

**THIS INSTRUMENT PREPARED BY:**

**William J. Bryant  
2000 SouthBridge Parkway  
Suite 500  
Birmingham, Alabama 35209**

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RLPY 1404 730  
Recorded In Above Book and Page  
06/27/2008 11:20:33 AM  
KIMBROUGH L. BALLARD  
Judge of Probate  
Dallas County, Alabama

  
20080708000274380 1/6 \$262.70  
Shelby Cnty Judge of Probate, AL  
07/08/2008 08:00:28AM FILED/CERT

**MORTGAGE**

STATE OF ALABAMA )

COUNTY OF SHELBY )

**KNOW ALL MEN BY THESE PRESENTS:**

THAT WHEREAS, the undersigned, C.H. & P. Properties, LLC (formerly Cosby/Carmichael Family, L.L.C.), an Alabama limited liability company (the "Mortgagor"), is justly indebted to James Carmichael (the "Mortgagee"), pursuant to the terms of that certain promissory note between Mortgagor and Mortgagee dated April 1, 2008 and, if not sooner paid, maturing November 1, 2010 ("Note"); and

Whereas, as of the date hereof the principal balance of said Note is One Hundred Fifty Seven Thousand Seven Hundred Fifty Seven and 44/100 Dollars (\$157,757.44); and

Whereas, it is desired by the undersigned to secure the prompt payment of said indebtedness with all charges and interest set forth in such Note when the same falls due.

NOW THEREFORE, in consideration of the said indebtedness, and to secure the prompt payment of the same at maturity, the undersigned Mortgagor does hereby grant, bargain, sell and convey unto the said Mortgagee, the following described real property situated in Shelby County, Alabama:

Parcel One:

Lot 5, according to the survey of Silver Creek, Sector 1, as recorded in Map Book 26, Page 144 in the Probate Office of Shelby County, Alabama.

Parcel Two:

Lot 20, according to the Survey of Chancellor's Crossings as recorded in Map Book 28, Page 75, in the Probate Office of Shelby, Alabama.



SUBJECT, HOWEVER, to any all easements, restrictions, reservations, encumbrances or covenants of record in the Probate Office of Shelby County, Alabama, including but not limited to that certain existing mortgage to The Peoples Bank and Trust Company, Selma Alabama (now known as BankTrust)

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

Upon condition however, that if the said Mortgagor pays said indebtedness and reimburses said Mortgagee for any amounts Mortgagee may have expended for taxes, assessments and insurance, and the interest thereon, then this conveyance to be null and void, but should default be made in the payment of any sum due under the Note as and when same becomes due or any sum expended by the said Mortgagee, or should said indebtedness hereby secured, or any part thereof or the interest thereon remain unpaid at maturity, or should the interest of said Mortgagee in said property become endangered by reason of the enforcement of any prior lien or encumbrance thereon, so as to endanger the debt hereby secured, or if any statement of lien is filed under the statutes of Alabama relating to the liens of mechanics and materialmen without regard to form and contents of such statement and without regard to the existence or nonexistence of the debt or any part thereof or of the lien on which such statement is based, or if any other "Event of Default" (as hereinafter defined) shall occur then in any one of said events, the whole of said indebtedness hereby secured shall at once become due and payable and this mortgage be subject to foreclosure as now provided by law in case of past due mortgages, and the said Mortgagee shall be authorized to take possession of the premises hereby conveyed and with or without first taking possession, after giving 21 days notice by publishing once a week for three consecutive weeks, the time, place and terms of sale, in some newspaper published in said County and State, to sell the same in lots or parcels, or en masse, as Mortgagee may deem best in front of the Court House door in said County, at public outcry, to the highest bidder for cash and apply the proceeds of said sale, First, to the expense of advertising, selling and conveying, including



a reasonable attorney's fee; Second, to the payment of any amounts that may have been expended, or that it may be necessary then to expend in paying insurance, taxes, or other encumbrances, with interest thereon; Third, to the payment of said indebtedness in full, whether the same shall or shall not have fully matured at the date of said sale, but no interest shall be collected beyond the day of sale, and Fourth, the remainder if any, to be turned over to the said Mortgagor, and the undersigned, further agrees that said Mortgagee may bid at said sale and purchase said property, if the highest bidder therefore, as though a stranger hereto, and the person acting as auctioneer at such sale is hereby authorized and empowered to execute a deed to the purchaser thereof in the name of the Mortgagor by such auctioneer as agent, or attorney in fact, and the undersigned further agrees to pay a reasonable attorney's fee to said Mortgagee for the foreclosure of this mortgage in Chancery, should the same be so foreclosed, said fee to be a part of the debt hereto secured.

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

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

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

In addition to the foregoing, any of the following shall constitute an "Event of Default":

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



- (b) the adjudication of Mortgagor as a bankrupt or insolvent;
- (c) a final judgment or judgments for the payment of money in excess of an aggregate of \$10,000.00 shall be rendered against any Mortgagor and the same shall remain undischarged for a period of 90 days during which execution shall not be effectively stayed;
- (d) if the Mortgagor shall fail to pay or discharge, before they become delinquent, all taxes, assessments and governmental charges or levies imposed upon the Mortgagor or its properties or income, except to the extent any such taxes or charges are being contested in good faith by appropriate proceedings, diligently conducted; or
- (e) an event of default under the terms of any other mortgage of the subject property.

The Mortgagor covenants and agrees that the mortgaged property is in compliance, and Mortgagor shall in the future comply and cause the mortgaged property to comply, with all applicable federal, state and local environmental laws, ordinances, and regulations (collectively, the "Environmental Laws"). There are no pending claims or threats of pending claims against Mortgagor or the mortgaged property by private, governmental or administrative authorities relating to environmental impairment, or Environmental Laws. Mortgagor shall not use the mortgaged property in a manner which will result in any non-complying disposal or release of any solid waste, hazardous waste, hazardous substance, or other contaminant (all as defined in the Environmental Laws) (c "Hazardous Materials") in, on or under the mortgaged property, and covenants and agrees to keep, or cause the mortgaged property to be kept, free of any non-complying Hazardous Materials. The Mortgagee from time to time may inspect, test and sample the mortgaged property for compliance with Environmental Laws and may add the cost of same to the principal balance of the indebtedness secured hereby. Mortgagor agrees that Mortgagee, in its sole discretion, may submit a copy of any environmental report or test results to federal and state environmental agencies, or any other governmental agency having regulatory control over the mortgaged property. In response to the presence of any such non-complying Hazardous Materials in, on, or under the mortgaged property at any time, Mortgagor shall immediately take, at Mortgagors' sole expense, all remedial action required by the Environmental Laws or any judgment, consent decree, settlement or compromise with respect to any claims in connection therewith. If Mortgagor fails to take such remedial action, Mortgagee, in its sole discretion, may take such remedial action and add any and all costs in connection therewith to the principal balance of the indebtedness secured hereby. Mortgagor shall immediately notify Mortgagee in writing of: (i) the discovery of any such non-complying Hazardous Materials in, on, or under the mortgaged property; (ii) any knowledge by Mortgagor that the mortgaged property does not comply with any Environmental Laws; (iii) any Hazardous Materials claims or conditions; and (iv) the discovery by Mortgagor of any occurrence or condition on any real property adjoining the mortgaged property that is likely to cause the breach of the Environmental Laws as to the mortgaged



property or any part thereof. Mortgagor shall defend, indemnify and hold Mortgagee harmless from and against all claims, demands, causes of action, liabilities, losses, costs and expenses (including, without limitation costs of suit, reasonable attorney's fees, fees of expert witnesses, engineering fees, and costs of any environmental inspections, inquiries, audits, evaluations, assessments or other expenses) arising from or in connection with (i) the presence in, on or under the mortgaged property of any Hazardous Materials, or any releases or discharges of any Hazardous Materials in, on, under or from the mortgaged property; (ii) any activity carried on or undertaken on or off the mortgaged property, whether prior to, during, or after the term hereof, and whether by Mortgagor or any predecessor in title of Mortgagor or any predecessor in title, or any third persons at any time occupying or present on the mortgaged property, in connection with the generation, manufacture, handling, use, treatment, removal, storage, decontamination, cleanup, transport or disposal of any Hazardous Materials in any time in, on or under the mortgaged property, or (iii) any breach of any representation, warranty or covenant under the terms of this Mortgage. The foregoing indemnity extends to the contamination of any property or natural resources arising in connection with Hazardous Materials, irrespective of whether activities were or will be undertaken in compliance with Environmental Laws or other applicable laws, regulations, codes and ordinances. Mortgagor shall not place any underground storage tanks or aboveground storage tanks on the mortgaged property without the prior written consent of Mortgagee. Each Mortgagor covenants and agrees to provide Mortgagee with a copy of any and all correspondence, plans, specifications, reports, filings, and other documents relating to the mortgaged property submitted by Mortgagor to any federal or state environmental agency, or any other government having regulatory control over the mortgaged property, and further covenants and agrees to provide Mortgagee with notice and a copy of any and all environmental inspections and test results conducted in, on, or under the mortgaged property. Any action taken by Mortgagee pursuant hereto shall be solely for Mortgagees's benefit.

IN WITNESS WHEREOF, the Mortgagor has caused this instrument to be executed on this  
27 day of June, 2008.

C.H. & P. Properties, LLC

By: Shelby C. High  
Shelby C. High - Manager

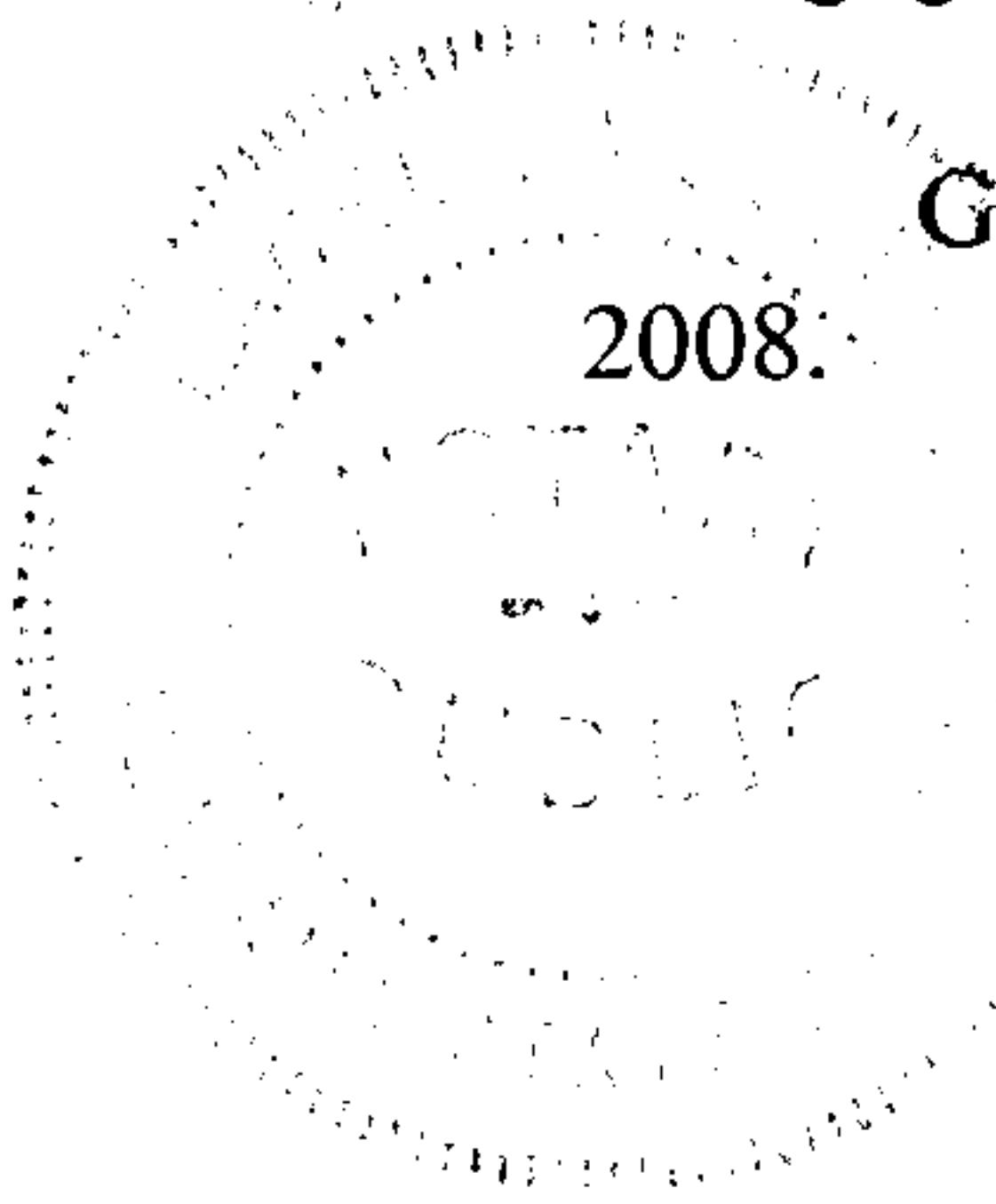
By: James K. Carmichael  
James K. Carmichael - Manager

I, the undersigned, a Notary Public, in and for the State of Alabama at Large, do hereby certify that, Shelby C. High, whose name is signed to the foregoing conveyance as Manager and who is



known to me, acknowledged before me on this day that, being informed of the contents of said Mortgage and with full authority, she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal of office on this 27 day of June, 2008.

  
[Signature]

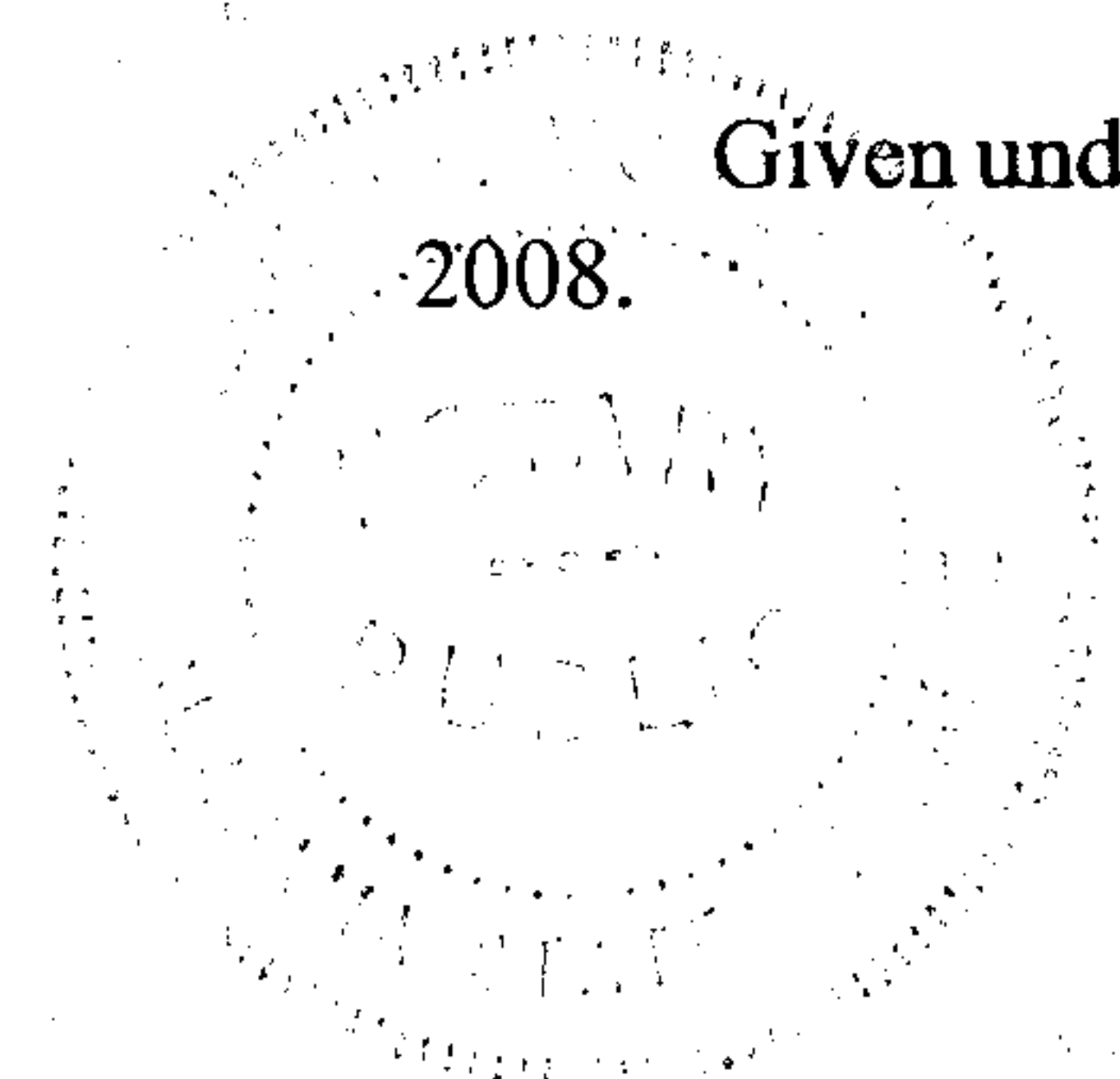
Notary Public

My Commission Expires September 17, 2011

My Commission Expires: \_\_\_\_\_

I, the undersigned, a Notary Public, in and for the State of Alabama at Large, do hereby certify that, James K. Carmichael, whose name is signed to the foregoing conveyance as Manager and who is known to me, acknowledged before me on this day that, being informed of the contents of said Mortgage and with full authority, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal of office on this 27 day of June, 2008.

  
[Signature]

Notary Public

My Commission Expires September 17, 2011

My Commission Expires: \_\_\_\_\_

Recorded RLPY 1404 735  
In Above Book and Page  
06/27/2008 11:20:33 AM  
KIMBROUGH L BALLARD  
Judge of Probate  
Dallas County, Alabama

|               |        |
|---------------|--------|
| Mortgage Tax  | 236.70 |
| Recording Fee | 26.00  |
| TOTAL         | 262.70 |