

OPEN-END MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT

KNOW ALL MEN BY THESE PRESENTS, that DUANE G. WASSON, TRUSTEE and SUSAN E. WASSON, TRUSTEE, as the Trustees of THE WASSON FAMILY 2001 TRUST executed on October 24, 2001, having an office at 175 Josselyn Lane, Woodside, California 94062 ("Mortgagor"), in consideration of the payments to Mortgagor which FIRST PLACE BANK whose address is 724 Boardman Poland Road, Youngstown, Ohio 44512 ("Mortgagee"), has made contemporaneously herewith or may hereafter make, does hereby GRANT, BARGAIN, SELL AND CONVEY unto Mortgagee, its successors and assigns forever, certain real property situated in the State of Alabama, County of Shelby and being more fully described in the legal description attached hereto and incorporated herein as if fully rewritten herein (the "Property"), together with the following, whether now owned or hereafter acquired by Mortgagor: (a) all improvements now or hereafter attached to or placed, erected, constructed or developed on the Property (collectively the "Improvements"); (b) all fixtures, furnishings, equipment, inventory, and other articles of personal property (collectively the "Personal Property") that are now or hereafter attached to or used in or about the Improvements or that are necessary or useful for the complete and comfortable use and occupancy of the Improvements for the purposes for which they were or are to be attached, placed, erected, constructed or developed or that may be used in or related to the planning, development, financing or operation of the Improvements, and all renewals of or replacements or substitutions for any of the foregoing, whether or not the same are or shall be attached to the Improvements or the Property; (c) all water and water rights, timber, crops, and mineral interests pertaining to the Property; (d) all building materials and equipment now or hereafter delivered to and intended to be installed in or on the Improvements or the Property; (e) all plans and specifications for the Improvements; (f) all contracts relating to the Property, the Improvements or the Personal Property; (g) all deposits (including, without limitation, tenants' security deposits), bank accounts, funds, documents, contract rights, accounts, commitments, construction agreements, architectural agreements, general intangibles (including, without limitation, trademarks, trade names and symbols), instruments, notes and chattel paper arising from or by virtue of any transactions related to the Property, the Improvements or the Personal Property; (h) all permits, licenses, franchises, certificates, and other rights and privileges obtained in connection with the Property, the Improvements or the Personal Property; (i) all proceeds arising from or by virtue of the sale, lease or other disposition of the Property, the Improvements, the Personal Property or any portion thereof or interest therein; (j) all proceeds (including, without limitation, premium refunds) of each policy of insurance relating to the Property, the Improvements or the Personal Property; (k) all proceeds from the taking of any of the Property, the Improvements, the Personal Property or any rights appurtenant thereto by right of eminent domain or by private or other purchase in lieu thereof (including, without limitation, change of grade of streets, curb cuts or other rights of access), for any public or quasi public use under any law; (l) all right, title and interest of Mortgagor in and to all streets, roads, public places, easements and rights-of-way, existing or proposed, public or private, adjacent to or used in connection with, belonging or pertaining to the Property; (m) all of the leases, licenses, occupancy agreements, rents (including without limitation, room rents), royalties, bonuses, issues, profits, revenues or other benefits of the Property, the Improvements or the Personal Property, including, without limitation, cash or securities deposited pursuant to leases to secure performance by the lessees of their obligations thereunder; (n) all consumer goods located in, on or about the Property or the Improvements or used in connection with the use or operation thereof; (o) all rights, hereditaments and appurtenances pertaining to the foregoing; and (p) other interests of every kind and character that Mortgagor now has or at any time hereafter acquires in and to the Property, Improvements, and Personal Property described herein and all property that is used or useful in connection therewith, including rights of ingress and egress and all reversionary rights or interests of Mortgagor with respect thereto (all of the same, including the Property, collectively the "Mortgaged Property").

TO HAVE AND TO HOLD the Mortgaged Property, together with the rights, privileges and appurtenances thereto belonging, unto Mortgagee and its successors and assigns forever, and Mortgagor hereby binds itself and its successors and assigns to warrant and forever defend the Mortgaged Property unto Mortgagee and its successors and assigns, against the claim or claims of all persons claiming or to claim the same or any part thereof, except as to those matters described in Schedule B of the mortgagee's loan policy which Mortgagee received in connection with this mortgage deed (the "Permitted Encumbrances").

This Open-End Mortgage, Assignment of Rents and Security Agreement (the "Mortgage") is given for the purpose of securing loan advances which Mortgagee is obligated to make to Mortgagor.

Return Recorded Documents To:
LandAmerica National Commercial Services
450 S. Orange Avenue, Suite 170
Orlando, FL 32801
Attention: **Christi Pawlak** 08-551

The parties hereto intend that, in addition to any other indebtedness or obligations secured hereby, the Mortgage shall secure unpaid balances of loan advances made after the Mortgage is delivered to the Recorder for record. Such loan advances are and will be evidenced by a note or notes of Mortgagor. The maximum amount of unpaid loan indebtedness, which shall consist of unpaid balances of loan advances made either before or after, or both before and after, the Mortgage is delivered to the Recorder for record, exclusive of interest thereon and of advances for taxes, assessments, insurance premiums and costs incurred for protection of the Mortgaged Property, which may be outstanding at any time is Five Hundred and Thirty Thousand Dollars (\$530,000.00).

THE MORTGAGE IS GIVEN TO SECURE: the full and prompt payment, whether at stated maturity, accelerated maturity or otherwise, of any and all indebtedness, whether fixed or contingent (collectively the "Indebtedness") and the complete, faithful and punctual performance of any and all other obligations (collectively the "Obligations") of Mortgagor to Mortgagee under the terms and conditions of (a) the Note, of even date herewith, made by Mortgagor to Mortgagee, in the principal amount of Five Hundred and Thirty Thousand Dollars (\$530,000.00), payable not later than October 1, 2018, and any and all renewals, amendments, modifications, reductions and extensions thereof and substitutions therefor (collectively the "Note"); (b) the Mortgage; and (c) any other instrument, document, certificate or affidavit heretofore, now or hereafter given by Mortgagor evidencing or securing or by any person guaranteeing (the "Guarantors") all or any part of the foregoing (the same together with the Note and Mortgage, collectively the "Loan Documents").

Mortgagor, for itself and its successors and assigns, hereby covenants with Mortgagee, its successors and assigns, that:

1. Title. Mortgagor represents that it has good and marketable title in fee simple to the Mortgaged Property, free and clear from all conditions, restrictions, easements, liens, encumbrances and adverse claims whatsoever, except the Permitted Encumbrances. If the interest of Mortgagee in the Mortgaged Property or any part thereof shall be endangered or shall be attacked, directly or indirectly, Mortgagor hereby authorizes Mortgagee, at Mortgagor's expense, to take all necessary and proper steps for the defense of such interest, including the employment of counsel, the prosecution or defense of litigation and the compromise or discharge of claims made against such interest. Any sums so expended by Mortgagee shall be charged against Mortgagor and collectible in accordance with the terms of Section 12 hereof.

2. Further Assurances. Mortgagor shall furnish to Mortgagee evidence of the title of Mortgagor to the Mortgaged Property at the execution and delivery hereof and from time to time hereafter as may be deemed necessary by and satisfactory to Mortgagee, and Mortgagor shall promptly pay the cost of said title evidence when due and payable.

Mortgagor, upon the request of Mortgagee, shall execute, acknowledge, deliver, file and record such further instruments and do such further acts as may be necessary, desirable or proper to carry out the purposes of the Loan Documents and to subject to the liens and security interests created thereby any property intended by the terms thereof to be covered thereby, including specifically, but without limitation, any renewals, additions, substitutions, replacements, improvements or appurtenances to the Mortgaged Property.

3. Subrogation for Further Security. Mortgagee shall be subrogated for its further security to the lien, although released of record, of any and all encumbrances paid with any advance of Indebtedness; provided, however, that the terms and provisions hereof shall govern the rights and remedies of Mortgagee and shall supersede the terms, provisions, rights, and remedies under the lien or liens to which Mortgagee is subrogated hereunder.

4. Status Quo. Except as expressly permitted herein or except with the written consent of Mortgagee, which consent may be withheld in Mortgagee's sole discretion, Mortgagor shall not (a) sell, assign, mortgage, pledge, lease or otherwise convey or further encumber the Mortgaged Property, or any portion thereof, or legal, equitable or beneficial interest therein, (b) contract for any of the same, (c) permit the Mortgaged Property, or any portion thereof, or legal, equitable or beneficial interest therein, to be subject to any superior or inferior lien or encumbrance, (d) subdivide, resubdivide or submit to the condominium form of ownership all or any portion of the Mortgaged Property, or any portion thereof, or (e) initiate or acquiesce in any change in the zoning classification of the Property, or any portion thereof.

5. Payment of Indebtedness. Mortgagor shall promptly pay the Indebtedness as the same becomes due and payable.

6. Estoppel Certificate. Mortgagor shall furnish to Mortgagee within ten (10) days of any written request of Mortgagee, a written statement, duly acknowledged by Mortgagor, setting forth the sums secured by the Mortgage and any right of set-off, counterclaim or other defense which Mortgagor alleges to exist against such sums and obligations of the Mortgage.

7. Taxes and Other Impositions. Mortgagor shall promptly pay before delinquency, all taxes, assessments, charges, fines or impositions, general, local or special (collectively the "Impositions"), levied upon the Mortgaged Property, or any part thereof, or upon Mortgagee's interest therein, or upon the Mortgage or the Indebtedness, by any duly or legally constituted public authority, municipality, township, county or state or the United States, and exhibit the evidence of the payment thereof to Mortgagee within seven (7) days thereafter, provided that Mortgagor, at Mortgagor's own cost and expense may, if it shall in good faith so desire, contest the validity or amount of any Impositions, in which event Mortgagor may defer the payment thereof for such period as such contest shall be actively prosecuted and shall be pending undetermined. However, Mortgagor shall not allow any such Impositions so contested to remain unpaid for such length of time as shall permit all or any portion of the Mortgaged Property, or the lien thereon created by such item, to be sold by federal, state, county or municipal authority for the nonpayment thereof. Pending any such contest, Mortgagor shall furnish to Mortgagee an indemnity bond secured by a deposit in cash or other security acceptable to Mortgagee, in the amount of the tax or assessment being contested by Mortgagor, plus a reasonable additional sum to pay all costs, interest and penalties which may be imposed or incurred in connection therewith.

In the event that one or more of the Impositions on Mortgagee's interest in the Mortgaged Property, the Mortgage or the Indebtedness cannot be lawfully paid by Mortgagor, then Mortgagor shall repay the Indebtedness in full without penalty within sixty (60) days after demand therefor by Mortgagee.

8. Insurance and Indemnification. Mortgagor shall provide, maintain and keep in force at all times the following policies of insurance:

(a) Liability Insurance. Mortgagor shall keep in force commercial general liability insurance protecting Mortgagor against claims, demands or actions for personal and advertising injury, bodily injury, death and property damage, with a combined single limit of not less than \$1,000,000 per occurrence and \$2,000,000 in the general aggregate (Products-Completed/Operations Aggregate is to be shown as included). Fire Damage Legal Liability, for any one fire, to be a minimum of \$50,000. Medical Expense Coverage, any one person, to be a minimum at \$5,000. Hired and Non-Owned Auto Coverage is to be provided. The foregoing policies shall be endorsed to add Mortgagee as an additional insured as its interest may appear with respect to claims, demands or actions arising from operation at the Mortgaged Property, and such endorsement shall expressly provide that the policy or policies shall not be canceled, terminated, or non-renewal for any reason without at least thirty (30) days' prior written notice or at least ten (10) days prior written notice for non-payment of premium at the address provided in this Mortgage.

(b) Property Insurance. Mortgagor shall maintain commercial property insurance insuring against loss or damage to the Mortgaged Property by all causes of loss and perils covered under a "special form" policy of commercial property insurance (or such equivalent form of coverage from time to time available so long as such insurance covers those risks currently covered by a "special form" or "all-risk" policy of commercial property insurance), and shall comply with the following requirements relating to additional coverages, endorsements and amounts of coverage:

(i) Amount of Coverages and Deductibles For Real Property. The commercial property insurance shall be maintained in an amount equal to the Replacement Cost of the Improvements with an Agreed Amount endorsement (for buildings less than 20 years old) so as to remove the coinsurance provisions of the policy, but in any event not to be less than the amount of Mortgagee's loan unless agreed to in writing by Mortgagee.

OR

The commercial property insurance shall be maintained in an amount equal to the Replacement Cost or Actual Cash Value of the Improvements with an Agreed Amount endorsement (for buildings more than 20 years old) so as to remove the



coinsurance provisions of the policy, but in any event not to be less than the amount of Mortgagee's loan unless agreed to in writing by Mortgagee.

(ii) Amounts of Coverages and Deductibles for Personal Property. The Commercial Personal Property Insurance shall be maintained with a Replacement Cost Endorsement and an Agreed Amount Endorsement so as to remove the coinsurance provisions of the policy.

(iii) Business Income or Rental Loss and Extra Expense. The commercial property insurance shall include coverage for Loss of Rents (with regard to property being leased and business interruption insurance with respect to owner occupied property) with 100% Coinsurance and Extra Expense for a period of not less than one year. (Policies which provide Actual Loss Sustained including Extra Expense Coverage for a coverage period of not less than one year are acceptable.)

(iv) Building Ordinance. The commercial property insurance shall contain the standard "Building Ordinance Coverage" by endorsement to include the following coverages:

For All Buildings:

Coverage A - Coverage for loss to the undamaged portion of the building.

Coverage B - Demolition Cost Coverage.

For Buildings Less than 20 Years Old:

Coverage C - Increased Cost of Construction Coverage.


(v) Boiler and Machinery. A general boiler and machinery policy is required where steam boilers, pipes turbines, engines or other pressure vessels are in operation on the property. The policy is to be Broad Coverage and to include Mechanical Breakdown Coverage in an amount equal to Replacement Cost or Actual Cash Value of insured value(s) as stated in the property declaration page of the policy, for the building(s) housing the equipment. If the equipment is a Hot Water/Steam Heat System, the Boiler and Machinery Policy is to be written with a minimum limit of \$100,000, Broad Coverage and is to include Mechanical Breakdown Coverage. An endorsement to include electrical machinery and equipment, air conditioning, refrigeration and mechanical objects is required. This insurance shall include coverage under the following standard, "Object Definition" endorsements (as applicable) pressure and refrigeration objects, mechanical objects, electrical objects and turbine objects.

(vi) Flood Insurance. Flood insurance is required for Property Improvements located in any area identified by the Federal Emergency Management Agency (FEMA) as a Zone "A" Special Hazard Area. Mortgagee may require coverage for properties located in other types of Special Hazard Areas (e.g., Zone "B") on a case by case basis if we determine that conditions warrant it. Flood insurance is not normally required if the Property Improvements are not located in a special Hazard Area, even though an unimproved portion of the Property may fall within such an area. The required amount of insurance per building is the lesser of (1) the Replacement Cost or Actual Cash Value insured values as stated in the property declarations page of the policy, or (2) the maximum amount of insurance available under the National Flood Insurance Program. The size of the deductible should be no more than \$3,000. If the area encompassing the Property Improvements has been reclassified by FEMA as Zone "B" Special Hazard Area, Mortgagee may require coverage for the subject property on a case by case basis if we determine conditions warrant it. If the Property is reclassified as a Zone "A" Special Hazard Area, Mortgagee will require the Mortgagor to obtain a flood insurance policy and forward a copy of such policy to the address provided in this Mortgage.

(vii) Workers Compensation. Mortgagor shall maintain Workers' Compensation and employee liability insurance, naming Mortgagee as additional insured, covering all employees working on or about the Mortgaged Property, and death, injury and/or property damage occurring on or about the Mortgaged Property, or resulting from activity thereon, with liability insurance limits for death of or injury to persons in amounts not less than required by applicable law.

(viii) Mortgage Holder Clause. The commercial property insurance policy and all renewals thereof shall be endorsed to contain a standard mortgage clause protecting Mortgagee from invalidation of any of the above

insurance coverages due to acts of Mortgagor, which endorsement shall name:


20080910000360560 5/17 \$855.00
Shelby Cnty Judge of Probate, AL
09/10/2008 03:47:49PM FILED/CERT

FIRST PLACE BANK
its successors and/or assigns,
A.T.I.M.A.

as "first mortgagee", without contribution, and shall expressly provide that the policy or policies shall not be canceled, terminated or non-renewed for any reason without at least thirty (30) days' prior written notice to First Place Bank, 724 Boardman Poland Road, Youngstown, Ohio 44512, or ten (10) days notice for cancellation of policy or policies for non-payment of premium to Mortgagee at the address provided in this Mortgage.

(ix) Loss Payee Clause. The commercial personal property insurance policy and all renewals thereof shall be endorsed to contain a standard loss payee clause protecting Mortgagee from invalidation of any of the above insurance coverages due to acts of Loss Payor, which endorsement shall name:

First Place Bank
its successors and/or assigns,
A.T.I.M.A.

as "first loss payee", without contribution, and shall expressly provide that the policy or policies shall not be canceled, terminated or non-renewed for any reason without at least thirty (30) days' prior written notice to First Place Bank, 724 Boardman Poland Road, Youngstown, Ohio 44512, or ten (10) days notice for cancellation of policy or policies for non-payment of premium to Mortgagee at the address provide in this Mortgage.

(x) Additional Coverages. The commercial property insurance shall include such additional coverages as are customarily carried for properties similar in nature and location to the Mortgaged Property, as Mortgagee may from time to time reasonably request in writing to Mortgagor. Mine Subsidence is required for properties in areas prone to those geologic phenomena as determined by Mortgagee. The limit of insurance required will be equal to the Replacement Cost or Actual Cash Value insured value of the Improvements as stated in the property declarations page of the policy.

Mortgagor covenants and agrees to review the values of the Improvements annually with its insurance agent and to increase the amount of such insurance as may be necessary to ensure that the amount of such insurance shall meet the requirements of this provision.

All of the above references to coverages, standard forms and endorsements shall be deemed to include the then-equivalent coverages on an occurrence basis, forms or endorsements as promulgated from time to time by the Insurance Services Organization, Inc.

Mortgagor shall deliver to Mortgagee certified duplicate originals of the policies and all forms and endorsements attached thereto, including all renewals thereof, and any change in insurance carriers relating to the insurance required hereunder. The renewal documentation shall contain such assurances as Mortgagee may require regarding the insurance to be carried by Mortgagor hereunder including evidence that the Mortgagor is the named insured or an additional insured. Regardless of whether Mortgagee requests duplicate originals of the policies, Mortgagor shall deliver to Mortgagee, not later than twenty (20) days prior to the applicable expiration dates of such policies, the following: (a) An Insurance Binder that shall expressly set forth the coverages required hereunder in Section (A)(1) and Section A(2) above.

All insurance required hereunder shall be with an insurance company or companies licensed to do business in the State of Alabama, (a) having an A.M. Best Company rating of A- or better for the last three years and whose rating has not been downgraded or qualified during the previous five-year period and (b) having a financial size category of Class IX or higher.

Mortgagee shall be entitled to receive all of the proceeds of said insurance and, accordingly as Mortgagee may elect, either apply such proceeds, in whole or in part, toward payment of the Indebtedness, the unpaid portion of the debt to remain in force, or to hold and apply such proceeds, without payment or allowance of interest thereon, toward the



repair or replacement of the damaged or destroyed portion of the Improvements and Personal Property. Mortgagor hereby authorizes and empowers Mortgagee to settle or compromise claims under all such policies provided that same shall be reasonable under the circumstances then existing and to demand, receive and receipt for all monies becoming payable thereunder, whether or not the policies are held by Mortgagor and whether or not they are made payable to Mortgagee, and the companies issuing such insurance policies are hereby notified, instructed, empowered and authorized to make loss drafts payable to Mortgagee.

Notwithstanding the foregoing, in the event that no Event of Default as hereinafter defined is in existence, Mortgagor shall be permitted to use the insurance proceeds towards the repair or replacement of the damaged or destroyed portion of the Improvements and Personal Property subject to the provisions contained in the next paragraph.

If the insurance proceeds are held by Mortgagee to reimburse Mortgagor for the cost of restoration and repair of the Improvements and the Personal Property, the Improvements and Personal Property shall be restored to the equivalent of its original condition or such other condition as Mortgagee may approve in writing. Mortgagee may, at Mortgagee's option, condition disbursement of said proceeds on Mortgagee's approval of such plans and specifications of an architect satisfactory to Mortgagee, cost estimates of contractors satisfactory to Mortgagee, architect's certificates, waivers of liens, sworn statements of mechanics and materialmen and such other evidence of costs, percentage completion of construction, application of payments, and satisfaction of liens as Mortgagee may reasonably require. If the insurance proceeds are applied to the payment of the sums secured by the Mortgage, any such application of proceeds shall not extend or postpone the due dates of the monthly installments referred to in the Note or change the amounts of such installments. If the Mortgaged Property is sold pursuant to Section 19 hereof or if Mortgagee acquires title to the Mortgaged Property, Mortgagee shall have all of the right, title and interest of Mortgagor in and to any insurance policies and unearned premiums thereon and in and to the proceeds resulting from any damage to the Mortgaged Property prior to such sale or acquisition.

9. Escrow. Mortgagor, in order to more fully protect the security of the Mortgage, does hereby covenant and agree that, if Mortgagor shall fail to timely pay taxes, assessments or insurance premiums as provided above, then Mortgagor shall, upon request of Mortgagee, pay to Mortgagee on the first day of each month, until the Indebtedness is fully paid, a sum equal to one-twelfth (1/12) of the known or estimated yearly taxes, assessments, premiums for such insurance as may be required by the terms hereof and, if applicable, any replacement reserve amounts payable by Mortgagor. Mortgagee shall hold such monthly payments which may be mingled with its general funds, without obligation to pay interest thereon, unless otherwise required by applicable law, to pay such taxes, assessments, and insurance premiums when due. Mortgagor agrees that sufficient funds shall be so accumulated for the payment of said charges one month prior to the due date thereof and that it shall furnish Mortgagee with proper statements covering the same fifteen (15) days prior to the due dates thereof. In the event of foreclosure of the Mortgage, or if Mortgagee should take a deed in lieu of foreclosure, the amount so accumulated shall be credited on account of the unpaid principal or interest. If the total of the monthly payments as made under this Section shall exceed the payments actually made by Mortgagee, such excess shall be credited on subsequent monthly payments of the same nature, but if the total of such monthly payments so made under this Section shall be insufficient to pay such taxes, assessments, and insurance premiums then due, then said Mortgagor shall pay upon demand the amount necessary to make up the deficiency, which payments shall be secured by the Mortgage. To the extent that all the provisions of this Section for such payments of taxes, assessments, and insurance premiums to Mortgagee, are complied with, said Mortgagor shall be relieved of compliance with the covenants contained in Sections 7 and 8 herein as to the amounts paid only, but nothing contained in this Section shall be construed as in any way limiting the rights of Mortgagee at its option to pay any and all of said items when due.

10. Waste; Repair. Mortgagor shall neither commit nor permit any waste on the Property and shall keep all Improvements now or hereafter erected on the Property in good condition and repair.

11. Alterations; Construction. Mortgagor shall not remove, demolish or alter any of the Improvements, now existing or hereafter constructed on the Property, or any of the Personal Property in or on the Property or Improvements, except when incident to the replacement of any of the items of Personal Property with items of like kind and value. All Improvements hereafter erected shall have been erected according to the plans and specifications approved by Mortgagee.



12. Advances Secured by Mortgage. Upon failure of Mortgagor to comply with any of these covenants and agreements as to the payment of taxes, assessments, insurance premiums, repairs, protection of the Mortgaged Property or Mortgagee's lien thereon, and other charges and the costs of procurement of title evidence and insurance as aforesaid, Mortgagee may, at its option, pay the same, and any sums so paid by Mortgagee, together with the reasonable fees of counsel employed by Mortgagee in consultation and in connection therewith, shall be charged against Mortgagor, shall be immediately due and payable by Mortgagor, shall bear interest at the Default Rate of Interest, as defined in the Note, and shall be a lien upon the Mortgaged Property, and be secured by the Mortgage, and may be collected in the same manner as the principal debt hereby secured.

13. Use. Unless Mortgagee otherwise agrees in writing, Mortgagor shall not allow changes in the nature of the occupancy for which the Property and Improvements were intended at the time the Mortgage was executed. Mortgagor shall comply with the laws, ordinances, regulations and requirements of any governmental body applicable to the Mortgaged Property, both during the construction of any Improvements on the Property and subsequent to the completion thereof, and not permit the use thereof for any illegal purpose.

14. Inspection. Any person authorized by Mortgagee shall have the right to enter upon and inspect the Mortgaged Property at all reasonable times. Mortgagee shall, however, have no duty to make such inspections. Any inspection of the Mortgaged Property by Mortgagee shall be entirely for its benefit, and Mortgagor shall in no way rely or claim reliance thereon.

15. Minerals. Without the prior written consent of Mortgagee, there shall be no drilling or exploring for, or extraction, removal, or production of minerals from the surface or subsurface of the Property. The term "minerals" as used herein shall include, without limitation, oil, gas, casinghead gas, coal, lignite, hydrocarbons, methane, carbon dioxide, helium, uranium and all other natural elements, compounds and substances, including sand and gravel.

16. Condemnation. If all or any part of the Property or Improvements are damaged, taken or acquired, either temporarily or permanently, in any condemnation proceeding, or by exercise of the right of eminent domain, or, with Mortgagee's consent, by any conveyance in lieu thereof, the amount of any award or other payment for such taking, or conveyance or damages made in consideration thereof, to the extent of the full amount of the then remaining unpaid Indebtedness is hereby assigned to Mortgagee who is empowered to collect and receive the same and to give proper receipts therefor in the name of Mortgagor, and the same shall be paid forthwith to Mortgagee. Any award or payment so received by Mortgagee, may at the option of Mortgagee, be retained and applied, in whole or in part, to the Indebtedness (whether or not then due and payable) in such manner as Mortgagee may determine, or released in whole or in part to Mortgagor upon terms satisfactory to Mortgagee for the purpose of altering, restoring or rebuilding any part of the Mortgaged Property which may have been altered, damaged or destroyed as a result of such taking, alteration or proceedings, but Mortgagee shall not be obligated to see to the application of any funds so released. Unless Mortgagor and Mortgagee otherwise agree in writing, any such application of proceeds to the Indebtedness shall not extend or postpone the due date of the monthly installments referred to in the Note or change the amount of such installments. If Mortgagor receives notice, written or unwritten, of any actual, intended or threatened condemnation or eminent domain proceeding, Mortgagor shall forthwith furnish a copy of such notice to Mortgagee if such notice was written, or inform Mortgagee in writing if such notice was unwritten. Mortgagor further authorizes Mortgagee, at Mortgagee's option and at Mortgagor's expense, as attorney-in-fact for Mortgagor, to commence, appear in and prosecute, in Mortgagor's or Mortgagee's name, any action or proceeding relating to any condemnation or other taking of all or any part of the Mortgaged Property and to settle or compromise any claims in connection with such condemnation or other taking.

17. Assignment of Rents and Leases.

(a) Mortgagor hereby absolutely and unconditionally assigns, transfers and sets over unto Mortgagee and Mortgagee's successors and assigns, all present and future leases covering all or any part of the Mortgaged Property (the "Leases"), together with any extensions or renewals thereof and any guarantees of any tenants' obligations thereunder, and all of the rents, royalties, bonuses, income, receipts, revenues, issues and profits now due or which may hereafter become due under the Leases or any extensions or renewals thereof, as well as all moneys due and to become due to Mortgagor under the Leases for services, materials or installations supplied whether or not the same were supplied under the terms of the Leases, all liquidated damages following default under the Leases and all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by damage to any part of the

Mortgaged Property (such rents, income, receipts, revenues, issues, profits and other moneys assigned hereby are hereinafter collectively called "Rents"), together with any and all rights and remedies which Mortgagor may have against any tenant under any of the Leases or others in possession of the Mortgaged Property or any part thereof for the collection or recovery of Rents so assigned. Prior to an Event of Default, as hereinafter defined, Mortgagor shall have a license to collect and receive all Rents as trustee for the benefit of Mortgagee and Mortgagor.

(b) Mortgagor hereby represents, warrants and agrees that:

(i) Mortgagor has good title to the Leases and Rents hereby assigned and has the right, power and capacity to make this assignment and no person or entity other than Mortgagor has or will have any right, title or interest in or to the Leases or Rents, except for the Permitted Encumbrances.

(ii) Mortgagor shall, at Mortgagor's sole cost and expense, perform and discharge all of the obligations and undertakings of the landlord under the Leases and give prompt notice to Mortgagee of any failure to do so. Mortgagor shall use all reasonable efforts to enforce or secure the performance of each and every obligation and undertaking of the tenants under the Leases and shall appear in and prosecute or defend any action or proceeding arising under, or in any manner connected with, the Leases or the obligations and undertakings of the tenants thereunder.

(iii) Mortgagor shall generally operate and maintain the Mortgaged Property in a manner to insure maximum Rents and shall enter into and maintain a contract, approved by Mortgagee as to form and content, with a professional property manager, approved by Mortgagee, for the management and leasing of the Mortgaged Property.

(iv) Mortgagor shall not pledge, transfer, mortgage or otherwise encumber or assign the Leases or the Rents.

(v) Mortgagor shall not (1) waive, excuse, condone or in any manner release or discharge any tenant under any of the Leases; (2) disaffirm, cancel, terminate or consent to any surrender of any of the Leases; (3) modify, extend or in any way alter the terms of any of the Leases; (4) renew or extend any of the Leases, except pursuant to terms in existing Leases; (5) permit any assignment of any of the Leases; or (6) anticipate Rents more than thirty (30) days prior to accrual.

(vi) Mortgagor shall give immediate notice to Mortgagee of any notice Mortgagor receives from any tenant under the Leases, specifying any claimed default by any party under the Leases.

(vii) No settlement for damages for termination of any of the Leases under the Federal Bankruptcy Code, or under any other federal, state, or local statute, shall be made without the prior written consent of Mortgagee, which consent may be withheld in Mortgagee's sole discretion, and any check in payment of such damages shall be made payable to both Mortgagor and Mortgagee. Mortgagor hereby assigns any such payment to Mortgagee, to be applied to the Indebtedness as Mortgagee may elect, and agrees to endorse any check for such payment to the order of Mortgagee.

(viii) All existing Leases are valid, unmodified and in full force and effect, there are no existing defaults under any of the Leases and Mortgagor has not performed any act or executed any instrument which might prevent Mortgagee from operating under any of the terms and provisions thereof or which would limit Mortgagee in such operation.

(ix) All future Leases shall be subject to the approval of Mortgagee as to form and content, including tenant. Mortgagor shall provide to Mortgagee, with each prospective lease, financial statements for the prospective tenant and any guarantor and plans, specifications and costs for any tenant finish to be provided by Mortgagor. Mortgagor shall deliver to Mortgagee originals of each of the Leases once fully executed. Unless otherwise directed by Mortgagee, all Leases shall specifically provide that such Leases are subordinate to the Mortgage; that the tenant attorns to Mortgagee, such attornment to be effective upon Mortgagee's acquisition of title to the Mortgaged Property; that the tenant agrees to execute such further subordination and attornment agreements and estoppel certificates as Mortgagee may from time to time request; that the attornment of the tenant shall not be terminated by foreclosure; and that Mortgagee may, at Mortgagee's option, accept or reject such attornment.

(c) Mortgagee shall not be obligated to perform or discharge any obligation or duty to be performed or discharged by Mortgagor under any of the Leases; and Mortgagor hereby agrees to indemnify Mortgagee for, and to save Mortgagee harmless from, any and all liability, damage or expense arising from any of the Leases or from this assignment, including, without limitation, claims by tenants for security deposits or for rental payments more than one (1) month in advance and not delivered to Mortgagee. All amounts indemnified against hereunder, including reasonable attorneys' fees, if paid by Mortgagee shall bear interest at the Default Rate of Interest, as defined in the Note, and shall be payable by Mortgagor immediately without demand and shall be secured hereby. This assignment shall not place responsibility for the control, care, management, or repair of the Mortgaged Property upon Mortgagee, or make Mortgagee responsible or liable for any negligence in the management, operation, upkeep, repair or control of same resulting in loss or damage or injury or death to any party.

(d) Upon the occurrence of an Event of Default as hereinafter defined:

(i) All Rents assigned hereunder shall be paid directly to Mortgagee, and Mortgagee may notify the tenants under the Leases (or any other parties in possession of the Mortgaged Property) to pay all of the Rents directly to Mortgagee at the address specified in Section 27 hereof, for which this assignment shall be sufficient warrant;

(ii) Mortgagee shall have the right to forthwith enter and take possession of the Mortgaged Property and to manage, operate, lease and develop the same; to collect as hereunder provided all or any Rents payable under the Leases; to make repairs as Mortgagee deems appropriate; and to perform such other acts in connection with the management, operation, development, leasing and construction of the Mortgaged Property as Mortgagee, in its sole discretion, may deem proper; and

(iii) Mortgagee shall have the right to forthwith enter into and upon the Mortgaged Property and take possession thereof, and to appoint an agent, or in the event of the institution of foreclosure proceedings to have a receiver appointed for the collection of the Rents.

In the event that Mortgagee shall pursue its remedies under Subsections 17(d)(ii) or (iii) above, the net income, after allowing a reasonable fee for the collection thereof and the management of the Mortgaged Property, may be applied toward the payment of taxes, assessments, insurance premiums, repairs, protection of the Mortgaged Property or Mortgagee's lien thereon, and other charges against the Mortgaged Property and the costs of procurement of such insurance and of evidence of title to the Mortgaged Property, or any of them, or in the reduction of the Indebtedness and the payment of interest, as Mortgagee may elect. If the Rents are not sufficient to meet the costs, if any, of taking control of and managing the Mortgaged Property and collecting the Rents, any funds expended by Mortgagee for such purposes shall become indebtedness of Mortgagor to Mortgagee secured by the Mortgage. Unless Mortgagee and Mortgagor agree in writing to other terms of payment, such amounts shall be payable upon demand from Mortgagee to Mortgagor and shall bear interest from the date of disbursement at the Default Rate of Interest stated in the Note.

The exercise or failure to exercise any of the above remedies shall not in any way preclude or abridge the right of Mortgagee to foreclose the Mortgage or to take any other legal or equitable action thereon. Mortgagee shall have such rights or privileges as aforesaid regardless of the value of the Mortgaged Property given as security hereunder, and regardless of the solvency or insolvency of any party bound for the payment of the Indebtedness or the other sums hereby secured.

(e) Mortgagor hereby authorizes and directs the tenants under the Leases to pay Rents to Mortgagee upon written demand by Mortgagee, without further consent of Mortgagor, and the tenants may rely upon any written statement delivered by Mortgagee to the tenants. Any such payment to Mortgagee shall constitute payment to Mortgagor under the Leases.

(f) There shall be no merger of the leasehold estates, created by the Leases, with the fee estate of the Property and Improvements without the prior written consent of Mortgagee.

18. Security Agreement. (a) The Mortgage is intended to be a security agreement pursuant to the Uniform Commercial Code as enacted in the state where the real property described herein is located (the "UCC") for any of



Mortgaged Property comprising personal property and fixtures, which may be subject to a security interest pursuant to the UCC, and Mortgagor hereby grants to Mortgagee a security interest in said personal property and fixtures, whether said property is now existing or hereafter acquired, together with replacements, replacement parts, additions, repairs and accessories incorporated therein or affixed thereto and, if sold or otherwise disposed of, the proceeds (including insurance proceeds) thereof. Mortgagor authorizes Mortgagee to file UCC financing statements covering said personal property and fixtures from time to time and in such form as Mortgagee may require to perfect or maintain the priority of Mortgagee's security interest with respect to said personal property and fixtures, and Mortgagor shall bear all costs thereof, including all UCC searches reasonably required by Mortgagee. Mortgagor shall not create or suffer to be created any other security interest in said personal property and fixtures, including replacements thereof and additions thereto. Upon the occurrence of any Event of Default as set forth in Section 19 hereof, Mortgagee shall have the remedies of a secured party under the UCC and, at Mortgagee's option, may also invoke the remedies provided in Section 19 hereof with respect to such property.

(b) The Mortgagor hereby authorizes Mortgagee to file and/or pre-file financing statements describing all of the Mortgagor's personal property and fixtures or such thereof as determined by Mortgagee, continuation statements, amendments, etc., in all relevant jurisdictions whether the indebtedness which is described herein now exists or is expected to exist at some future time. Mortgagor agrees to execute all documents as requested by Mortgagee in order to perfect a security interest in the collateral which is intended to secure the repayment of the indebtedness described herein, and if perfection may be obtained by "control" as that word is defined in the Uniform Commercial Code in the jurisdiction where the property is located, Mortgagor will cooperate and take all actions which are necessary for Mortgagee to obtain "control" of the collateral.

(c) In the event that any of the collateral described in this instrument or a part thereof is sold on credit, the Mortgagor shall be credited only with payments actually made by the purchaser which are received by Mortgagee and applied to the indebtedness of such purchaser to Mortgagee.

19. Default. The term "Event of Default" shall have the same meaning as set forth in the Note, which meaning is incorporated by this reference herein. Upon the occurrence of any such Event of Default, at the option of Mortgagee, without notice or demand, the same being hereby expressly waived, the entire amount shall become immediately due and payable, and, in addition to any other right or remedy which Mortgagee may now or hereafter have at law, in equity, or under the Loan Documents, Mortgagee shall have the right and power: (a) to foreclose upon the Mortgage and the lien hereof; (b) to sell the Mortgaged Property according to law; and (c) to enter upon and take possession of the Mortgaged Property and/or have a receiver appointed therefor as set forth in Section 17 hereof.

20. No Waiver. The failure of Mortgagee to exercise any option to declare the maturity of the principal debt or any other sums hereby secured under any provision of any of the Loan Documents, or to forbear from exercising any right or remedy available to Mortgagee under any provision of any of the other Loan Documents, shall not be taken or deemed a waiver of the right to exercise such option, right or remedy, or declare such maturity as to such past, continuing or subsequent violation of any of the covenants and agreements of the Loan Documents. Acceptance by Mortgagee of partial payments shall not constitute a waiver of any Event of Default, as hereinafter defined. From time to time, Mortgagee may, at Mortgagee's option, without giving notice to or obtaining the consent of Mortgagor, Mortgagor's successors or assigns, any junior lienholder or any of the Guarantors, without liability on Mortgagee's part and notwithstanding Mortgagor's breach of any covenant or agreement of Mortgagor in the Mortgage, extend the time for payment of the Indebtedness, or any part thereof, reduce the payments thereon, release anyone liable on any of said Indebtedness, accept a renewal note or notes therefor, modify the terms and time of payment of said Indebtedness, release from the lien of the Mortgage any part of the Mortgaged Property, take or release other or additional security, reconvey any part of the Mortgaged Property, consent to any map or plan of the Mortgaged Property, consent to the granting of any easement, join in any extension or subordination agreement, or agree in writing with Mortgagor to modify the rate of interest or period of amortization of the Note or to change the amount of the monthly installments payable thereunder. Any actions taken by Mortgagee pursuant to the terms of this Section shall not affect the obligation of Mortgagor or Mortgagor's successors or assigns to pay the sums secured by the Mortgage and to observe the covenants of Mortgagor contained herein, shall not affect the guaranty of any of the Guarantors, and shall not affect the lien or priority of lien of the Mortgage on the Mortgaged Property. Mortgagor shall pay Mortgagee a reasonable service charge, together with such title insurance premiums and attorney's fees as may be incurred at Mortgagee's option for any such action if taken at Mortgagor's request.

21. Parcels; Waiver of Marshalling. In the event of foreclosure of the Mortgage, the Mortgaged Property may be sold in one or more parcels or as an entirety as Mortgagee may elect.

Notwithstanding the existence of any other security interests in the Mortgaged Property held by Mortgagee or by any other party, Mortgagee shall have the right to determine the order in which any or all of the Mortgaged Property shall be subjected to the remedies provided herein. Mortgagee shall have the right to determine the order in which any or all portions of the Indebtedness are satisfied from the proceeds realized upon the exercise of the remedies provided herein. Mortgagor, any party who becomes liable for Mortgagor's obligations and covenants under the Mortgage, and any party who now or hereafter acquires a security interest in the Mortgaged Property, or any portion thereof, hereby waives any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

22. Costs of Collection. Mortgagor hereby agrees to pay to Mortgagee all costs of foreclosing the Mortgage, and all costs of enforcing, collecting and securing, and of attempting to enforce, collect and secure, the Note, including, without limitation, reasonable attorneys' fees, appraisers' fees, court costs, notice charges and title insurance charges, whether such attempt be made by suit, in bankruptcy, or otherwise, and such costs and any other sums due Mortgagee under the Loan Documents may be included in any judgment or decree rendered.

23. Rent Roll and Financial Statements. Mortgagor shall maintain full and correct books and records open to Mortgagee's inspection showing in detail the income, expenses and earnings of Mortgagor and of the Mortgaged Property, and shall provide Mortgagee such financial information about the Mortgagor and about the Mortgaged Property as the Mortgagee may require, when requested from time to time by Mortgagee.

24. Hazardous Substances. (a) Mortgagor hereby covenants and agrees with Mortgagee that the following terms shall have the following meanings:

(i) "Environmental Laws" mean all federal, state and local laws, statutes, ordinances and codes relating to the use, storage, treatment, generation, transportation, processing, handling, production or disposal of any Hazardous Substance and the rules, regulations, policies, guidelines, interpretations, decisions, orders and directives with respect thereto.

(ii) "Hazardous Substance" means, without limitation, any flammable explosives, radioactive materials, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum and petroleum based products, methane, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials, as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. Sections 2601, et seq.), or any other applicable Environmental Law.

(iii) "Indemnitee" means Mortgagee, its participants in the loan evidenced by the Note and all subsequent holders of the Mortgage, their respective successors and assigns, their respective officers, directors, employees, agents, representatives, contractors and subcontractors and any subsequent owner of the Property and Improvements who acquires title thereto from or through Mortgagee.

(iv) "Release" has the same meaning as given to that term in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), and the regulations promulgated thereunder.

(b) Mortgagor represents and warrants to Mortgagee that, to its knowledge after due investigation: (i) the Property and Improvements are not being or have not been used for the storage, treatment, generation, transportation, processing, handling, production or disposal of any Hazardous Substance in violation of any Environmental Laws; (ii) the Property and Improvements do not contain any Hazardous Substances in violation of any Environmental Laws; (iii) there has been no Release of any Hazardous Substance on, at or from the Property and Improvements or any property adjacent to or within the immediate vicinity of the Property and Improvements and Mortgagor has not received any form of notice



or inquiry with regard to such a Release or threat of such a Release; (iv) no event has occurred with respect to the Property and Improvements which, with the passage of time or the giving of notice, or both, would constitute a violation of any applicable Environmental Law; (v) there are no agreements or orders or directives of any federal, state or local governmental agency or authority relating to the Property and Improvements which require any work, repair, construction, containment, clean up, investigations, studies, removal or other remedial action with respect to the Property and Improvements; and (vi) there are no actions, suits, claims or proceedings, pending or threatened, which seek any remedy that arise out of the condition, ownership, use, operation, sale, transfer or conveyance of the Property and Improvements and (1) a violation or alleged violation of any applicable Environmental Law, (2) the presence of any Hazardous Substance or a Release of any Hazardous Substance or the threat of such a Release, or (3) human exposure to any Hazardous Substance.

(c) Mortgagor covenants and agrees with Mortgagee as follows:

(i) Mortgagor shall keep, and shall cause all operators, tenants, subtenants, licensees and occupants of the Property and Improvements to keep the Property and Improvements free of all Hazardous Substances, except for Hazardous Substances stored, treated, generated, transported, processed, handled, produced or disposed of in the normal operation of the Property and Improvements and in accordance with all Environmental Laws.

(ii) Mortgagor shall comply with, and shall cause all operators, tenants, subtenants, licensee and occupants of the Property and Improvements to comply with all Environmental Laws.

(iii) Mortgagor shall promptly provide Mortgagee with a copy of all notifications which it gives or receives with respect to any past or present Release of any Hazardous Substance or the threat of such a Release on, at or from the Property and Improvements or any property adjacent to or within the immediate vicinity of the Property and Improvements.

(iv) Mortgagor shall undertake and complete all investigations, studies, sampling and testing for Hazardous Substances required by Mortgagee and, in accordance with all Environmental Laws, all removal and other remedial actions necessary to contain, remove and clean up all Hazardous Substances that are determined to be present at the Property and Improvements in violation of any Environmental Laws.

(v) Mortgagee shall have the right, but not the obligation, to cure any violation by Mortgagor of the Environmental Laws and Mortgagee's cost and expense to so cure shall be secured by the Mortgage.

(d) Mortgagor covenants and agrees, at its sole cost and expense, to indemnify, defend and save harmless Indemnitee from and against any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, actions, proceedings, costs, disbursements and/or expenses (including, without limitation, reasonable attorneys' and experts' fees and expenses) of any kind or nature whatsoever which may at any time be imposed upon, incurred by or asserted or awarded against Indemnitee arising out of the condition, ownership, use, operation, sale, transfer or conveyance of the Property and Improvements and (i) the storage, treatment generation, transportation, processing, handling, production or disposal of any Hazardous Substance, (ii) the presence of any Hazardous Substance or a Release of any Hazardous Substance or the threat of such a Release, (iii) human exposure to any Hazardous Substance (iv) a violation of any Environmental Law, or (v) a material misrepresentation or inaccuracy in any representation or warranty or material breach of or failure to perform any covenant made by Mortgagor herein (collectively, the "Indemnified Matters").

The liability of Mortgagor to Indemnitee hereunder shall in no way be limited, abridged, impaired or otherwise affected by (i) the repayment of all sums and the satisfaction of all obligations of Mortgagor under the Note, the Mortgage or other Loan Documents, (ii) the foreclosure of the Mortgage or the acceptance of a deed in lieu thereof, (iii) any amendment or modification of the Loan Documents by or for the benefit of Mortgagor or any subsequent owner of the Property and Improvements, (iv) any extensions of time for payment or performance required by any of the Loan Documents, (v) the release or discharge of the Mortgage or of Mortgagor, any of the Guarantors or any other person from the performance or observance of any of the agreements, covenants, terms or conditions contained in any of the Loan Documents whether by Mortgagee, by operation of law or otherwise, (vi) the invalidity or unenforceability of any of the terms or provisions of the Loan Documents, (vii) any exculpatory provision contained in any of the Loan Documents

limiting Mortgagee recourse to property encumbered by the Mortgage or to any other security or limiting Mortgagee rights to a deficiency judgment against Mortgagor, (viii) any applicable statute of limitations, (ix) the sale or assignment of the Note or the Mortgage, (x) the sale, transfer or conveyance of all or part of the Property and Improvements, (xi) the dissolution or liquidation of Mortgagor, (xii) the death or legal incapacity of Mortgagor, (xiii) the release or discharge, in whole or in part, of Mortgagor in any bankruptcy, insolvency, reorganization, arrangement, readjustment, composition, liquidation or similar proceeding, or (xiv) any other circumstances which might otherwise constitute a legal or equitable release or discharge, in whole or in part, of Mortgagor under the Note or the Mortgage.

The foregoing indemnity shall be in addition to any and all other obligations and liabilities Mortgagor may have to Mortgagee at common law.

25. Subordinate Mortgages. Mortgagor shall not, without the prior written consent of Mortgagee, which consent may be withheld in Mortgagee's sole discretion, after the date hereof grant or permit to be created any lien, security interest or other encumbrance, other than Permitted Encumbrances, covering any of the Mortgaged Property (each a "Subordinate Mortgage"). If Mortgagee consents to a Subordinate Mortgage or if the foregoing prohibition is determined by a court of competent jurisdiction to be unenforceable, any such Subordinate Mortgage shall contain express covenants to the effect that:

(a) the lien of the Subordinate Mortgage and all instruments incorporated therein by reference is and always shall be unconditionally subordinate to the lien of the Mortgage and to all advances made pursuant to, and sums secured by, the Mortgage, and the Mortgage and all instruments incorporated herein by reference may be renewed, extended, restructured, modified, increased or reinstated at any time without giving notice to or obtaining the consent of the Subordinate Mortgage holder;

(b) if any action shall be instituted to foreclose or otherwise enforce the Subordinate Mortgage, no tenant of any of the Leases shall be named as a party defendant and no action shall be taken which would terminate any occupancy or tenancy without the prior written consent of Mortgagee;

(c) in the event of any conflict between the covenants and agreements of the Mortgage and the Subordinate Mortgage, the covenants and agreements of the Mortgage shall prevail;

(d) Rents, if collected by or for the holder of the Subordinate Mortgage, shall be applied first to the payment of the Indebtedness and expenses incurred in the ownership, operation and maintenance of the Mortgaged Property in such order as Mortgagee may determine, prior to being applied to any indebtedness secured by the Subordinate Mortgage;

(e) a copy of any notice of default under the Subordinate Mortgage and written notice and opportunity to cure of not less than thirty (30) days prior to the commencement of any action to foreclose or otherwise enforce the Subordinate Mortgage shall be given to Mortgagee; and

(f) the holder of the Subordinate Mortgage shall acknowledge the existence of the Indebtedness secured hereby and further acknowledge that the lien of the Mortgage shall at all times be and remain superior and prior to the lien of the Subordinate Mortgage to the extent of the entire Indebtedness secured hereby notwithstanding any change in the variable rate of interest being charged under the Note.

26. Priority of Mortgage Lien. Mortgagee, at Mortgagee's option, is authorized and empowered to do all things provided to be done by a mortgagee under the laws and statutes of the state of Alabama, and any present or future amendments or supplements thereto, for the protection of Mortgagee's interest in the Mortgaged Property.

27. Notice. Any notice required or permitted to be given hereunder shall be in writing. If mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested, then such shall be effective upon its deposit in the mails. Notice given in any other manner shall be effective only if and when received by the addressee. For purposes of notice, the addresses of Mortgagor and Mortgagee shall be as set forth below; provided however, that either party shall have the right to change such party's address for notice hereunder to any other location within the continental United States by the giving of thirty (30) days' notice to the other party.

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Shelby Cnty Judge of Probate, AL
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If to Mortgagor: DUANE G. WASSON, TRUSTEE
175 Josselyn Lane, Woodside, California 94062

If to Mortgagee: FIRST PLACE BANK, 25000 Country Club Blvd., Ste. 200, North Olmsted, Ohio 44070
Attn.: Eric C. Diamond, Senior Vice President & Regional Commercial Team Leader

28. Flood Insurance Covenant. Should the Property at any time after the date of this Instrument be deemed to be located in an area designated by the Director of the Federal Emergency Management Agency (or the equivalent) as a special flood hazard area under the National Flood Insurance Act of 1968, as amended, Mortgagor agrees to obtain and maintain federal flood insurance, if available. Such insurance shall be (1) obtained within forty-five (45) days after notice is given by Mortgagee that the Property is located in a special flood hazard area, (2) for the full unpaid principal balance of the Loan and any prior liens on the Property, up to the maximum policy limits set under the federal Flood Insurance Program, or as otherwise required by Mortgagee, (3) maintained for the term of the Loan and until the Loan is paid in full and terminated, and (4) purchased under the federal Flood Insurance Program or from private insurers as may from time to time be approved by Mortgagee. Mortgagor (1) agrees to deliver to Mortgagee, within forty-five (45) days after notice is given by Mortgagee that the Property is located in a special flood hazard area, proof of the required flood insurance as provided above together with receipts evidencing payment in full of the premiums thereon, (2) acknowledges and agrees that if Mortgagor fails to provide any required flood insurance or fails to continue such flood insurance in force, Mortgagee may do so at Mortgagor's expense. The cost of any such insurance, at the option of Mortgagee, shall be added to the indebtedness. Mortgagor acknowledges that if Mortgagee so purchases any such insurance, the insurance will provide limited protection against physical damage to the Property, up to an amount equal to the lesser of (1) the unpaid balance of the Loan, excluding any unearned interest, or (2) the value of the Property; however, Mortgagor's equity in the Property may not be insured. In addition, the insurance may not provide any public liability or property damage indemnification and may not meet the requirements of any financial responsibility laws. For purposes of insurance coverage on the Property, Mortgagor authorizes Mortgagee to provide to any person (including any insurance agent or company) all information Mortgagee deems appropriate, whether regarding the Property, the Loan or other financial accommodations, or both.

29. Foreclosure. In addition to any other remedies of Mortgagee, this mortgage shall also be subject to foreclosure as now provided by law in case of past due mortgages, and the said Mortgagee and its agents, successors, and assigns, shall be authorized to take possession of the Premises, and, after giving thirty (30) days' notice, by publication once a week for four consecutive weeks of the time, place and terms of sale, by publication in some newspapers published in Shelby County, and State of Alabama, to sell the same, as a whole or in parcels, in front of the courthouse door, of said last named 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 may then be necessary to expend, in paying insurance, taxes, assessments, or other encumbrances with interest thereon;

Third, to the payment of the Note 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 balance, if any, to be turned over to the Mortgagor;

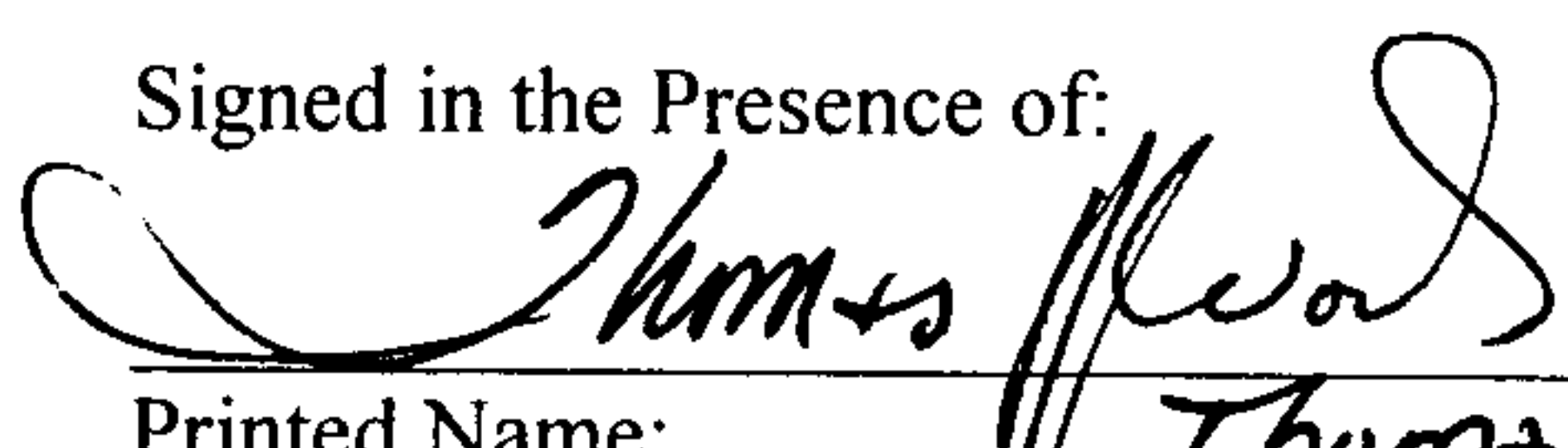
and the parties to this Mortgage further agree that said Mortgagee, its agents, successors and assigns, may bid at said sale, and purchase said property, if the highest bidder therefor, and further agree to pay a reasonable attorney's fee to said Mortgagee or its agents, successors or assigns, as the case may be, for the foreclosure of the mortgage in chancery - should the same be foreclosed, said fee to be a part of the debt hereby secured.

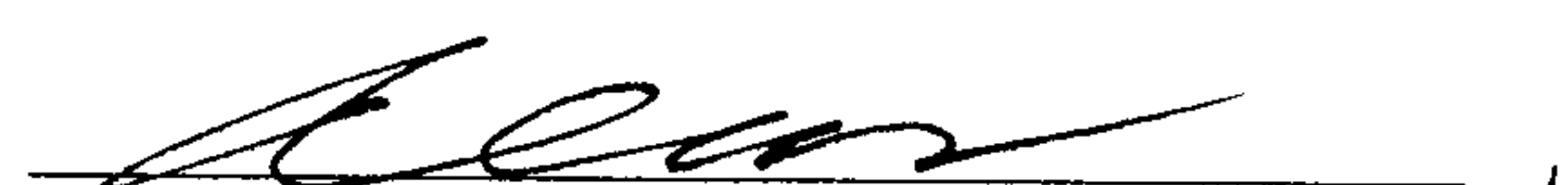
30. Miscellaneous. The covenants herein contained shall bind, and the benefits and advantages shall inure to, the respective successors and assigns of the parties hereto. Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders. If any provision of the Mortgage is illegal, or hereafter rendered illegal, or is for any other reason void, voidable or otherwise unenforceable, or hereafter rendered void, voidable or otherwise unenforceable, the remainder of the Mortgage shall not be affected thereby, but shall be construed as if it does not contain such provision. Each right and remedy provided in the Mortgage is distinct and cumulative to all other rights or remedies under the Mortgage or afforded by law or equity, and may be exercised concurrently, independently or successively, in any order whatsoever. The Mortgage shall be governed by and construed under the laws of the State of Alabama.

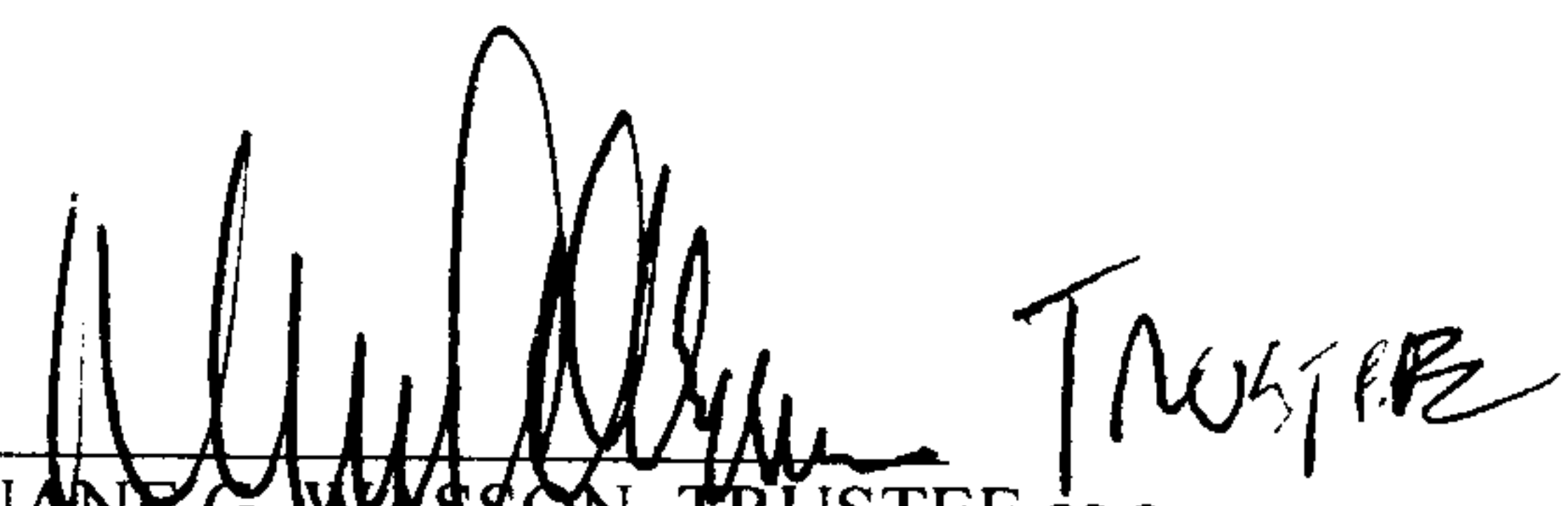
LENDER, BY ACCEPTANCE OF THIS MORTGAGE, AND BORROWER HEREBY MUTUALLY, VOLUNTARILY, IRREVOCABLY AND UNCONDITIONALLY WAIVE FOR THE BENEFIT OF THE OTHER ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE, ARISING OUT OF, IN CONNECTION WITH, RELATED TO, OR INCIDENTAL TO THE LOAN DOCUMENTS, THE TRANSACTIONS RELATED THERETO OR THE RELATIONSHIP ESTABLISHED THEREBY. THIS PROVISION IS A MATERIAL INDUCEMENT TO LENDER AND BORROWER TO ENTER INTO THIS TRANSACTION. IT SHALL NOT IN ANY WAY AFFECT, WAIVE, LIMIT, AMEND OR MODIFY LENDER'S ABILITY TO PURSUE ITS REMEDIES INCLUDING, BUT NOT LIMITED TO, ANY CONFESSION OF JUDGMENT OR COGNOVIT PROVISION CONTAINED IN THE LOAN DOCUMENTS.

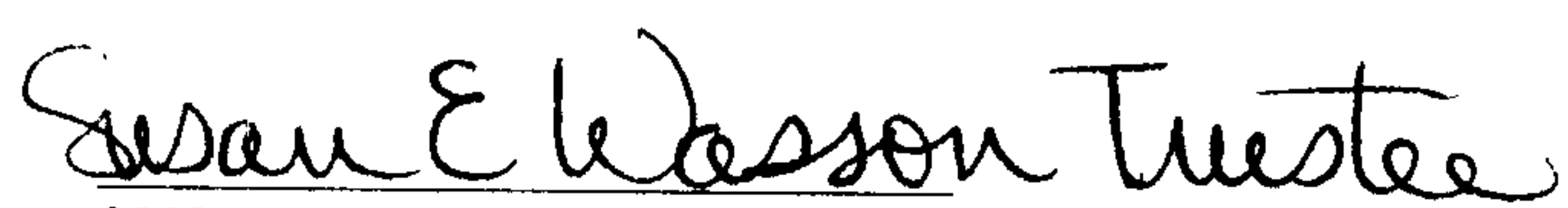
PROVIDED, HOWEVER, that these presents are upon the condition that if Mortgagor shall fully and promptly pay when due the Indebtedness and shall completely, faithfully and punctually perform all of the Obligations under the terms and conditions of the Loan Documents, then the Mortgage shall be void; otherwise it shall remain in full force and effect in law and equity forever.

IN WITNESS WHEREOF, Mortgagor has caused the Mortgage to be executed as of September 5, 2008.

Signed in the Presence of:

Printed Name: Thomas B. Woods


Printed Name: J. JERRY CITAN

Mortgagor:

DUANE G. WASSON, TRUSTEE as a
Trustee of THE WASSON FAMILY 2001
TRUST executed on October 24, 2001

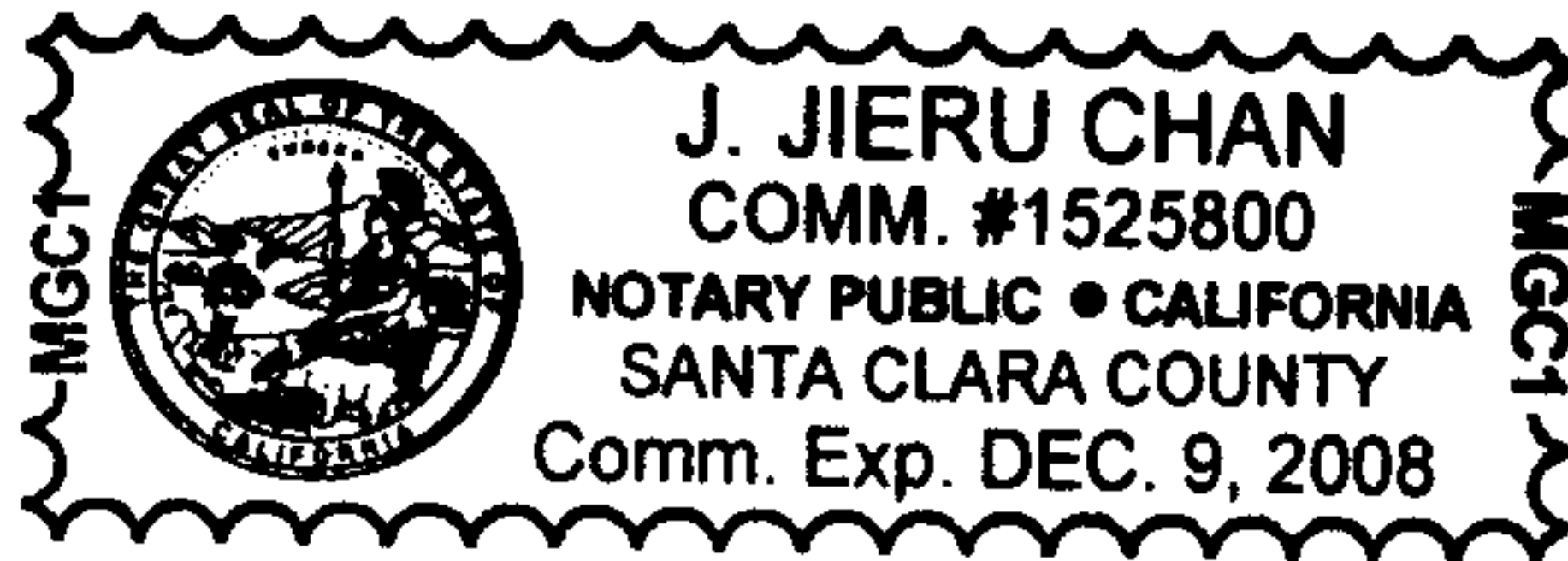

SUSAN E. WASSON, TRUSTEE as a
Trustee of THE WASSON FAMILY 2001
TRUST executed on October 24, 2001

State of CALIFORNIA
County of SAN MATEO) ss.

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I, J. JIERU CHAN, a Notary Public in and for said County in said State, hereby certify that DUANE G. WASSON and SUSAN E. WASSON identified themselves as the Trustees of THE WASSON FAMILY 2001 TRUST executed on October 24, 2001, and are the individuals who signed the foregoing conveyance and who are known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, they as such individuals and as Trustees, and with full authority, executed the same voluntarily for and as the act of themselves and as the Trustees of THE WASSON FAMILY 2001 TRUST executed on October 24, 2001.

Given under my hand this September 5, 2008.



J. Jieru Chan
Notary Public
Commission Expiration: 12.09.08

This instrument prepared by: David A. Fegen, Esquire, 21201 Nottingham Drive, Fairview Park, Ohio 44126.



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Shelby Cnty Judge of Probate, AL
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EXHIBIT A
LEGAL DESCRIPTION OF THE PREMISES

Lot C-1, according to the Survey of Cahaba Valley Park North, as recorded in Map Book 13, page 140, in the Probate Office of Shelby County, Alabama.