

THIS INSTRUMENT PREPARED BY:

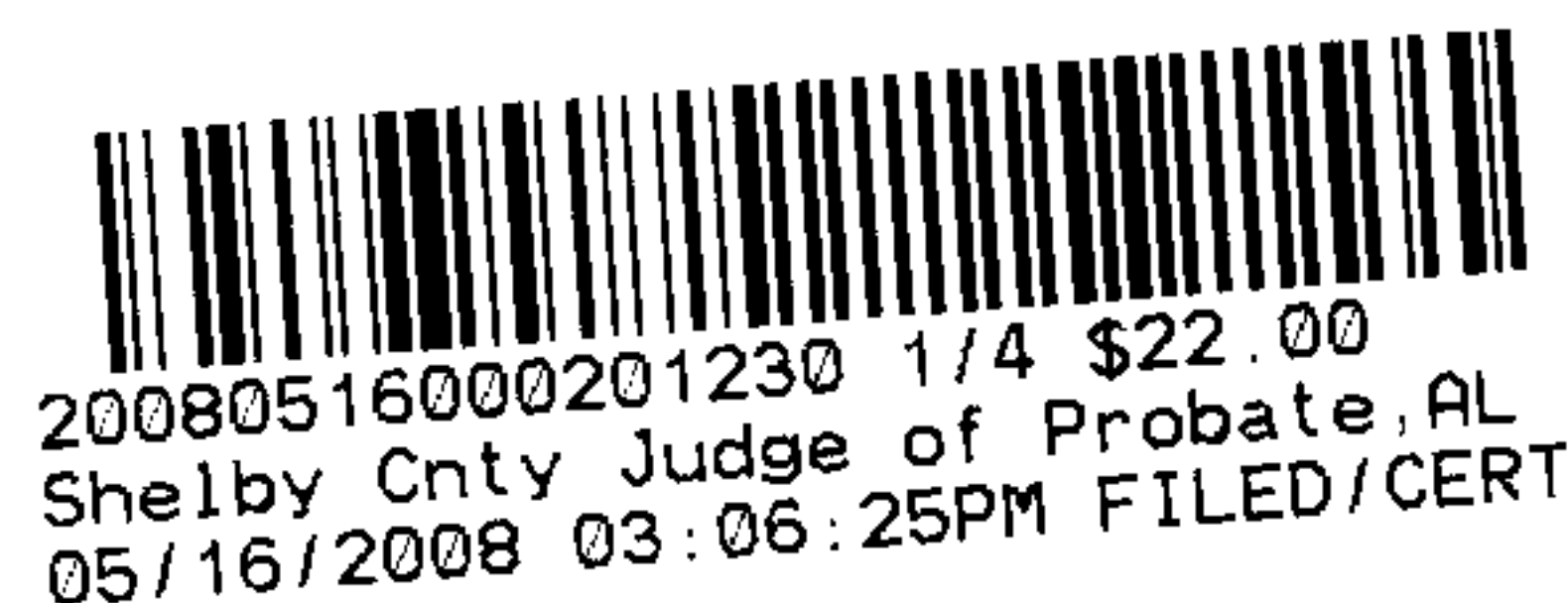
T. Charles Fry, Jr., Esq.
Johnston Barton Proctor & Rose LLP
Colonial Brookwood Center
569 Brookwood Village, Suite 901
Birmingham, Alabama 35209

SEND TAX NOTICE TO:

Bank of America, N.A.
c/o Susan I. Reif
MD4-325-04-23
100 South Charles Street, 4th Floor
Baltimore, Maryland 21201

MORTGAGE FORECLOSURE DEED

STATE OF ALABAMA)
)
COUNTY OF SHELBY)



KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, on October 28, 2005, Pike Nursery Holding, LLC (hereinafter referred to as "Borrower") executed a Mortgage and Security Agreement in favor of Bank of America, N.A. (hereinafter referred to as "Lender") and recorded in the Office of Probate Court of Shelby County, Alabama on November 1, 2005 in Instrument #20051101000568200 (as may have been amended and or modified from time to time, including that certain modification of mortgage dated August 23, 2007 and recorded in the Office of Probate County of Shelby County, Alabama on October 15, 2007 in Instrument #20071015000478410) (hereinafter collectively referred to as the "Mortgage"); and

WHEREAS, Mortgage was executed to secure the payment and performance of the terms and provisions of a certain Promissory Note dated January 4, 2005, made by Borrower in favor of Lender, in the original principal amount of \$8,500,000.00 (as may have been renewed, replaced, amended and/or modified from time to time, collectively the "Note"); and

WHEREAS, on November 14, 2007, Borrower filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code, styled *In re Pike Nursery Holding, LLC*, Chapter 11 Case No. 07-79129-MGD 11 (the "Case"), in United States Bankruptcy Court, Northern District of Georgia, Atlanta Division (the "Court"); and

WHEREAS, on March 4, 2008, Lender filed, "Motion of Bank of America, N.A. for Expedited Relief from the Automatic Stay, Adequate Protection and Other Relief" (the "Motion") in the Case requesting the Court to lift the automatic stay as to permit Lender to foreclose on the Mortgage, preserve deficiency rights and otherwise take any and all actions to enforce its state law rights and remedies with respect to the Mortgage. On March 25, 2008, the Court granted Lender's Motion, and entered, "Final Consent Order Granting Relief from the Automatic Stay;" and

WHEREAS, Borrower has defaulted in the payment of the indebtedness secured by the Mortgage, and Lender did declare all of the indebtedness secured by said Mortgage due and payable and subject to foreclosure as therein provided and did give due and proper notice of the foreclosure of said Mortgage in accordance with the terms thereof and by publication in the Shelby County Reporter, a newspaper of general interest and circulation published in Shelby County, Alabama, in its issues of April 9, 16, 23 and 30, 2008; and

WHEREAS, on May 6, 2008, at approximately 11:00 a.m. (CST), said foreclosure sale was duly and properly conducted, and said Borrower and Lender did offer for sale and sell at public outcry, in front of the courthouse door of the Shelby County Courthouse, located at Main Street, Columbiana, Alabama 35051, the property attached hereto as Exhibit A ("Property"); and

WHEREAS, the highest and best bid obtained for the Property described in the aforementioned Mortgage was the bid of Lender, in the amount of Three Million Four Hundred Thousand and 00/100 Dollars (\$3,400,000.00), which sum was offered to be credited on the indebtedness secured by said Mortgage, and said Property was thereupon sold to Lender; and

WHEREAS, T. Charles Fry, Jr. ("Auctioneer") conducted said sale on behalf of Borrower and Lender; and

WHEREAS, said Mortgage expressly authorized the Auctioneer or the person conducting said sale to execute to the purchaser at said sale a deed to the Property so purchased; and

NOW THEREFORE, in consideration of the premises and the credit of Three Million Four Hundred Thousand and 00/100 Dollars (\$3,400,000.00), Borrower, acting by and through Lender, does grant, bargain, sell and convey unto Lender, the Property situated in Shelby County, Alabama, as described in Exhibit A.


Together with all and singular the rights, members and appurtenances thereto appertaining; also, all of the estate, right, title, interest, claim or demand of Borrower, Borrower's representatives, heirs, successors and assigns, legal, equitable or otherwise whatsoever, in and to the same.

TO HAVE AND TO HOLD, the Property unto said Lender, its successors and assigns forever, subject, however, to the statutory right of redemption on the part of those entitled to redeem as provided by the laws of the State of Alabama.

IN WITNESS WHEREOF, Borrower and Lender have caused this instrument to be executed by T. Charles Fry, Jr., as Auctioneer and person conducting the sale for Lender, and in witnessed whereof T. Charles Fry, Jr. has executed this instrument in his capacity as such Auctioneer on this the 6th day of May, 2008.

PIKE NURSERY HOLDING, LLC
Borrower


By: **BANK OF AMERICA, N.A.**
Lender

By: 
T. Charles Fry, Jr.
Auctioneer and the person
conducting the sale for Lender

STATE OF ALABAMA)
)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that T. Charles Fry, Jr., whose name as Auctioneer for Bank of America, N.A., the Lender, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day, that, being informed of the contents of this conveyance, he, in his capacity as such Auctioneer, executed the same voluntarily on the day the same bears date.

Given under my hand this 6th day of May, 2008


Notary Public

My Commission Expires: May 10, 2009

EXHIBIT A

Located in Shelby County, Alabama, and more particularly described as follows:

Parcel I

A parcel of land situated in the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 36, Township 18 South, Range 2 West, Shelby County, Alabama; being more particularly described as follows:

Begin at the Southeast corner of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said section and run North along the East line of said $\frac{1}{4}$ - $\frac{1}{4}$ section a distance of 1344.00 feet to the Northeast corner of said $\frac{1}{4}$ - $\frac{1}{4}$ section; thence $129^{\circ} 37'$ to the left in a Southwesterly direction a distance of 447.55 feet to the Easternmost corner of Lot 1, Heatherbrooke Office Park Resurvey, as recorded in Map Book 23, Page 46, in the Office of the Judge of Probate of Shelby County, Alabama; thence continue along the last described course and along a Southeasterly property line of said Lot 1 a distance of 382.03 feet to a point; thence $0^{\circ} 14' 28''$ to the right in a Southwesterly direction along a Southeasterly property line of said Lot 1 a distance of 411.00 feet to a point; thence $72^{\circ} 57' 52''$ to the left in a Southeasterly direction along the property boundary of said Lot 1 a distance of 128.29 feet to a point on a curve to the right having a radius of 670.14 feet and a central angle of $2^{\circ} 17' 39''$; thence $87^{\circ} 21' 32''$ to the left (angle measured to tangent) in a Northeasterly direction along the arc of said curve a distance of 26.83 feet to a point; thence $90^{\circ} 00'$ to the right (angle measured to tangent) in a Southeasterly direction a distance of 60.00 feet to a point on a curve to the right having a radius of 610.14 feet and a central angle of $18^{\circ} 38' 19''$; thence $90^{\circ} 00'$ to the left (angle measured to tangent) in a Northeasterly direction along the arc of said curve a distance of 198.48 feet to the P.R.C. (point of reverse curve) of a curve to the left having a radius of 319.43 feet and a central angle of $25^{\circ} 30' 50''$; thence in a Northeasterly direction along the arc of said curve a distance of 142.24 feet to a point; thence $114^{\circ} 13' 54''$ to the right (angle measured to tangent) in a Southerly direction a distance of 117.17 feet to a point; thence $82^{\circ} 08' 06''$ to the left in a Southeasterly direction a distance of 65.46 feet to a point; thence $70^{\circ} 57' 13''$ to the left in a Northeasterly direction a distance of 61.84 feet to a point; thence $99^{\circ} 29' 07''$ to the right in a Southeasterly direction a distance of 57.08 feet to a point; thence $19^{\circ} 26' 40''$ to the right in a Southeasterly direction a distance of 73.28 feet to a point; thence $0^{\circ} 38' 40''$ to the right in a Southeasterly direction a distance of 81.94 feet to a point; thence $25^{\circ} 42' 01''$ to the left in a Southeasterly direction a distance of 50.71 feet to a point; thence $24^{\circ} 37' 55''$ to the right in a Southeasterly direction a distance of 94.93 feet to a point; thence $17^{\circ} 49' 50''$ to the right in a Southeasterly direction a distance of 52.74 feet to a point; thence $74^{\circ} 12' 26''$ to the right in a Southwesterly direction a distance of 83.74 feet to a point on the South line of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 36, Township 18 South, Range 2 West; thence $145^{\circ} 18' 42''$ to the left in an Easterly direction along the South line of said $\frac{1}{4}$ - $\frac{1}{4}$ section a distance of 263.33 feet to the point of beginning.

Parcel II

A 20 Foot Force Main Easement as recorded in Instrument #1999-32576 in the Office of the Judge of Probate of Shelby County, Alabama, being situated in the Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 36, Township 18 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Northeast corner of the Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of section 36, Township 18 South, Range 2 West and run in a Westerly direction along the North line of said $\frac{1}{4}$ - $\frac{1}{4}$ section a distance, of 251.69 feet to the Point of Beginning of the centerline of the 20 foot easement herein described. Thence $62^{\circ} 53' 55''$ to the left in a Southwesterly direction along said centerline a distance of 396.07 feet more or less to a point 10 feet North of the Northeasterly Right-of-way line of U.S. Highway No. 280 (said centerline lies 10 feet Southeast of and parallel with the Southeast line of Lot 2, Andress Survey as recorded in Map Book 18, Page 118, in the Office of the Judge of Probate of Shelby County, Alabama); thence $90^{\circ} 05' 04''$ to the left along said centerline and 10 feet Northeast of and parallel with the Northeasterly Right-of-way line of said U.S. Highway No. 280 a distance of 115.5 feet more or less to the center of an existing sanitary sewer manhole, said point being the Point of Ending of the centerline of the 20 foot easement herein described.

Together with the right of ingress and egress over and across Greenhill Parkway, a dedicated roadway, as recorded in Map Book 20, Pages 115, and 116 and in Map Book 25, Page 144.