

STATE OF ALABAMA

:

COUNTY OF SHELBY

:

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20090513000179770 1/27 \$2339.00
Shelby Cnty Judge of Probate, AL
05/13/2009 10:13:02 AM FILED/CERT

**MORTGAGE, ASSIGNMENT OF RENTS
AND LEASES AND SECURITY AGREEMENT**

THIS MORTGAGE, ASSIGNMENT OR RENTS AND LEASES AND SECURITY AGREEMENT (this "Mortgage") is made effective as of May 8, 2009, between **MENTAL HEALTH BOARD OF CHILTON AND SHELBY COUNTIES, INC.**, an Alabama non-profit corporation ("Borrower") and **COLONIAL BANK**, an Alabama banking corporation ("Bank" or "Mortgagee").

THIS MORTGAGE IS FILED AS AND SHALL CONSTITUTE A FIXTURE FILING IN ACCORDANCE WITH THE PROVISIONS OF SECTION 7-9A-502 OF THE CODE OF ALABAMA.

WITNESSETH:

WHEREAS, Borrower is justly indebted to Bank on a loan (the "Loan") pursuant to a Promissory Note dated as of even date herewith executed by Borrower in favor of Bank in the principal sum of One Million Five Hundred Thousand Dollars (\$1,500,000), payable to Bank with interest thereon as set out therein (the "Note");

WHEREAS, the Note is being issued pursuant to a Construction Loan Agreement dated of even date herewith (the "Loan Agreement");

WHEREAS, Borrower may hereafter become indebted to Bank or to a subsequent holder of this Mortgage on loans or otherwise (Bank and any subsequent holder of this Mortgage being referred to herein as "Lender"); and,

WHEREAS, the parties desire to secure the payment and performance of all obligations and liabilities of Borrower under the Note, the Loan Agreement and the Loan Documents (hereinafter defined) (collectively the "Obligations").

NOW, THEREFORE, Borrower, in consideration of the premises, Bank's making the Loan and entering into the Loan Agreement, and to secure the prompt payment of all amounts due under the Note and/or the Loan Agreement, with the interest thereon, and any extensions, renewals, modifications and refinancing of same, and any charges herein incurred by Bank on account of Borrower, including but not limited to attorneys' fees, and further to secure the Obligations and the performance of the covenants, conditions and agreements hereinafter set forth and set forth in the Note and set forth in all other documents evidencing, securing or executed in connection with the Loan (this Mortgage, the Note, the

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Loan Agreement and such other documents are sometimes referred to herein as the "Loan Documents"), and any other indebtedness now or hereafter owed by Borrower to Bank ("Other Indebtedness"), in compliance with all the stipulations contained in the documents relating thereto ("Other Indebtedness Instruments"), have bargained and sold and do hereby grant, bargain, sell, alien and convey unto Bank, its successors and assigns, the following described land, real estate, estates, buildings, improvements, fixtures, furniture, and personal property (which together with any additional such property in the possession of Bank or hereafter acquired by Borrower and subject to the lien of this Mortgage, or intended to be so, as the same may be constituted from time to time is hereinafter sometimes referred to as the "Mortgaged Property") to-wit:

(a) All that tract or parcel or parcels of land and estates particularly described on Exhibit A attached hereto and made a part hereof (the "Land");

(b) All buildings, structures, and improvements of every nature whatsoever now or hereafter situated on the Land, and all fixtures, fittings, building materials, machinery, equipment, furniture and furnishings and personal property of every nature whatsoever now or hereafter owned by Borrower and used or intended to be used in connection with or with the construction and/or operation of said property, buildings, structures of other improvements, including all extensions, additions, improvements, betterments, renewals, substitutions, replacements and accessions to any of the foregoing, whether such fixtures, fittings, building materials, machinery, equipment, furniture, furnishings and personal property actually are located on or adjacent to the Land or not, and whether in storage or otherwise, and wheresoever the same may be located (the "Improvements");

(c) All accounts, general intangibles, contracts and contract rights relating to the Land and Improvements, whether now owned or existing or hereafter created, acquired or arising, including without limitation, all construction contracts, architectural services contracts, management contracts, leasing agent contracts, purchase and sales contracts, put or other option contracts, and all other contracts and agreements relating to the construction of improvements on, or the operation, management and sale of all or any part of the Land and Improvements;

(d) Together with all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, leases, subleases, licenses, rights, titles, interests, privileges, liberties, tenements, hereditaments, and appurtenances whatsoever, in any way belonging, relating or appertaining to any of the property hereinabove described, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Borrower, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of Borrower of, in and to the same, including but not limited to:

(i) All rents, royalties, profits, issues and revenues of the Land and Improvements from time to time accruing, whether under leases or tenancies now existing or hereafter created; and,

(ii) All judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings of the taking of the Land and Improvements or any part thereof under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the Land and Improvements or any part thereof, or to any rights appurtenant thereto, including any award for change of grade or streets. Lender hereby is authorized on behalf of and in the name of Borrower to execute and deliver valid acquittances for, and appeal from, any such judgments or awards. Lender may

apply all such sums or any part thereof so received, after the payment of all its expenses, including costs and attorneys' fees, on any of the indebtedness secured hereby in such manner as it elects or, at its option, the entire amount or any part thereof so received may be released; and,

(e) All cash and non-cash proceeds and all products of any of the foregoing items or types of property described in (a), (b), (c) or (d) above, including, but not limited to, all insurance, contract and tort proceeds and claims, and including all inventory, accounts, chattel paper, documents, instruments, equipment, fixtures, consumer goods and general intangibles acquired with cash proceeds of any of the foregoing items or types of property described in (a), (b), (c) or (d) above.

The proceeds of the Loan secured by this Mortgage will be used to construct further improvements on the Land and will be disbursed pursuant to the Loan Agreement. This is therefore a construction mortgage.

TO HAVE AND TO HOLD the Mortgaged Property and all parts thereof unto Lender, its successors and assigns forever, subject, however, to the terms and conditions herein;

PROVIDED, HOWEVER, that these presents are upon the condition that, if (i) Borrower shall fully pay or cause to be fully paid to Lender the principal and interest payable with respect of the Loan, the Note and any and all other Indebtedness, and any extensions, renewals, modifications and refinancing of same, at the times and in the manner stipulated therein and herein, all without any deduction or credit for taxes or other similar charges paid by Borrower, and shall pay all charges incurred herein by Lender on account of Borrower, including, but not limited to, attorneys' fees, (ii) Borrower shall keep, perform and observe all and singular the covenants, conditions and agreements in this Mortgage, in the Note, in the other Loan Documents, and in the Other Indebtedness Instruments expressed to be kept, performed, and observed by or on the part of Borrower, all without fraud or delay, and (iii) Lender shall have no further commitment or agreement to make advances, incur obligations or give value under the Loan, the Note, any other Loan Document or any Other Indebtedness Instrument (including without limitation advances, obligations or value relating to future advances, if any), then this Mortgage, and all the properties, interests and rights hereby granted, bargained, sold and conveyed shall cease, terminate and be void, but shall otherwise remain in full force and effect.

AND Borrower further represents, warrants, covenants and agrees with Lender as follows:

ARTICLE I GENERAL

1.1 Performance of Mortgage, Note and Loan Documents. Borrower shall perform, observe and comply with all provisions hereof, of the Note, of the other Loan Documents, and of the Other Indebtedness Instruments, and shall duly and punctually pay to Lender the sum of money expressed in the Note, with interest thereon, and all other sums required to be paid by Borrower pursuant to the provisions of this Mortgage, of the Note, of the other Loan Documents, and of the Other Indebtedness Instruments, all without any deductions or credit for taxes or other similar charges paid by Borrower.

1.2 Warranty of Title. Borrower hereby warrants that it is lawfully seized of an indefeasible estate in fee simple in the land and real property hereby mortgaged, or is lawfully seized of such other estate or interest as is described on Exhibit A hereto except for the exceptions to title listed on Exhibit B hereto, and has good and absolute title to all existing personal property hereby granted as

EXHIBIT C

No financing statement covering any collateral or any proceeds thereof is on file in any public office, except for financing statements filed in connection herewith, and any listed below:

NONE


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EXHIBIT D

(Additional Provisions)

NONE


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