



20100820000267990 1/5 \$24.00
Shelby Cnty Judge of Probate, AL
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ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF LEASES AND RENTS ("Assignment"), is given on **August 17, 2010** by **ROY MARTIN CONSTRUCTION, LLC**, an Alabama Limited Liability Company, whose address is **1960 HWY 33 SUITE A, PELHAM, Alabama 35124-0000** ("Owner") to **Merchants & Farmers Bank** which is organized and existing under the laws of the state of Alabama, and whose address is **3513 PELHAM PARKWAY, PELHAM, Alabama 35124** ("Lender"). The Lender is, or is about to become, the holder of the following Mortgage dated **August 17, 2010** in the amount of **Five Hundred Five Thousand Two Hundred Sixty and 00/100 Dollars (\$505,260.00)** ("Mortgage") executed by Owner covering the following described property:

Address: **110 PARKER DRIVE, PELHAM, Alabama 35124**

Legal Description: **SEE ATTACHED EXHIBIT "A"**

Property Size: **5.2 acres.**

("Secured Property") which secures the following Note(s):

- Loan with a principal amount of **\$505,260.00**

and any other indebtedness of Owner to Lender, whether now or subsequently owing or to become due and no matter how created. The Secured Property has been demised by the Owner under a lease(s) which may be described as follows:

LEASE BETWEEN ROY MARTIN CONSTRUCTION LLC AND ASCENSION GRAVE SERVICES LLC DATED JULY 20, 2010 AND EXPIRING SEPTEMBER 14, 2016.

Lender, as a condition of making the above loan(s), has required an assignment of the lease(s) and the rents, income and profits derived from the use of the Secured Property and every part thereof, as additional security for said loan(s).

In consideration of the recitals above and as additional security for the indebtedness above, Owner assigns, transfers, sets over to, and grants Lender a security interest in the lease(s) described herein and any guaranties, renewals or extensions thereof, together with any other lease(s), whether written or unwritten, entered into before or after this Assignment and demising any part of the Secured Property, and all rents, income and profits derived from the Secured Property and any portion thereof.

OWNER'S DUTIES; DEFAULT. With respect to any lease(s) entered into before or after this Assignment demising any part of the Secured Property, Owner represents to and agrees with Lender that as long as any indebtedness of Owner to Lender shall remain unpaid, Owner shall not, without the written consent of Lender: (a) cancel any lease(s); (b) accept a surrender of any lease(s); (c) modify or alter any lease(s) in any way, either orally or in writing; (d) reduce the rental set forth in any lease(s); (e) consent to any assignment of the lessee's interest in any lease(s), or to any subletting thereunder; (f) collect or accept payment of rent, income or profit under any lease(s) for more than one (1) month in advance of the due date; (g) make any other assignment, pledge, encumbrance, or other disposition of any lease(s), or of the rents, income and profits derived from the use of the

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Secured Property; or, (h) fail to keep the Secured Property free and clear of all liens and encumbrances. Any of the above acts, if done without the written consent of Lender, shall be null and void and shall constitute a default under the aforesaid Note(s) and Mortgage and this Assignment.

OWNER'S WARRANTIES. Owner further covenants with and warrants to Lender that: (a) the said lease(s) are valid, presently in full force and effect and that there are no defaults now existing thereunder; and (b) Owner has not: (1) executed or granted any prior assignment, encumbrance, or security interest concerning any lease(s) or the rentals thereunder; (2) performed any acts or executed any other instruments or agreements which would limit and prevent Lender from obtaining the benefit of and exercising its rights conferred by this Assignment; (3) executed or granted any modification of any lease(s) either orally or in writing; and (c) the Secured Property and the rents, income and profit derived from the use of the Secured Property are free of liens, encumbrances, claims and setoffs.

REMEDIES. It is mutually agreed between Lender and Owner that until a default or breach shall occur in the performance of Owner's covenants hereunder, or any default shall occur under the Mortgage or any loan agreement between Owner and Lender pertaining to any indebtedness referred to herein, or any default shall occur in the making of any of the payments provided for in the above described Mortgage or Note, Owner may receive, collect and enjoy the rents, income and profits accruing from the Secured Property, but not more than one (1) month in advance of the due date. In the event of any such default or breach, Lender may, at its option, immediately thereafter receive and collect all rents, income and profits from the Secured Property as they come due under the lease(s) described herein and all renewals and extensions thereof, and under any other lease(s) heretofore or hereafter entered into demising any part of the Secured Property, and Lender shall thereafter continue to receive and collect all such rents, income and profits as long as such default or breach shall exist, and during the pendency of any foreclosure proceedings and throughout any applicable redemption period if there is a deficiency after foreclosure sale, and during all such periods. Lender may, but is not obligated to, apply some or all of the rents, income and profits to protect Lender's interest in the Property, including, but not limited to, payment of property taxes.

NOTICE. In the event of any such default or breach, Owner expressly authorizes Lender, at its option, to enter upon the Secured Property or any part thereof, by its officers, agents, or employees, for the collection of the rents, income and profits and for the operation and maintenance of the Secured Property. Owner authorizes Lender in general to perform all acts necessary for the operation and maintenance of the Secured Property in the same manner and to the same extent that the Owner might so act. After payment of all charges and expenses, including, without limitation, current and delinquent property taxes and customary operating expenses, the Lender shall credit the net amount of income received by virtue of Lender's exercise of this Assignment to any amounts due Lender under the terms and provisions of the aforesaid Note(s) and Mortgage, and in the event of any foreclosure sale, to any deficiency during any redemption period. The manner of the application of such net income and the item or items to which it shall be applied shall be within the sole discretion of the Lender, and Lender shall be accountable only for money actually received by it pursuant to this Assignment. Such entry and taking possession of the Secured Property or any part thereof by Lender, may be made by actual entry and possession or by written notice served personally upon or sent by certified mail to the last owner of the Secured Property appearing on the records of the Lender, as the Lender may elect, and no further authorization or notice shall be required.

WAIVER OF NOTICE. TO THE EXTENT PERMITTED BY LAW, OWNER WAIVES ANY RIGHT TO NOTICE, OTHER THAN THE NOTICE PROVIDED ABOVE, AND WAIVES ANY RIGHT TO ANY HEARING, JUDICIAL OR OTHERWISE, PRIOR TO THE LENDER EXERCISING ITS RIGHTS UNDER THIS ASSIGNMENT.

LENDER AS OWNER OF SECURED PROPERTY. It is mutually agreed that nothing contained in the Remedies and Additional Remedies above shall in any way diminish, restrict, or affect any rights of Lender under the lease(s) referred to herein if Lender should become the owner of the Secured Property after the expiration of any redemption period in connection with any foreclosure proceedings.

SUBSEQUENT LEASES. Owner agrees to promptly inform Lender of, and to promptly transfer, assign and deliver to the Lender, any subsequent lease(s) of the Secured Property or any part thereof, and to make, execute and deliver to the Lender, upon demand, any and all documents, agreements and instruments as may, in Lender's

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opinion, be necessary to protect the Lender's rights under this Assignment. Owner's failure to comply with the agreements herein made shall not impair Lender's rights hereunder with respect to any such subsequent lease(s), nor shall such failure in any way affect the applicability of this Assignment to such lease(s) and the rentals receivable thereunder.

PROTECTION OF LENDER'S RIGHTS AND INTERESTS; NO WAIVER; DEFAULT. Owner further agrees to perform and discharge each and every obligation, covenant, and agreement required to be performed by the Landlord under the lease(s) referred to herein, and should Owner fail to do so, the Lender, without obligation to do so and without releasing Owner from any such obligation, may make or do the same in such manner and to such extent as the Lender deems necessary to protect its rights and interests under this Assignment. Nothing in this Assignment shall be construed to require the Lender to perform any of the terms and provisions contained in the lease(s), or otherwise to impose any obligation or liability upon the Lender. Neither the performance nor the nonperformance by the Lender of Owner's obligations shall be deemed a waiver of any default by the Owner under the Mortgage, this Assignment or under the Note(s). Owner agrees to indemnify and hold harmless Lender from all liability, loss, or damage, which may be incurred under the lease(s) or by reason of this Assignment. If Lender incurs any expenses due to performing Owner's obligations under the lease(s) and Assignment, or incurs damages, attorney fees or costs due to claims or demands under the lease(s) and Assignment, such amounts shall be payable on demand by Owner to Lender. Any default by Owner in the performance of any of the obligations in this Assignment shall be a default under the terms of the said Mortgage, entitling Lender to exercise all rights and remedies provided by the Mortgage, this Assignment, and under the Note(s).

LESSEE PAYMENTS TO LENDER. Owner irrevocably consents and agrees that any lessee(s) under any of the lease(s) referred to herein shall, upon demand and notice from Lender of Owner's default under said Note(s), Mortgage, or this Assignment, pay all rents, income, and profits under said lease(s) to Lender, without any obligation upon any such lessee(s) to determine the actual existence of any default by Owner.

LENDER ASSIGNMENT OF LEASE. Owner agrees that Lender shall have the right to assign Owner's right, title and interest in the lease(s) referred to herein to any subsequent holder of the Mortgage or Note(s) and to assign the same to any person acquiring title to the Secured Property through foreclosure.

SCOPE OF ASSIGNMENT OF LEASE AND RENTS. This Assignment extends to and includes every lease or rental agreement, whether written or unwritten, now existing or hereafter entered into, demising any part of the Secured Property. Wherever used herein, the term "lease" or "leases" includes all such rental agreements. If no specific lease is described above, then this Assignment shall be a general assignment of all leases and rental agreements concerning the Secured Property.

LENDER'S RIGHTS AND REMEDIES. The rights and remedies of the Lender under this Assignment are cumulative, and are not in lieu of, but are in addition to all other rights and remedies which Lender has under the Note(s), Mortgage, Loan Agreement and any related documents.

SUCCESSORS AND ASSIGN. All covenants and agreements contained in this Assignment shall apply to and bind the grantees, heirs, personal representatives, successors, and assigns of the respective parties.

ENTIRE AGREEMENT; MODIFICATIONS; SEVERABILITY. This Assignment shall constitute the entire agreement between Lender and Owner. Any modification of this Assignment shall be binding only if placed in writing and signed by the Lender and Owner. The invalidity of any provision of this Assignment shall not affect the validity of any other provision.

PARAGRAPH HEADINGS. The titles to the paragraphs of this Assignment are solely for the convenience of the parties and shall not be used to interpret this Assignment.

GOVERNING LAW. This Assignment shall be interpreted, and the rights of the parties determined, under the laws of the State of Alabama.

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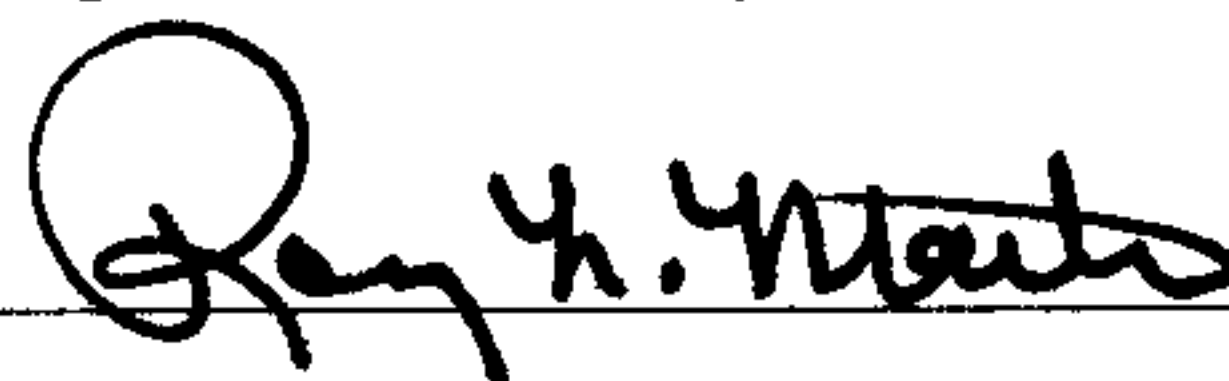


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ORAL AGREEMENTS DISCLAIMER. This Assignment represents the final agreement between the parties and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties.

By signing this Assignment, Owner acknowledges reading, understanding, and agreeing to all its provisions.

ROY MARTIN CONSTRUCTION, LLC

 8-17-10

By: ROY L. MARTIN

Date

Its: Member

BUSINESS ACKNOWLEDGMENT

STATE OF ALABAMA)

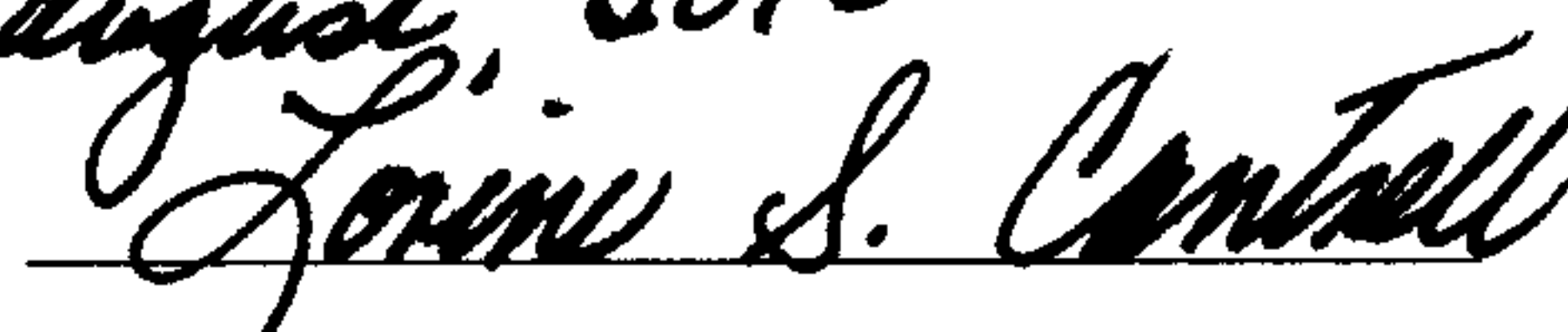
COUNTY OF *Shelby*)

I, *Lorine S. Cantrell* in and for said County and in said State, hereby certify that

ROY L. MARTIN, Member on behalf of ROY MARTIN CONSTRUCTION, LLC, an Alabama Limited Liability Company, 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 the instrument, he/she, in his/her official capacity and with full authority, executed the same voluntarily for and as the act of said Limited Liability Company.

Given under my hand this the *17th* day of *August*, 2010.

My commission expires:



NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: June 21, 2013
BONDED THRU NOTARY PUBLIC UNDERWRITERS

(Official Seal)

THIS INSTRUMENT PREPARED BY:
Merchants & Farmers Bank
P.O. Box 520
KOSCIUSKO, MS 39090

AFTER RECORDING RETURN TO:
Merchants & Farmers Bank
P.O. Box 520
KOSCIUSKO, MS 39090





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EXHIBIT "A"

Part of Section 14, Township 20 South, Range 3 West, Shelby County, Alabama, being more particularly described as follows:

From the Northeast corner of the SE 1/4 of the NW 1/4 of said Section 14, run in a Westerly direction along the North line of said 1/4-1/4 Section for a distance of 338.75 feet; thence 90 deg. left in a Southerly direction for a distance of 549.07 feet, more or less, to a point on the South right of way line of Industrial Park Drive, said point being the point of beginning of a curve, said curve being concave in a Southerly direction and having a central angle of 21 deg. 09 min. 31 sec. and a radius of 242.71 feet; thence turn an angle to the left and run along the arc of said curve in an Easterly direction for a distance of 89.63 feet to a point of reverse curve; said second curve being concave in a Northerly direction and having a central angle of 18 deg. 15 min. and a radius of 647.58 feet; thence turn an angle to the left and run along the arc of said curve in an Easterly direction and along the South right of way line of Industrial Park Drive for a distance of 206.27 feet to the end of said curve; thence continue in an Easterly direction along the South right of way line of Industrial Park Drive and along a line tangent to the end of said curve for a distance of 225.00 feet to an existing iron pin being the point of beginning of a curve, said curve being concave in a Southerly direction and having a central angle of 5 deg. 37 min. and a radius of 2013.57 feet; thence turn an angle to the right and run along the arc of said curve and along the Southerly right of way line of Industrial Park Drive for a distance of 197.39 feet to the point of ending of said curve; thence run in an Easterly direction along the Southerly right of way line of said Industrial Park Drive and along a line tangent to the end of said curve for a distance of 80.20 feet to the point of beginning; thence continue along last mentioned course and in an Easterly direction for a distance of 24.60 feet to the point of beginning of a new curve, said new curve being concave in a Northerly direction and having a central angle of 5 deg. 12 min. and a radius of 2227.17 feet; thence turn an angle to the left and run along the arc of said curve and along the Southerly right of way line of Industrial Park Drive for a distance of 202.13 feet to a point of reverse curve, said newest curve being concave in a Southwesterly direction and having a central angle of 90 deg. and a radius of 25.0 feet; thence turn an angle to the right and run in an Easterly and Southeasterly and Southerly direction and along the arc of said curve for a distance of 39.27 feet to an existing nail being on the West right of way line of Parker Drive; thence run in a Southerly Direction along the West right of way line of said Parker Drive and along a line tangent to the end of said curve for a distance of 342.57 feet to an existing PK nail and being the point of beginning of a new curve, said newest curve being concave in an Easterly direction and having a central angle of 14 deg. 00 min. and a radius of 1077.66 feet; thence turn an angle to the left and run along the arc of said curve in a Southerly direction and being the West right of way line of said Parker Drive for a distance of 263.32 feet to a point of reverse curve, said latest curve being concave in a Westerly direction and having a central angle of 39 deg. 44 min. 05 sec. and a radius of 80.62 feet; thence turn an angle to the right and run along the arc of said curve in a Southerly direction and being the West right of way line of said Parker Drive for a distance of 55.91 feet to a point of intersection with the Northeast right of way line of the Atlantic Coastline Railroad right of way and being marked by an existing iron rebar set by Laurence D. Weygand; thence turn an angle to the right (116 deg. 36 min. 15 sec. from the chord of last mentioned curve) and run in a Northwesterly direction along the Northeast right of way line of said Atlantic Coastline Railroad right of way for a distance of 662.20 feet; thence turn an angle to the right of 86 deg. 54 min. 44 sec. and run in a Northeasterly direction for a distance of 175.0 feet; thence turn an angle to the right of 87 deg. 15 min. and run in a Southeasterly direction for a distance of 75.0 feet; thence turn an angle to the left of 86 deg. 25 min. 07 sec. and run in a Northeasterly direction for a distance of 254.36 feet, more or less, to the point of beginning.



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