

**THIS INSTRUMENT PREPARED BY:**

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**STATE OF ALABAMA )  
SHELBY COUNTY )**

**SECOND MORTGAGE AND SECURITY AGREEMENT**

**THIS MORTGAGE AND SECURITY AGREEMENT** ("Mortgage"), made and entered into as of the 31 day of May, 2009, is by **Patrick McLaughlin and Angela McLaughlin** (hereinafter called "Mortgagor"), as mortgagor, whose mailing address is 346 Greystone Glen Circle, Hoover, Alabama 35242, in favor of **Gray Gables Development, Inc.** (hereinafter called "Mortgagee"), as mortgagee, whose mailing address is P.O. Box 101471 Birmingham, AL. 35210.

This Mortgage is a second mortgage. The first mortgage of Alliant Bank, 200 Alliant Parkway, Alexander City, Alabama 35010, dated January 30, 2009 and filed with the Probate Court of Shelby County, Alabama on February 4<sup>th</sup>, 2009 as Instrument No. 20090204000036270 (hereinafter "First Mortgage"), is superior to this Mortgage.

This is a **FUTURE ADVANCE MORTGAGE**. The Obligations secured by this Agreement include (a) a revolving line of credit to be made available by the Mortgagee to the Mortgagor under the Promissory Note, pursuant to which advances may be made, prepaid and reborrowed from time to time, and (b) all other indebtedness, obligations and liabilities of the Mortgagor to the Mortgagee, due or to become due, and now existing or hereafter incurred, contracted or arising.

**WITNESSETH:**

That for and in consideration of the sum of Ten Dollars to Mortgagor in hand paid by Mortgagee, and other valuable considerations, the receipt and sufficiency of which are acknowledged, and in order to secure the indebtedness and other obligations of Mortgagor hereinafter set forth, Mortgagor has bargained, sold, given, granted, mortgaged, assigned, transferred, set over and conveyed, and by these presents do bargain, sell, give, grant mortgage, assign, transfer, set over and convey to the Mortgagee and the Mortgagee's successors and assigns, all of the Mortgagors' right, title and interest in and to the following described land, real estate, buildings, improvements, fixtures, furniture, and other personal property (which, together with any additional such property hereafter acquired by Mortgagor and subject

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**THIS MORTGAGE AND SECURITY AGREEMENT SERVES AS A FINANCING STATEMENT FILED AS A FIXTURE FILING, PURSUANT TO SECTION 7-9A-502(c), CODE OF ALABAMA 1975 AS AMENDED.**

**THE STATED PRINCIPAL INDEBTEDNESS SECURED HEREBY IS \$100,000.00.**

to the lien of this Mortgage, or intended to be so, as the same may be from time to time constituted, is hereinafter sometimes referred to as the "Premises"), subject to the First Mortgage:

(a) All estate, right, title, and interest of Mortgagor in and to that property located in Shelby County, Alabama, as more particularly described in Exhibit A attached hereto and by this reference made a part hereof (the "Property"); and

(b) All buildings, structures and improvements of every nature whatsoever now or hereafter situated on or in the Property, and all furnishings, furniture, fixtures, machinery, equipment, appliances and personal property of every kind and nature whatsoever now or hereafter owned by Mortgagor and located in, on or about, or used or intended to be used with or in connection with the construction, use, operation or enjoyment of such buildings, structures and improvements upon or in the Property, including, without limitation, all gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, elevators and motors, plumbing and heating fixtures, carpeting and other floor coverings, water heaters, awnings and storm sashes, cleaning apparatus, and all other building materials and supplies of every kind now or hereafter placed or located on or in the Property, including all extensions, additions, improvements, betterments, renewals and replacements, substitutions, or proceeds from a permitted sale of any of the foregoing (collectively the "Improvements"), all of which are hereby declared and shall be deemed to be fixtures and accessions to the Property and a part of the Premises as between the parties hereto and all persons claiming by, through or under them, and which shall be deemed to be a portion of the security for the Secured Indebtedness to be secured by this Mortgage; and

(c) All easements, rights-of-way, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, minerals, flowers, shrubs, crops, trees, timber and other emblements now or hereafter located on or in the Property or under or above the same or any part or parcel thereof, and all ground leases, estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances, reversions, and remainders whatsoever, in any way belonging, relating or appertaining to the Premises or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by them; and

(d) All rents, issues, profits and revenues of the Premises from time to time accruing, including, without limitation, all sums due under any leases or tenancies, together with all proceeds of insurance, condemnation payments, security deposits and escrow funds, and all of the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of Mortgagor of, in and to the same, reserving only the right to Mortgagor to collect the same so long as an Event of Default has not occurred hereunder or such collection is not otherwise restricted by this Mortgage; and

(e) To the fullest extent assignable (if assignable by law), any and all goodwill, business or operating licenses, certificates, permits and contracts now held or hereafter acquired relating to the operation of any businesses conducted at the location of the Property from time to time (it being agreed that Mortgagor shall have no right to utilize any of them, whether or not transferable, at any location other than the Property).

**TO HAVE AND TO HOLD** the Premises and all parts, rights, members and appurtenances thereof, to the use and benefit of Mortgagee, its successors and assigns, in fee simple forever, subject, however to the terms and conditions herein;

**PROVIDED, HOWEVER,** that these presents are upon the condition that, if the Mortgagor shall pay or cause to be paid to the Mortgagee the Secured Indebtedness (as hereinafter defined), including future advances, at the times and in the manner stipulated herein and in the Promissory Note (as hereinafter defined), all without any deduction or credit for taxes or other similar charges paid by the

Mortgagor, and shall keep, perform, and observe all and singular the covenants and promises herein and in the Promissory Note expressed to be kept, performed, and observed by and on the part of the Mortgagor, all without fraud or delay, then this Mortgage, and all the properties, interests, and rights hereby granted, bargained, and sold shall cease, determine, and be void, but shall otherwise remain in full force and effect.

**PROVIDED, HOWEVER,** that this conveyance is made as security for the following obligations of Mortgagor (collectively, the "Secured Indebtedness"):

- (a) To secure unto Mortgagee the payment of an indebtedness for borrowed money in the maximum principal amount of **ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00)**, including future advances, together with interest thereon, due or to become due pursuant to that certain Promissory Note between Mortgagor and Mortgagee as evidenced by that certain Promissory Note of even date herewith from Mortgagor to Mortgagee (together with any extensions, modifications and/or renewals thereof and any notes given in payment of any such principal and/or interest, all of such being individually and collectively referred to as the "Note");
- (b) To secure all sums advanced by Mortgagee to Mortgagor or expended by Mortgagee for Mortgagor's account, including but not limited to advances for taxes and insurance, or for Mortgagor's benefit pursuant to the terms of this Mortgage;
- (c) To secure any and all other obligations or sums due from Mortgagor pursuant to, and the faithful performance by Mortgagor of all terms and conditions contained in, this Mortgage, the Note, together with any and all extensions, modifications and/or renewals of any of the foregoing;
- (d) To secure the payment of all court costs, expenses and costs of whatever kind incident to the collection of any indebtedness secured hereby and the enforcement or protection of the lien of this conveyance, including reasonable attorney's fees, whether at trial, on appeal or in any bankruptcy proceedings.

**AND MORTGAGOR HEREBY FURTHER COVENANT AND AGREE WITH MORTGAGEE AS FOLLOWS:**

## **ARTICLE I**

**1.01. Payment of Indebtedness.** Mortgagor shall pay the indebtedness evidenced by the Note according to the tenor thereof and the remainder of the Secured Indebtedness promptly as the same shall become due.

**1.02. Warranty of Title.** The Mortgagor is lawfully seized of an indefeasible estate in fee simple in and to the Property, subject to the First Mortgage (as defined above) and has good and absolute title to all existing Improvements and personal property hereby mortgaged, and has good right, full power and lawful authority to sell, convey and mortgage the same in the manner and form aforesaid; that the same is free and clear of all liens, charges, and encumbrances whatsoever, with the exception of the First Mortgage, including, as to the personal property and fixtures, conditional sales contracts, chattel mortgages, security agreements, financing statements, and anything of a similar nature, and that Mortgagor shall and will warrant and forever defend the title thereto unto the Mortgagee, and their successors and assigns, against the lawful claims of all persons whomsoever.

**1.03. [Intentionally omitted]**



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#### 1.04. Other Taxes, Utilities and Liens.

(a) The Mortgagor will pay promptly, when and as due, and, upon written request of Mortgagee, will exhibit promptly to the Mortgagee receipts for the payment of, all taxes, assessments, dues, charges, fines and impositions of every nature whatsoever imposed, levied or assessed or to be imposed, levied or assessed upon or against the Premises or any part thereof, or upon the interest of the Mortgagee in the Premises, as well as all income taxes, assessments and other governmental charges lawfully levied and imposed by the United States of America or any state, county, municipality, borough or other taxing authority upon the Mortgagor or in respect of the Premises or any part thereof, or any charge which, if unpaid, would become a lien or charge upon the Premises.

(b) The Mortgagor will promptly pay or cause to be paid all charges by utility companies, whether public or private, for electricity, gas, water, sewer, or other utilities provided to the Premises.

(c) The Mortgagor shall pay promptly all charges for labor and materials related to the Premises, and will not suffer any mechanic's, laborer's, statutory, or other lien to be filed against any of the Premises, unless such lien is promptly bonded and removed as a lien against the Premises. Mortgagor shall not consent to any work or the furnishing of any materials, which might be deemed to create a lien or liens superior to the lien hereof. Unfiled, inchoate liens for labor and materials shall be permitted so long as such lien is subordinate hereto, and payment is not overdue or, if overdue, a bond or other security for payment satisfactory to Mortgagee has been provided to Mortgagee.

(d) In the event of the passage of any state, federal, municipal or other governmental law, order, rule or regulation, subsequent to the date hereof, in any manner changing or modifying the laws now in force governing the taxation of deeds of trust or security agreements or debts secured thereby or the manner of collecting such taxes so as to adversely affect Mortgagee, Mortgagor will pay any such tax on or before the due date thereof. If Mortgagor fails to make such prompt payment or if, in the opinion of Mortgagee, any such state, federal, municipal, or other governmental law, order, rule or regulation prohibits Mortgagor from making such payment or would penalize Mortgagee if Mortgagor makes such payment or if, in the opinion of Mortgagee, the making of such payment might result in the imposition of interest beyond the maximum amount permitted by applicable law, then the entire balance of the Secured Indebtedness shall, at the option of Mortgagee, become immediately due and payable.

(e) The Mortgagor hereby indemnifies and holds Mortgagee harmless from any sales or use tax that may be imposed on the Mortgagee by the State of Alabama by virtue of the Secured Indebtedness.

**1.05. Insurance.** The Mortgagor will maintain during the life of this Mortgage insurance policies, insuring the Premises against losses typically insured under policies of fire and extended coverage insurance, and against such other insurable hazards, casualties and contingencies, including insurance against flood, earthquake and subsidence. Without limiting the foregoing, the Mortgagor will maintain fire and extended coverage insurance in an amount not less than the full replacement cost of the Premises. In the event of the foreclosure of this Mortgage or any other transfer of title to the Premises in extinguishment of the indebtedness secured hereby, all right, title and interest of the Mortgagor in and to all insurance policies then in force shall pass to the purchaser or grantee.

The Mortgagee is hereby authorized and empowered, at its option, to adjust or compromise any loss under any insurance policies on the Premises, and to collect and receive the proceeds from any such policy or policies. Each insurance company is hereby authorized and directed to make payment for all such losses, directly to the Mortgagee, instead of to the Mortgagor and Mortgagee jointly. After deducting from said insurance proceeds any expenses incurred by it in the collection or handling of said



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fund, the Mortgagee may, without affecting this Mortgage, apply the net proceeds, at its option, either toward restoring the Premises, or as a credit on any portion of the Secured Indebtedness selected by it, whether then matured or to mature in the future, or at the option of the Mortgagee, such sums either wholly or in part may be paid over to the Mortgagor to be used to restore the Premises or for any other purpose or object satisfactory to the Mortgagee. Mortgagee shall not be held responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure.

**1.06. Condemnation.** If all or any material part of the Premises shall be damaged or taken through condemnation (which term when used in this Mortgage shall include any damage or taking by any governmental authority, and any transfer by private sale in lieu thereof), either temporarily or permanently, other than a taking of a part of the Premises which does not adversely affect access to and use of the Premises, then the entire Secured Indebtedness shall at the option of the Mortgagee become immediately due and payable. The Mortgagee shall be entitled to all compensation, awards, and other payments or relief therefor and is hereby authorized, at its option, to commence, appear in and prosecute, in its own or the Mortgagor's name, any action or proceedings relating to any condemnation, and to settle or compromise any claim in connection therewith. All such compensation, awards, damages, claims, rights of action and proceeds and the right thereto are hereby assigned by the Mortgagor to the Mortgagee, who, after deducting therefrom all its expenses, including attorney's fees, may, without affecting this Mortgage, release any moneys so received by it or apply the same in such manner as the Mortgagee shall determine to the reduction of the Secured Indebtedness, whether then matured or to mature in the future, and any balance of such moneys then remaining shall be paid to the Mortgagor. The Mortgagor agrees to execute such further assignments of any compensations, awards, damages, claims, rights of action and proceeds as the Mortgagee may require.

**1.07. Care of the Property.**

(a) The Mortgagor will preserve and maintain the Premises in good condition and repair, and will not commit or suffer any waste and will not do or suffer to be done anything which will increase the risk of fire or other hazard to the Premises or any part thereof.

(b) Except as otherwise provided herein, no buildings, fixtures, personal property, or other part of the Premises shall be removed, demolished or substantially altered without the prior written consent of the Mortgagee. The Mortgagor may sell or otherwise dispose of, free from the lien and security interest of this Mortgage, furniture, furnishings, equipment, tools, appliances, machinery, fixtures or appurtenances, subject to the lien and security interest hereof, which may become worn out, undesirable, obsolete, disused or unnecessary for use in the operation of the Premises, upon replacing the same by, or substituting for the same, other furniture, furnishings, equipment, tools, appliances, machinery, fixtures, or appurtenances not necessarily of the same character, but of at least equal value to the Mortgagor and costing not less than the amount realized from the property sold or otherwise disposed of, which shall forthwith become, without further action, subject to the lien and security interest of this Mortgage.

(c) If the Premises or any part thereof is damaged by fire or any other cause, the Mortgagor will give immediate written notice of the same to the Mortgagee.

(d) The Mortgagee is hereby authorized to enter upon and inspect the Premises at all reasonable times during normal business hours and upon reasonably prior notice to Mortgagee, provided that any tenants of the Premises shall not be unduly disturbed in the course of such inspection.



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(e) The Mortgagor will comply promptly with all present and future laws, ordinances, rules and regulations of any governmental authority affecting the Premises or any part thereof.

(f) If all or any part of the Premises shall be damaged by fire or other casualty, the Mortgagor will restore promptly the Premises to the equivalent of its original condition, regardless of whether or not insurance proceeds shall be sufficient for such purpose. If a part of the Premises shall be physically damaged through condemnation, the Mortgagor will restore promptly, repair or alter the remaining property. Notwithstanding the foregoing, Mortgagor shall not be obligated to restore unless in each instance Mortgagee agrees to make available to Mortgagor (pursuant to a procedure satisfactory to Mortgagee) any net insurance or condemnation proceeds actually received by Mortgagee in connection with such casualty loss or condemnation (after deduction of expenses incurred by Mortgagee), to the extent such proceeds are required to defray the expense of such restoration; provided, however, that the insufficiency of any such insurance or condemnation proceeds to defray the entire expense of restoration shall in no way relieve Mortgagor of its obligation to restore the Premises. In the event all or any portion of the Premises shall be damaged or destroyed by fire or other casualty or by condemnation, Mortgagor shall promptly deposit with Mortgagee a sum equal to the amount by which the estimated cost of the restoration of the Premises (as reasonably determined by Mortgagee) exceeds the actual net insurance or condemnation proceeds paid to and held by Mortgagee with respect to such damage or destruction.

**1.08. Further Assurances; After Acquired Property.** At any time, and from time to time, upon request by the Mortgagee, the Mortgagor will make, execute and deliver or cause to be made, executed and delivered, to the Mortgagee and, where appropriate, to cause to be recorded and/or filed and from time to time thereafter to be re-recorded and/or refiled at such time and in such offices and places as shall be deemed reasonably necessary by the Mortgagee any and all such other and further deeds of trust, security agreements, instruments of further assurance, certificates and other documents as may, in the opinion of the Mortgagee, be necessary or desirable in order to effectuate, complete, or perfect, or to continue and preserve the obligations of the Mortgagor under the Note and this Mortgage, and this Mortgage as a lien upon and security interest in all of the Premises, whether now owned or hereafter acquired by the Mortgagor. Upon any failure by the Mortgagor so to do, the Mortgagee may make, execute, and record any and all such deeds of trust, security agreements, instruments, certificates, and documents for and in the name of the Mortgagor and the Mortgagor hereby irrevocably appoints the Mortgagee the agent and attorney-in-fact of the Mortgagor so to do. The lien hereof will automatically attach, without further act, to all after acquired property attached to and/or used in the operation of the Premises or any part thereof.

**1.09. Use and Management of Premises.** Mortgagor shall cause the Premises to be operated for its intended use on a continuous basis and in a first-class manner. Mortgagor has not leased all or any portion of the Premises and shall not lease all or any portion of the Premises without Mortgagee's written approval.

**1.10. Performance by Mortgagee of Defaults by Mortgagor.** If the Mortgagor shall default in the payment of any tax, lien, assessment, or charge levied or assessed against the Premises; in the payment of any utility charge, whether public or private; in the payment of insurance premium; in the procurement of insurance coverage; or in the performance or observance of any covenant, condition, or term of this Mortgage, then the Mortgagee, at its option, may perform or observe the same, and all payments made for costs or incurred by the Mortgagee in connection therewith, shall be secured hereby and shall be, without demand, immediately repaid by the Mortgagor to the Mortgagee. Mortgagee will give Mortgagor notice and a reasonable opportunity to perform or observe any such covenant, condition or term except where in Mortgagee's judgment Mortgagee in good faith reasonably believes prompt action is necessary to protect or preserve any collateral or Mortgagee's interest therein or the priority of any lien or security interest of Mortgagee in any such collateral. Mortgagee's reasonable good faith



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judgment of the legality, validity and priority of any such tax, lien, assessment, charge, claim and premium, of the necessity for any such actions and of the amount necessary to be paid in satisfaction thereof shall be a sufficient basis for incurring expenses and Mortgagee's entitlement to reimbursement from Mortgagor, but shall not prevent or prejudice Mortgagor in any contest with any third party other than Mortgagee. The Mortgagee is hereby empowered to enter and to authorize others to enter upon the Premises or any part thereof for the purpose of performing or observing any such defaulted covenant, condition or term, without thereby becoming liable to the Mortgagor or any person in possession holding under the Mortgagor.

**1.11. Security Agreement.** With respect to the apparatus, fittings, fixtures, equipment, accounts, general intangibles and other personal property now or hereafter owned by Mortgagor or in which Mortgagor now or hereafter has an interest and to which a security interest may attach, and which is referred to or described in this Mortgage, this Mortgage is hereby made and declared to be a security agreement encumbering such property included herein as a part of the Premises, in compliance with the provisions of the Uniform Commercial Code as enacted in the state wherein the Property is situated, and Mortgagor hereby grants to Mortgagee a security interest in such apparatus, fittings, fixtures, general intangibles and other personal property more particularly described in the definition of "Premises." The remedies for any violation of the covenants, terms and conditions of the security agreement contained in this Mortgage, or otherwise in respect of an Event of Default hereunder, shall be (i) as prescribed herein, or (ii) as prescribed by general law, or (iii) as prescribed by the specific statutory consequences now or hereafter enacted and specified in said Uniform Commercial Code, all at Mortgagee's sole election.

**1.12. Limit of Validity.** If from any circumstances whatsoever, fulfillment of any provision of this Mortgage or of the Note, at the time performance of such provision shall be due, shall involve transcending the limit of validity presently prescribed by any applicable usury statute or any other applicable law, with regard to obligations of like character and amount, then, *ipso facto*, the obligation to be fulfilled shall be reduced to the limit of such validity, so that in no event shall any exaction be possible under this Mortgage or under the Note that is in excess of the current limit of such validity, but such obligation shall be fulfilled to the limit of such validity. The provisions of this Section shall control every other provision of this Mortgage and of the Note.

**1.13. Periodic Inspections.** Mortgagee shall be entitled, upon reasonable prior notice to Mortgagor, to make periodic inspections of the Premises and to have access thereto in order to determine compliance with the terms and conditions of the Loan Documents.

**1.14. Appraisals.** At the Mortgagee's request, Mortgagor will permit the Mortgagee, or its agents, employees or independent contractors, to enter upon and re-appraise the Premises at any time and from time to time at Mortgagee's expense, and Mortgagor will cooperate with and provide any information requested in connection with such appraisals.

**1.15. Future Advances.** Mortgagee, at its option, may make future advances to Mortgagor; provided, that nothing contained herein shall constitute an obligation to do so except as may otherwise be required of Mortgagee under the Loan Documents. Such future advances, together with interest thereon, shall be secured by this Mortgage when evidenced by the Note or by any other instrument indicating that such advances are secured by this Mortgage or when advanced under the terms of this Mortgage. Mortgagee may make such future advances (a) at the request of Mortgagor, whether or not there is any obligation to make future advances, or (b) to pay, with or without the consent or request of Mortgagor, any amounts which may be due under this Mortgage or under any other mortgage or lien affecting the Premises.

## ARTICLE II

**2.01. Events of Default.** The term "Event of Default," wherever used in this Mortgage, shall mean the occurrence of any one or more of the following events:

- (a) The occurrence of any "Event of Default" under, and as defined in, the Note or any other Loan Document; or
- (b) Any sale or other transfer of the Premises without the prior written consent of Mortgagee.

With respect to any of the foregoing wherein a notice is required, such Event of Default will be deemed to have occurred upon the occurrence of such event without notice being required if Mortgagee is prevented from giving notice by bankruptcy or other applicable law. Nothing herein shall require notice in any item of this Section where notice is not expressly required.

**2.02. Acceleration of Maturity.** If an Event of Default shall have occurred, then the entire Secured Indebtedness shall, at the option of Mortgagee, immediately become due and payable without notice or demand to Mortgagor, time being of the essence of this Mortgage, and no omission on the part of Mortgagee to exercise such option when entitled to do so shall be construed as a waiver of such right.

### **2.03. Right to Enter and Take Possession.**

(a) If an Event of Default shall have occurred and be continuing, Mortgagor, upon demand of Mortgagee, shall forthwith surrender to Mortgagee the actual possession of the Premises and, if and to the extent permitted by law, Mortgagee itself, or by such officers or agents as it may appoint, may enter and take possession of all or any part of the Premises without the appointment of a receiver or an application therefor, and may exclude Mortgagor and its agents and employees wholly therefrom, and take possession of the books, papers and accounts of Mortgagor;

(b) If Mortgagor shall for any reason fail to surrender or deliver the Premises or any part thereof after such demand by Mortgagee, Mortgagee may obtain a judgment or decree conferring upon Mortgagee the right to immediate possession or requiring Mortgagor to deliver immediate possession of the Premises to Mortgagee.

(c) Upon every such entering upon or taking of possession, Mortgagee may hold, store, use, operate, manage and control the Premises, and, from time to time (i) make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon and purchase or otherwise acquire additional fixtures, personality and other property; (ii) insure or keep the Premises insured; (iii) manage and operate the Premises and exercise all of the rights and powers of Mortgagor to the same extent as Mortgagor could in its own name or otherwise act with respect to the same; and (iv) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted to Mortgagee, all as Mortgagee from time to time may determine to be in its best interest.

(d) Whenever all such interest, deposits and principal installments and other sums due under any of the terms, covenants, conditions and agreements of this Mortgage shall have been paid and all Events of Default shall have been cured, Mortgagee shall surrender possession of the Premises to Mortgagor, its successors or assigns. The same right of taking possession, however, shall exist if any subsequent Event of Default shall occur and be continuing.



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**2.04. Performance by Mortgagee.** Upon the occurrence of an Event of Default in the payment, performance or observance of any term, covenant or condition of this Mortgage, Mortgagee may, at its option, pay, perform or observe the same, and all payments made or costs or expenses incurred by Mortgagee in connection therewith, shall be secured hereby and shall be, without demand, immediately repaid by Mortgagor to Mortgagee. Mortgagee shall be the sole judge of the necessity for any such actions and of the amounts to be paid. Mortgagee is hereby empowered to enter and to authorize others to enter upon the Premises or any part thereof for the purpose of performing or observing any such defaulted term, covenant or condition without thereby becoming liable to Mortgagor or any person in possession holding under Mortgagor. Notwithstanding anything to the contrary herein, Mortgagee shall have no obligation, explicit or implied to pay, perform, or observe any term, covenant, or condition.

**2.05. Mortgagee's Power of Enforcement.** If an Event of Default shall have occurred and be continuing, the Mortgagee may, either with or without entry or taking possession as hereinabove provided or otherwise, proceed by suit or suits at law or in equity or any other appropriate proceeding or remedy (i) to enforce payment of the Note or the performance of any term thereof or any other right, power or remedy hereunder, (ii) to foreclose this Mortgage and to sell the Premises, as an entirety or in separate lots or parcels, as provided by applicable law, and (iii) to pursue any other remedy available to it, all as the Mortgagee shall deem most effectual for such purposes. The Mortgagee shall take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, as the Mortgagee may determine.

**2.06. Waiver of Appraisement, Valuation, Etc.** Mortgagor agrees, to the full extent permitted by law, that in case of a default on the part of Mortgagor hereunder, neither Mortgagor nor anyone claiming through or under Mortgagor will set up, claim or seek to take advantage of any appraisement, valuation, stay, extension, exemption or laws now or hereafter in force, in order to prevent or hinder the enforcement of this Mortgage, or the absolute sale of the Premises, or the delivery of possession thereof immediately after such sale to the purchaser at such sale.

**2.07. Waiver of Homestead.** Mortgagor hereby waives and renounces all homestead and exemption rights provided for by the Constitution and the laws of the United States and of any state, in and to the Premises as against the collection of the Secured Indebtedness, or any part thereof.

**2.08. Discontinuance of Proceedings.** In case Mortgagee shall have proceeded to enforce any right, power or remedy under this Mortgage by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to Mortgagee, then in every such case, Mortgagor and Mortgagee shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Mortgagee shall continue as if no such proceedings had occurred.

**2.09. Remedies Not Exclusive.** Mortgagee shall be entitled to enforce payment and performance of the Secured Indebtedness and to exercise all rights and powers under this Mortgage or under any other of the Loan Documents or other agreement or under any laws now or hereafter in force, notwithstanding that some or all of the Secured Indebtedness may now or hereafter be otherwise secured, whether by mortgages, deeds of trust, deeds to secure debt, pledges, liens, assignments or otherwise. Neither the acceptance of this Mortgage nor its enforcement, shall prejudice or in any manner affect Mortgagee's right to realize upon or enforce any other security now or hereafter held by Mortgagee, it being agreed that Mortgagee shall be entitled to enforce this Mortgage and any other security now or hereafter held by Mortgagee in such order and manner as they or either of them may in their absolute discretion determine. No right or remedy herein conferred upon or reserved to Mortgagee is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other right and remedy given hereunder or now or hereafter existing at



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law or in equity or by statute. Every power or remedy given by any of the Loan Documents to Mortgagee or to which it otherwise may be entitled, may be exercised concurrently or independently, from time to time and as often as may be deemed expedient by Mortgagee, and either of them may pursue inconsistent remedies.

**2.10. Proofs of Claim.** In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Mortgagor, its creditors or its property, Mortgagee, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Mortgagee allowed in such proceedings for the entire amount due and payable by Mortgagor under this Mortgage at the date of the institution of such proceedings and for any additional amount which may become due and payable by Mortgagor hereunder after such date.

### ARTICLE III

**3.01. Successors and Assigns.** This Mortgage shall inure to the benefit of and be binding upon Mortgagor and Mortgagee and their respective heirs, executors, legal representatives, successors, successors-in-title, and assigns. Whenever a reference is made in this Mortgage to "Mortgagor" or "Mortgagee," such reference shall be deemed to include a reference to the heirs, executors, legal representatives, successors, successors-in-title and assigns of Mortgagor or Mortgagee, as the case may be, but shall not imply any permission to make or permit any transfer which is otherwise prohibited.

**3.02. Terminology.** All personal pronouns used in this Mortgage, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles and Articles are for convenience only and neither limit nor amplify the provisions of this Mortgage, and all references herein to Articles, Sections or subsections shall refer to the corresponding Articles, Sections or subsections of this Mortgage unless specific reference is made to Articles, Sections or subsections of another document or instrument.

**3.03. Severability; Complete Agreement.** If any provisions of this Mortgage or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Mortgage and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law. This Mortgage, the Note and the instruments executed in connection herewith constitute the full and complete agreement of the parties and supersede all prior negotiations, correspondence, and memoranda relating to the subject matter hereof, and this Mortgage may not be amended except by a writing signed by the parties hereto.

**3.04. Applicable Law.** The agreements of Mortgagor and Mortgagee herein and in the other Loan Documents shall be governed by and construed in accordance with the laws of the State of Alabama.

**3.05. Notices.** Any and all notices, elections or demands permitted or required to be made to Mortgagee or Mortgagor under this Mortgage, the Note, or any documents evidencing, securing or relating to the Secured Indebtedness, or by applicable law, shall be given and be deemed effective upon being delivered in person or deposited with the U.S. Mail, certified with return receipt requested, or with Federal Express, proper postage or fees paid, and addressed in each case to the parties at their respective addresses set forth in the heading of this instrument, or such other single address as either party may designate in a written notice given as herein provided (except that a change of address notice shall not be effective until actual receipt thereof).

**3.06. Replacement of Note.** Upon receipt of evidence reasonably satisfactory to Mortgagor of the loss, theft, destruction or mutilation of the Note, and in the case of any such loss, theft or destruction, upon delivery of an indemnity agreement reasonably satisfactory to Mortgagor or, in the case of any such mutilation, upon surrender and cancellation of the Note, Mortgagor at Mortgagee's expense will execute and deliver, in lieu thereof, a replacement note, identical in form and substance to the Note and dated as of the date of the Note, and upon such execution and delivery all references in this Mortgage to the Note shall be deemed to refer to such replacement note.

**3.07. Assignment.** If the Note and the Secured Indebtedness shall be assigned by Mortgagee, then this Mortgage shall likewise be deemed assigned by Mortgagee and any assignment hereof by Mortgagee shall operate to vest in the assignee all rights and powers herein conferred upon and granted to Mortgagee.

**3.08. Time of the Essence.** Time is of the essence with respect to each and every covenant, agreement and obligation of Mortgagor under this Mortgage, the Note and any and all other instruments now or hereafter evidencing, securing or otherwise relating to the Secured Indebtedness.

**3.09. Release.** Mortgagor hereby acknowledges and agrees that nothing herein shall obligate Mortgagee to release the lien of this Mortgage until the later to occur of (i) 100 days after the filing of this Mortgage or (ii) payment in full of the Obligations.

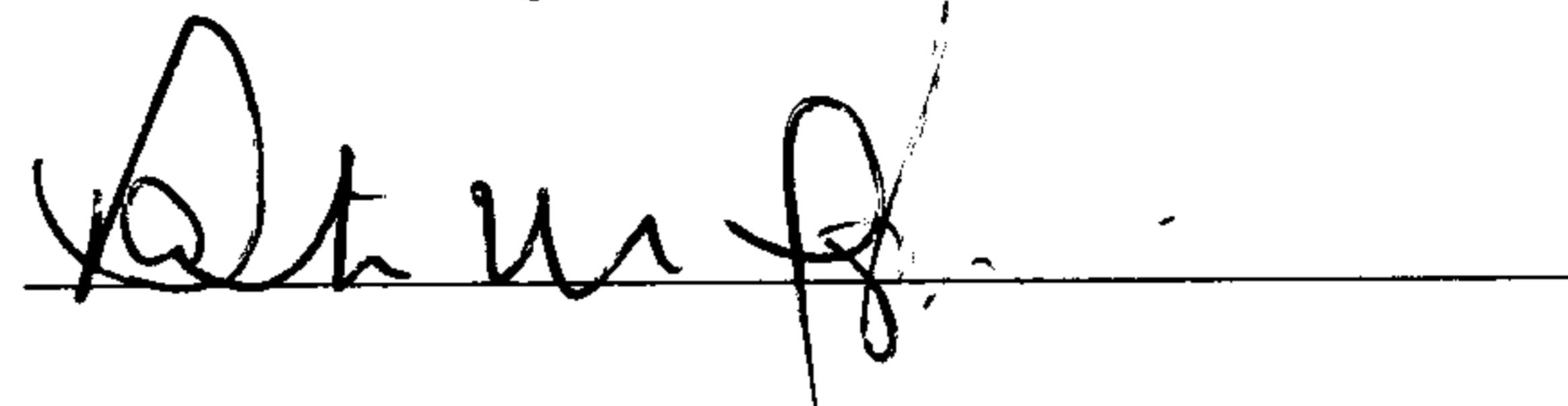
**3.10. Due on Sale.** Except as otherwise expressly permitted herein and in the other Loan Documents, no sale, transfer, conveyance or encumbrance of the Premises or any interest therein shall be made or suffered so long as the Premises shall remain subject to the lien of this Mortgage without the prior written consent of the Mortgagee, it being agreed by Mortgagor that, except as provided above, payment of the indebtedness secured hereby may not be assumed by any future owners of the Premises and that the Mortgagee may, at its option, declare all indebtedness secured hereby due and payable in full upon any sale, transfer, conveyance or encumbrance of the Premises, or any interest therein.

**[No further text this page; signature page follows.]**

**IN WITNESS WHEREOF**, Mortgagor has caused this Mortgage to be properly executed and delivered as of the day and year first above written.

**MORTGAGOR:**

Patrick McLaughlin



STATE OF Alabama )  
COUNTY OF Shelby )

I, Deborah Noble Quinn, the undersigned, a notary public in and for said county and said state, hereby certify that Patrick McLaughlin, whose name is signed to the foregoing Mortgage and Security Agreement, and who is known to me, acknowledged before me on this date that, being informed of the contents of said Mortgage and Security Agreement, he executed the same voluntarily as an act of the limited liability company, on the day the same bears date.

Given under my hand and official seal, this the 2 day of <sup>June</sup> May, 2009.

  
Notary Public  
My Commission Expires 5/21/11

**MORTGAGOR:**

Angela McLaughlin



STATE OF Alabama )  
COUNTY OF Shelby )

I, Deborah Noble Quinn, the undersigned, a notary public in and for said county and said state, hereby certify that Angela McLaughlin, whose name is signed to the foregoing Mortgage and Security Agreement, and who is known to me, acknowledged before me on this date that, being informed of the contents of said Mortgage and Security Agreement, she executed the same voluntarily as an act of the limited liability company, on the day the same bears date.

Given under my hand and official seal, this the 2nd day of <sup>June</sup> May, 2009.

  
Notary Public  
My Commission Expires 5/21/11



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Shelby Cnty Judge of Probate, AL  
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EXHIBIT "A"

Lot 39, according to the Survey of the Glen Estates, as recorded in Map Book 19, page A & B, in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama.