


Pursuant to § 40-22-2 of the Code of Alabama, the recording tax of \$50,000 on the maximum principal indebtedness of the Mortgage was paid to the Office of the Judge of Probate of St. Clair County, Alabama, upon the original recordation of the Mortgage.


20091210000454490 1/11 \$42.00
Shelby Cnty Judge of Probate, AL
12/10/2009 02:22:40 PM FILED/CERT


The value of the Mortgaged Property located in St. Clair County is _____

The value of the Mortgaged Property located in Jefferson County is _____

The value of the Mortgaged Property located in Madison County is _____

STATE OF ALABAMA

COUNTIES OF ST. CLAIR AND JEFFERSON AND MADISON


20080410000231610 1/11 \$49.75
Madison Cnty Judge of Probate, AL
04/10/2008 09:47:28AM FILED/CERT

**FOURTH AMENDMENT TO MORTGAGE
AND AMENDMENT TO LOAN DOCUMENTS**

This Fourth Amendment to Mortgage and Amendment to Loan Documents (this "**Amendment**") is made this 25th day of March, 2008, by and among **COMPASS BANK**, an Alabama banking corporation (the "**Lender**"), and **HPH PROPERTIES, LLC**, an Alabama limited liability company ("**HPH**") and **MMM PROPERTIES, LLC**, an Alabama limited liability company ("**MMM**").

WHEREAS, HPH is the "Mortgagor" and "Borrower" under a certain Future Advance Mortgage, Assignment of Rents and Leases and Security Agreement dated as of June 21, 2007, and recorded in **Mortgage Book 2007, Page 38473** in the Probate Office of **St. Clair County, Alabama** and recorded in the Probate Office of **Jefferson County, Alabama** as **Instrument Number 20080207000179770** and recorded in the Probate Office of **Madison County, Alabama** as **Instrument Number 20080220000106100** (the "**Mortgage**"). HPH and Lender are party to that certain Promissory Note dated as of June 21, 2007 in the maximum principal amount of \$20,000,000.00 (the "**Note**") and that certain Master Revolving Line Agreement for Construction Financing dated as of June 21, 2007 (the "**Loan Agreement**"). In addition to the security provided by the Mortgage, the Note and the obligations of the Loan Documents (as defined in the Mortgage) are secured by the Limited Continuing Guaranties (collectively, the "**Guaranties**") from R. Clark Parker, Alan C. Howard and B. Curtis Harper, Junior (collectively, the "**Guarantors**") and the Completion Guaranties (the "**Completion Guaranties**") of Alan C. Howard, Clark Parker, B. Curtis Harper, Jr. and David Bonamy (the "**Completion Guarantors**").

WHEREAS, Lender and HPH have agreed to amend the Mortgage, the Note and the Loan Agreement as set forth herein.

WHEREAS, MMM desires to join the Mortgage as a "Borrower" and a "Mortgagor" with HPH. HPH and MMM are hereinafter called the "**Borrower**", whether one or more.

WHEREAS, Lender and Borrower have agreed to further modify the Loan, and to further amend the Loan Documents as set forth herein. Capitalized terms not defined herein shall have the meaning ascribed to them in the Loan Agreement.

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower and Lender agree as follows:

COMPASS BANK
P.O. BOX 10566
KATIE DECELLES
BIRMINGHAM, AL 35282

A. Amendment of Mortgage. The Mortgage is hereby amended as follows.

1. All references to "County of St. Clair" in the Mortgage shall be deleted in their entirety and replaced with "Counties of St. Clair, Jefferson, and Madison".
2. All references to the Borrower in the Mortgage shall be interpreted to mean HPH and MMM, jointly and severally.
3. All representations, warranties and covenants made in the Mortgage with respect to the Mortgaged Property described on Exhibit A, Section I attached hereto are made by HPH.
4. All representations, warranties and covenants made in the Mortgage with respect to the Mortgaged Property described on Exhibit A, Section II attached hereto are made by MMM.
5. Exhibit A to the Mortgage shall be deleted in its entirety and replaced with the Exhibit A attached hereto.
6. Exhibit B to the Mortgage shall be deleted in its entirety and replaced with the Exhibit B attached hereto.
7. Each of MMM and HPH agree and understand that all of the indebtedness evidenced by the Note, the Other Indebtedness, and the performance of the terms of the Loan Documents is secured by the Mortgaged Property, as amended hereby.
8. It is expressly understood and agreed that any officer, member or manager of any one or more of HPH and MMM is and shall be authorized to request advances for and on behalf of one or more of the Borrower and the Borrower shall be jointly and severally liable for, inter alia, (i) all advances made to or on behalf of any one or more of the Borrower and (ii) all other advances and amounts, interest, charges and expenses due under or in connection with the Mortgage or any of the other Loan Documents.
9. Except as modified herein, all other terms and conditions of the Mortgage shall remain in full force and effect.

B. Amendment of Note. The Note is hereby amended as follows:

- 1 All references to the Borrower in the Note shall be interpreted to mean HPH and MMM, jointly and severally.
2. It is expressly understood and agreed that any officer, member or manager of any one or more of HPH and MMM is and shall be authorized to request advances for and on behalf of one or more of the Borrower and the Borrower shall be jointly and severally liable for, inter alia, (i) all advances made to or on behalf of any one or more of the Borrower and (ii) all other advances and amounts, interest, charges and expenses due under or in connection with the Note or any of the other Loan Documents.

3. Except as modified herein, all other terms and conditions of the Note shall remain in full force and effect.

C. Amendment of Loan Agreement. The Loan Agreement is hereby amended as follows:

1. All references to the Borrower in the Loan Agreement shall be interpreted to mean HPH and MMM, jointly and severally.
2. Borrower and Lender agree that the covenants stated in Section 2.09 (g) and (h) shall only apply to HPH.
3. It is expressly understood and agreed that any officer, member or manager of any one or more of HPH and MMM is and shall be authorized to request advances for and on behalf of one or more of the Borrower and the Borrower shall be jointly and severally liable for, inter alia, (i) all advances made to or on behalf of any one or more of the Borrower and (ii) all other advances and amounts, interest, charges and expenses due under or in connection with the Loan Agreement or any of the other Loan Documents.
4. Except as modified herein, all other terms and conditions of the Loan Agreement shall remain in full force and effect.

D. Severability. Whenever possible, each provision of this Amendment shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provisions hereof shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity only, without invalidating the remainder of such provision or of the remaining provisions of this Amendment.

E. Headings. The headings of the paragraphs contained in this Amendment are for convenience of reference only and do not form a part hereof and in no way modify, interpret or construe the meaning of the parties hereto.

F. Parties Bound. This Amendment shall inure to the benefit of, and shall be binding upon, the assigns, successors-in-interest, personal representatives, estates, heirs, and legatees of each of the parties to this Amendment.

G. The Mortgage (as amended by this Amendment and as it may be further amended with or without record notice of such amendment) shall continue to secure the indebtedness described in the Mortgage, with the same priority of lien as the Mortgage as originally recorded. The execution and delivery of this Amendment, or of any subsequent amendment of the Mortgage, shall not impair, reduce or subordinate, in whole or in part, the priority of the Mortgage.

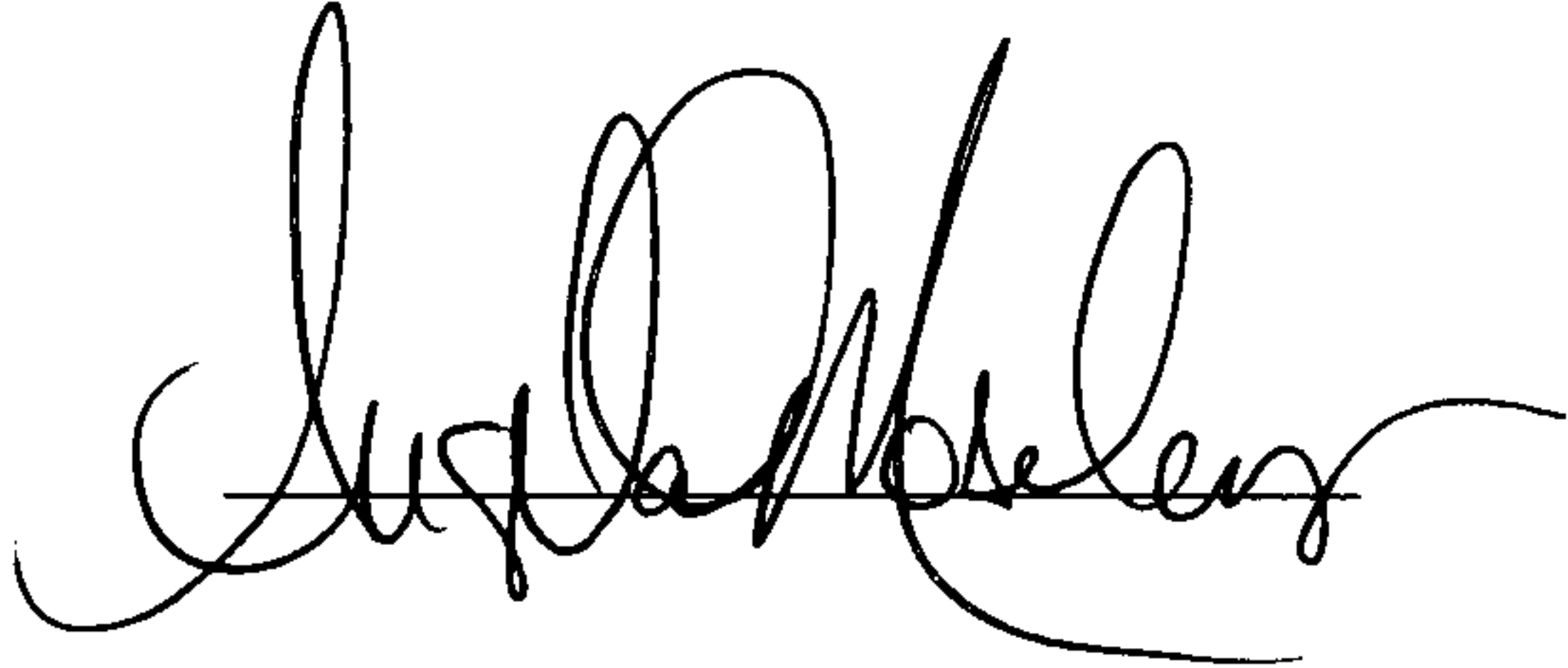
H. Execution by Guarantor. Each Guarantor and each Completion Guarantor has executed this Amendment to evidence his consent to the modification and amendments as described herein, and to acknowledge the continuing effect of his respective Guaranty and/or Completion Guaranty and the obligations contained therein.

[Signatures appear on following page.]

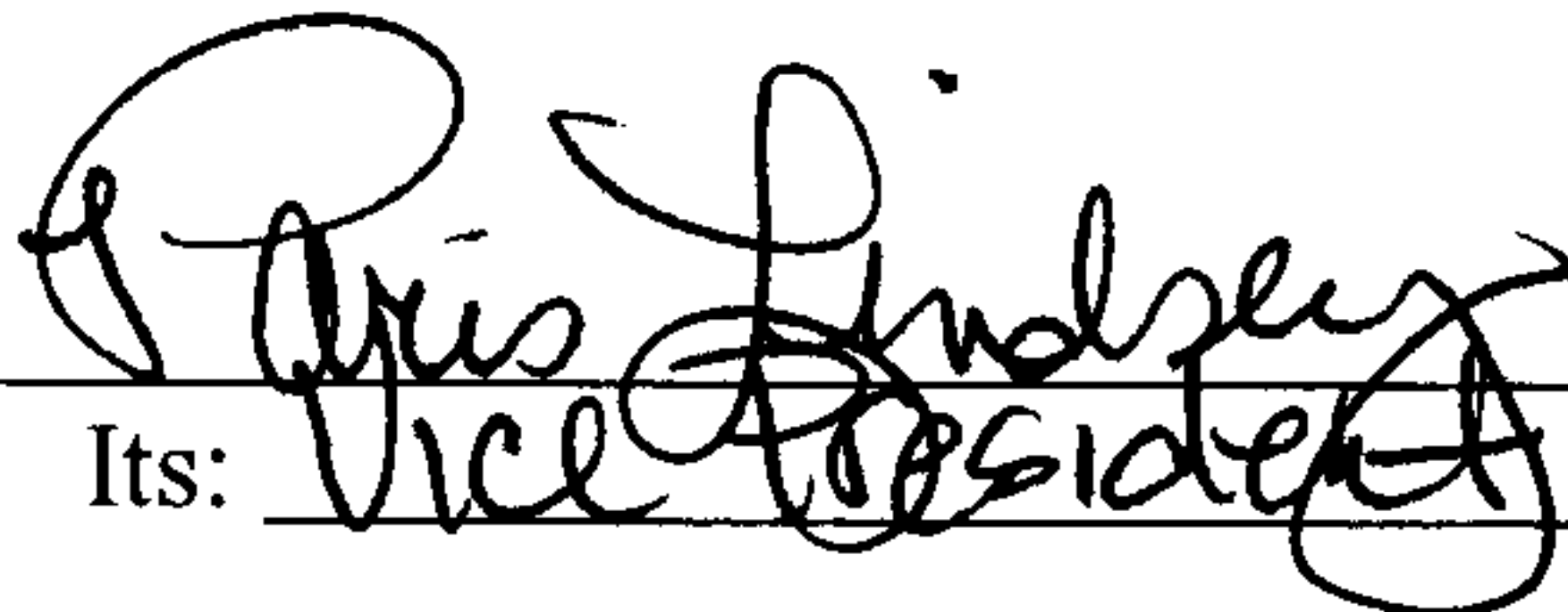
IN WITNESS WHEREOF, Borrower and Lender have caused this Amendment to be executed as of the day and year first set forth above.

LENDER:

WITNESS:

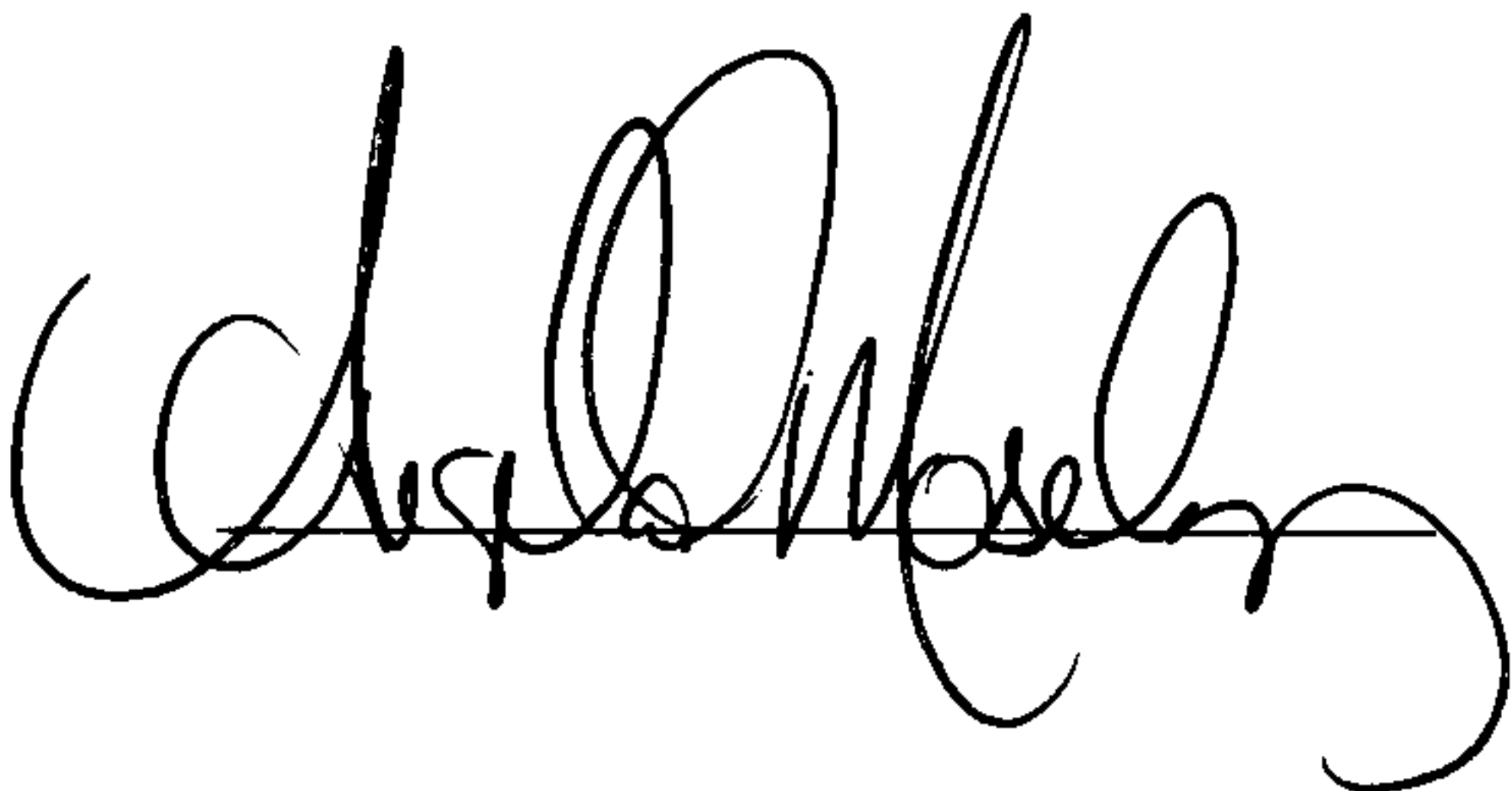


COMPASS BANK,
an Alabama banking corporation



By: 
Its: Vice President

BORROWER:

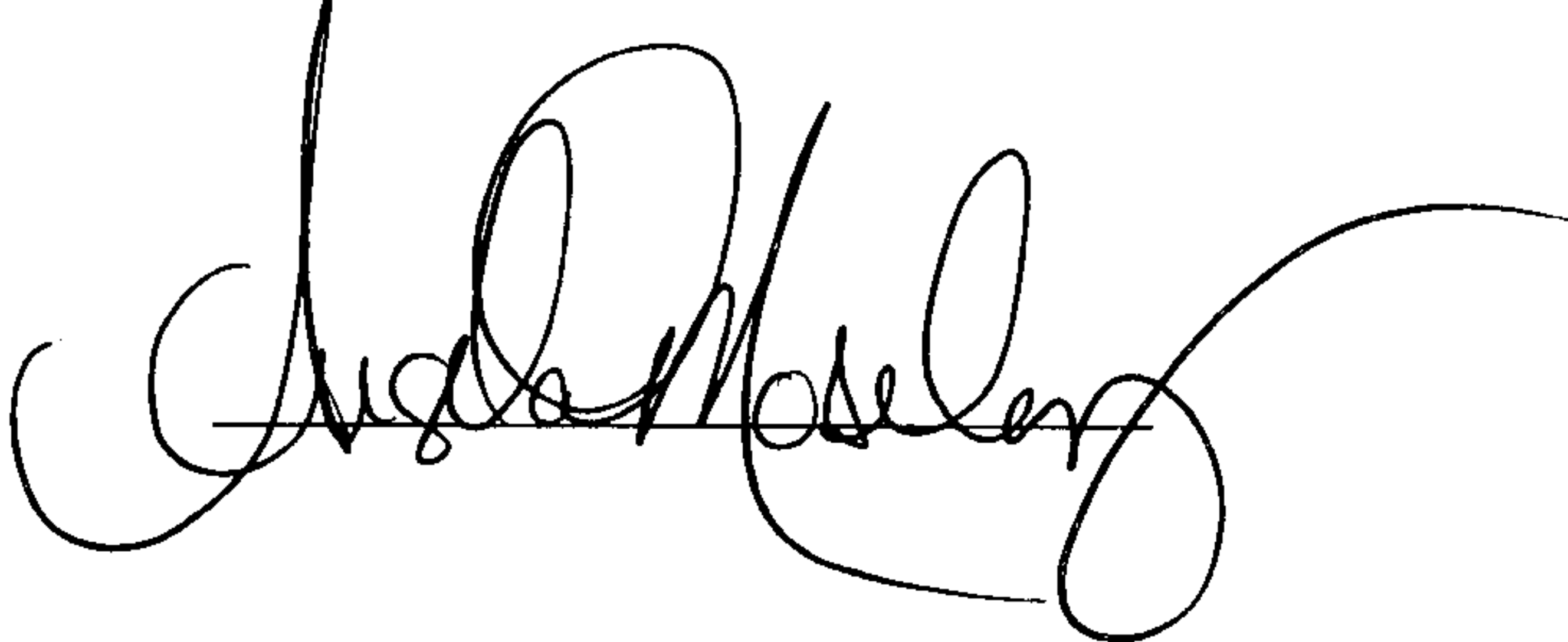
WITNESS:



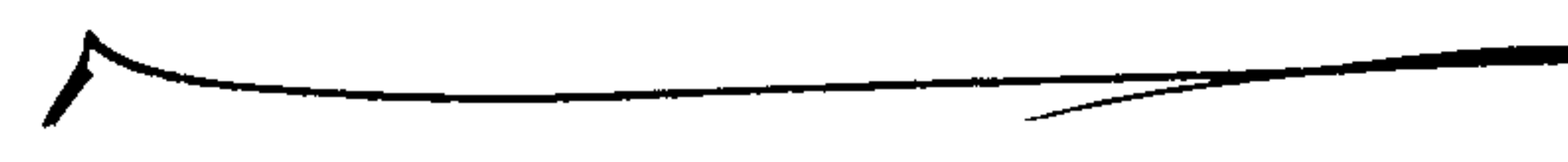

HPH PROPERTIES, LLC,
an Alabama limited liability company

By: 
Its: 

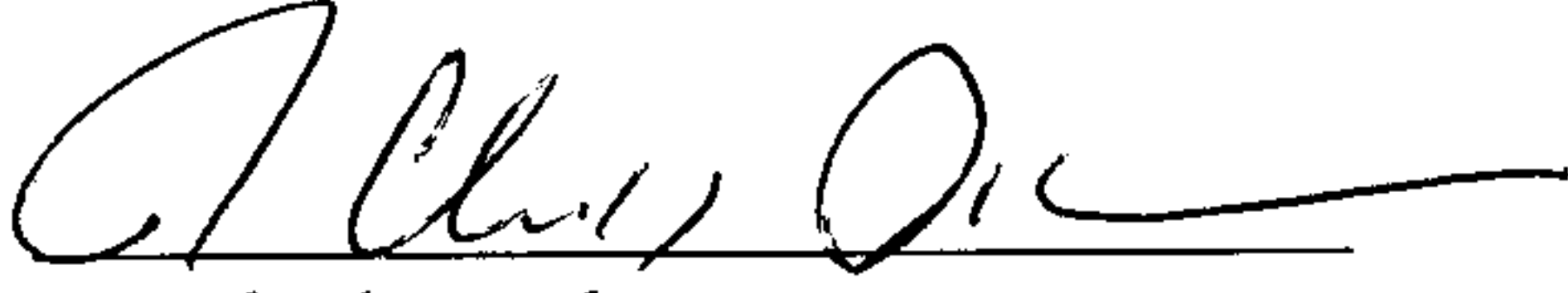
WITNESS:

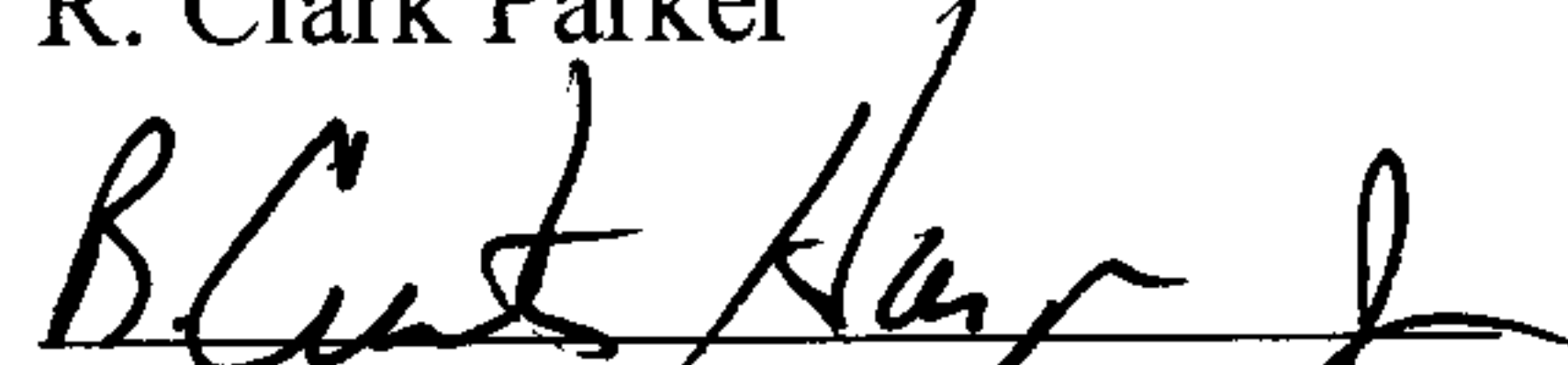


MMM PROPERTIES, LLC,
an Alabama limited liability company

By: 
Its: 

COMPLETION GUARANTORS:

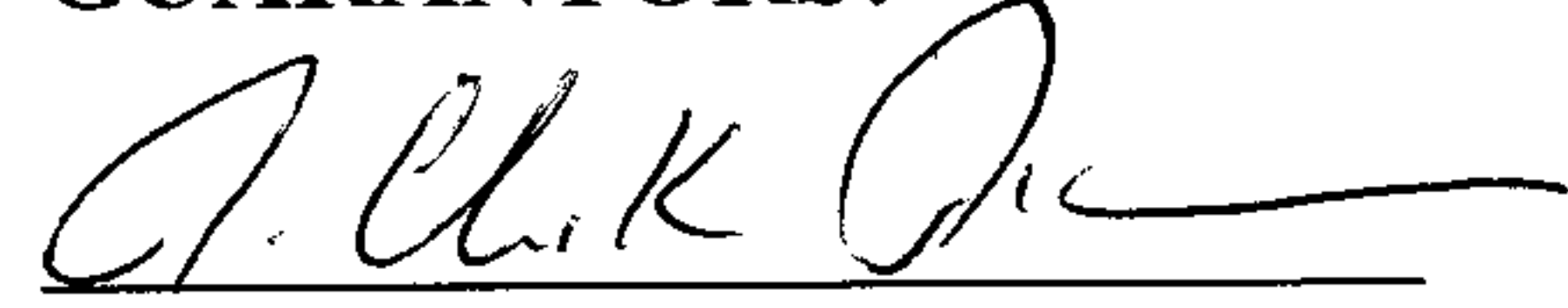

R. Clark Parker

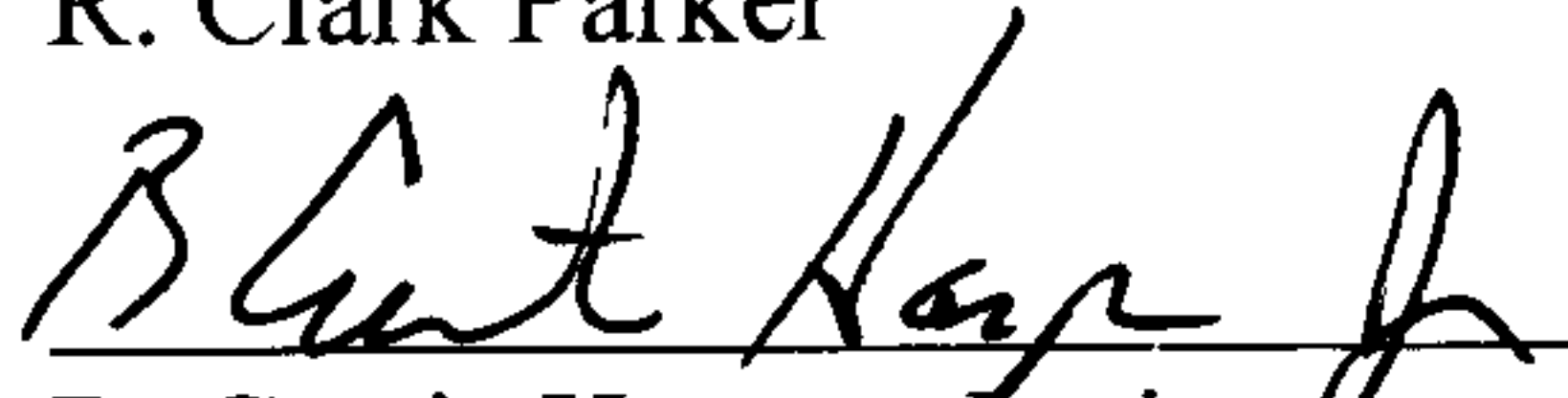

B. Curtis Harper, Junior


Alan C. Howard


David Bonamy

GUARANTORS:


R. Clark Parker


B. Curtis Harper, Junior


Alan C. Howard

THIS DOCUMENT WAS PREPARED BY
AND SHOULD BE RETURNED TO:

Thomas G. Amason III
Balch & Bingham LLP
P.O. Box 306
Birmingham, Alabama 35201
(205) 251-8100

STATE OF ALABAMA

COUNTY OF Shelby

I, Amanda Elizabeth Watson, a notary public in and for said county in said state, hereby certify that Alan C. Howard, whose name as member of **HPH PROPERTIES, LLC**, an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this Friday day of March, 2008.

Amanda Elizabeth Watson
Notary Public

[Notarial Seal]

My Commission Expires: Jan 30, 2010
NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Jan 30, 2010
BONDED THRU NOTARY PUBLIC UNDERWRITERS

STATE OF ALABAMA

COUNTY OF Shelby

I, Amanda Elizabeth Watson, a notary public in and for said county in said state, hereby certify that Alan C. Howard, whose name as member of **MMM PROPERTIES, LLC**, an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this Friday day of March, 2008.

Amanda Elizabeth Watson
Notary Public

[Notarial Seal]

My Commission Expires: _____

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Jan 30, 2010
BONDED THRU NOTARY PUBLIC UNDERWRITERS



STATE OF ALABAMA

COUNTY OF JEFFERSON

I, April C. Puce, a notary public in and for said county in said state, hereby certify that Paris Lindsey, whose name as Vice President of **COMPASS BANK**, an Alabama banking corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 25th day of March, 2008.

April C. Puce
Notary Public

[Notarial Seal]

My Commission Expires: 11/20/2011

STATE OF ALABAMA

COUNTY OF JEFFERSON

I, Amanda Elizabeth Watson, a Notary Public in and for said County, in said State, hereby certify that Alan C. Howard, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand this 25th day of March, 2008.

My Commission Expires:

Amanda Elizabeth Watson
NOTARY PUBLIC
(SEAL)

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Jan 30, 2010
BONDED THRU NOTARY PUBLIC UNDERWRITERS

STATE OF ALABAMA

COUNTY OF JEFFERSON

I, Amanda Elizabeth Watson, a Notary Public in and for said County, in said State, hereby certify that R. Clark Parker, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand this 25th day of March, 2008.
My Commission Expires:

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Jan 30, 2010
BONDED THRU NOTARY PUBLIC UNDERWRITERS

Amanda Elizabeth Watson
NOTARY PUBLIC
(SEAL)

STATE OF ALABAMA

COUNTY OF JEFFERSON

I, Amanda Elizabeth Watson, a Notary Public in and for said County, in said State, hereby certify that B. Curtis Harper, Junior, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand this 25th day of March, 2008.

My Commission Expires:
NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Jan 30, 2010
BONDED THRU NOTARY PUBLIC UNDERWRITERS

Amanda Elizabeth Watson
NOTARY PUBLIC
(SEAL)

STATE OF ALABAMA

COUNTY OF JEFFERSON

I, Amanda Elizabeth Watson, a Notary Public in and for said County, in said State, hereby certify that David Bonamy, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand this 25th day of March, 2008.

My Commission Expires:
NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Jan 30, 2010
BONDED THRU NOTARY PUBLIC UNDERWRITERS

Amanda Elizabeth Watson
NOTARY PUBLIC
(SEAL)

EXHIBIT A

DESCRIPTION OF MORTGAGED PROPERTY

I. St. Clair County:

Lots 102, 103, 104, 105, 106, 107, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 160, 161, 162, 163, 164, 165, 166, and 167, according to the Survey of Arbors of Avalon, Phase One, as recorded in Map Book 2007, Page 9, in the Office of the Judge of Probate of St. Clair County, Alabama.

II. Jefferson County:

Lots 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550 and 551, according to the Survey of Cotswold Subdivision Phase I-A, as recorded in Map Book 225, Pages 44 and 44A, in the Probate Office of Jefferson County, Alabama.

III. Madison County

Lots 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22, Block 1; Lots 2, 3, 4, 5, 7, 8, 10, and 71, Block 4; Lots 31 and 35, Block 5, Oak Stone, a resubdivision of Lot 1 of a resubdivision of Lot 2 of Ryan Spencer Property (Plat Book 47, Page 67), as recorded in Document No. 20050301000115700, in the Office of the Judge of Probate of Madison County, Alabama.

Lots 20, 22, 23, 24, 25, 26, 27, 28, 32, 41, 44, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, and 64 according to the Final Plat of Magnolia Park Subdivision, Phase 1, a Resubdivision of Lot 1 Magnolia Park as recorded in Document No. 20070830000619500 in the Office of the Judge of Probate, Madison County, Alabama.

Lots 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, 29, 30, 31, 33, 34, 35, 36, 37, 38, 39, 40, 42, 43, 45, and 46 according to the Final Plat of Magnolia Park Subdivision, Phase 1, a Resubdivision of Lot 1 Magnolia Park as recorded in Document No. 20070830000619500 in the Office of the Judge of Probate, Madison County, Alabama.



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Shelby Cnty Judge of Probate, AL
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EXHIBIT B

PERMITTED EXCEPTIONS

I. St. Clair County:

1. Easement to Alabama Power Company as recorded in Book 2006, Page 12480, in the Probate Office of St. Clair County, Alabama.
2. Easement and Right of Way to Leeds Telephone Co., Inc. as set forth in Deed Book 141, Page 59, in the Probate Office of St. Clair County, Alabama.
3. Easement for Sanitary Sewer Lines and Water Works & Sewer Board of the City of Birmingham as set forth in Deed Book 2006, Page 11742, in the Probate Office of St. Clair County, Alabama.
4. Land Line Agreement as set forth in Deed Book 91, Page 324, in the Probate Office of St. Clair County, Alabama.
5. Subject to covenants, conditionss and restrictions (deleting therefrom, and restrictions indicating any preference, limitation, or discrimination based on race, color, religion, sex, handicap, family status or national origin) as set forth in the document recorded in Deed Book 2007, Page 7290, in the Probate Office of St. Clair County, Alabama.

II. Jefferson County:

1. Easements and building line as shown on recorded map.
2. Restrictions appearing of record in Instrument Number 200618-25369 and Instrument Number 200619-6108.
3. Right of way granted to Alabama Power Company recorded in Volume 2844, Page 490 and Volume 4440, Page 142.
4. Easement for Alabama Power Company recorded in Volume 5762, Page 281; Volume 5762, Page 365; Real 121, Page 634; and Instrument Number 9413-8270.
5. Agreement and covenant's regarding private domestic sewer service and right of lien for sewer assessments recorded in Instrument Number 200513-5607 and second addendum thereto recorded in Instrument Number 200514-3711 and also in LR 200703, Page 29744.
6. Easements for Alabama Power Company recorded in LR 200663, Page 11654; LR 200663, Page 11657; LR 200663, Page 11660; LR 200663, Page 11663; LR 200663, Page 11669; LR 200663, Page 11690; LR 200663, Page 11694; and LR 200663, Page 11699.
7. Easement for Bellsouth Telecommunications recorded in LR 200611, Page 1957.
8. Right-of-way granted to Jefferson County recorded in LR 200608, Page 13950.
9. Terms and conditions of that certain Conservation Easement and Declaration of Restrictions and Covenants as recorded in book 200517, Page 1611.


III. Madison County:

See Exceptions under Schedule B – Section II from Reli, Inc. Title Binder, File Number: MDN0800018.

See Exceptions under Schedule B – Section II from Reli, Inc. Title Binder, File Number: MDN0800058-C.

See Exceptions under Schedule B – Section II from Reli, Inc. Title Binder, File Number: MDN0700714.

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