ COUNTY)

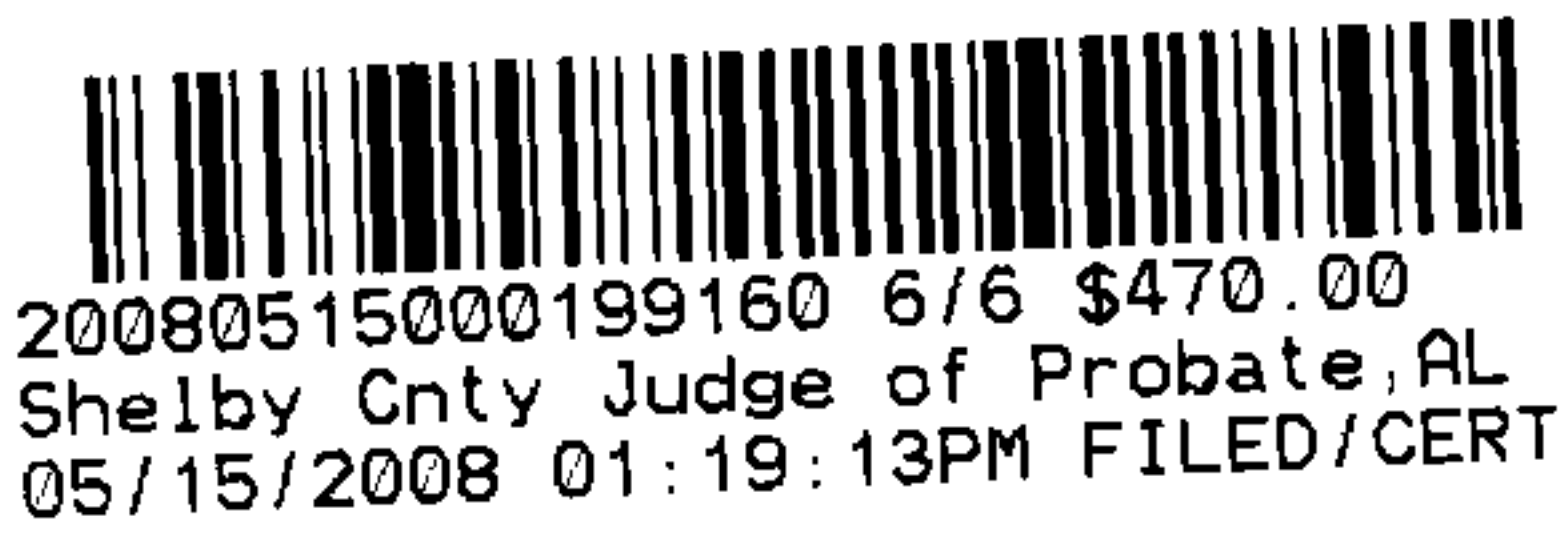
I, the undersigned, a Notary Public in and for said County in said State, hereby certify that _____, whose name as _____ of _____, an Alabama Partnership, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she is, as such and with full authority, executed the same voluntarily for and as the act of said Alabama Partnership.

Given under my hand and official seal this _____ day of _____, _____.

Notary Public

AFFIX SEAL

My commission expires: _____



This instrument prepared by:

Kathy Neeley - Regions Bank

2964 Pelham Pkwy

Pelham, AL 35124