


Prepared by and Return to:

MidAmerica National Bank  
130 North Side Square  
Macomb, Illinois 61455-1300

  
20120305000075410 1/9 \$2355.00  
Shelby Cnty Judge of Probate, AL  
03/05/2012 08:06:11 AM FILED/CERT

STATE OF ILLINOIS                    )  
  ) SS:  
COUNTY OF MCDONOUGH            )

### MORTGAGE

This MORTGAGE is made and entered into as of the date set forth below, by **Triple H Investments, LLC**, an Illinois limited liability company ("Mortgagor"), in favor of **MidAmerica National Bank**, a national banking association ("Mortgagee").

### WITNESSETH:

Mortgagor is justly indebted to Mortgagee and hereby executes this Mortgage to secure the payment of ONE MILLION FIVE HUNDRED FORTY-SIX THOUSAND AND 00/100 DOLLARS (\$1,546,000.00), as evidenced by a promissory note of even date herewith, to be advanced pursuant to the terms of the Loan Agreement of even date herewith, and which is to be paid in accordance with the terms of said note, and any renewals, extensions, or modifications thereof.

In consideration of Mortgagee's extension of the above-referenced credit and as an inducement to Mortgagee to extend such credit and, in consideration of Mortgagee agreeing to extend said credit on the terms and conditions as set out in the aforementioned note, the Mortgagor has agreed that this Mortgage should be given to secure the timely payment of the aforementioned note and Mortgagor's performance of its obligations as set out herein and in the Loan Documents of even date herewith which are made a part hereof by reference as if fully set forth herein.

NOW, THEREFORE, Mortgagor and all others executing this Mortgage, in consideration of the premises, and to secure the payment of said indebtedness hereinabove specifically referred to, and any and all extensions or renewals of same, whether evidenced by note, future advance, or otherwise, and to further secure the compliance of all the covenants and stipulations herein contained, does hereby grant, bargain, sell, convey, transfer, and mortgage unto Mortgagee, its successors and assigns, the following described real estate, together with buildings, fixtures, and improvements thereon (hereinafter sometimes referred to as the "real estate" or the "mortgaged real estate") lying and being situated in the County of Shelby, State of Alabama, and more particularly described as follows, to wit:

*This is a purchase money mortgage*



A parcel of land being a portion of Lot 3 and a portion of Lot 4 in Block 1 of the West Manor Addition to the Town of Montevallo Map Book 3, Page 60 as recorded in the Office of the Probate Judge of Shelby County, Alabama. Situated in the Southeast  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  and in the Northeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$ , Section 4, Township 24 North, Range 12 East, said parcel being more particularly described as follows: Beginning at a point 50.05 feet Southwest of the East most corner of said Lot 3, said point also being on the West right of way of Alabama State Highway 25. From said point of beginning, continue in a Southwesterly direction along said West right of way for a distance of 135.15 feet; thence deflection angle right 92 degrees 39 minutes 32 seconds for a distance of 387.69 feet; thence deflection angle right 122 degrees 11 minutes 30 seconds for a distance of 159.52 feet; thence deflection angle right 57 degrees 30 seconds for a distance of 296.44 feet to the point of beginning.

Now Known As:

Lot 3B, according to the Survey of Yancey & Sons, LLC, as recorded in Map Book 40, Page 131 in the Probate Office of Shelby County, Alabama.

Parcel # 36-2-04-4-001-004.002

together with all awards received from eminent domain, payments upon any insurance policies covering the real estate, and all rights, privileges, tenements, and appurtenances thereunto belonging or in anywise appertaining to said real estate, including easements and right-of-ways appurtenant thereto, and all improvements and fixtures including but not limited to all buildings, structures, gas, water and sewer systems, electric and other heating, cooling and lighting apparatus, elevators, plumbing, doors, windows, awnings, landscaping and other fixtures and improvements appertaining to the real estate and improvements located thereon, whether now or hereafter existing, all of which shall be deemed realty and conveyed by this mortgage.

TO HAVE AND TO HOLD the real estate, and every part thereof, unto Mortgagee, its successors and assigns forever, and Mortgagor covenants with Mortgagee that it is lawfully seized of the real estate in fee simple and has a good title to sell and convey the same as aforesaid; that the real estate is free of all encumbrances; and Mortgagor will warrant and forever defend the title to the real estate unto Mortgagee, its successors and assigns, against the lawful claims of all persons whomsoever.

THIS MORTGAGE IS MADE however, subject to the following covenants, conditions, agreements, and provisions:

1. Mortgagor shall pay the note secured hereby with interest thereon when and as it or they shall become due, whether in course or under any condition, covenant or agreement herein contained, it being further agreed that any statement, any note or obligation secured by this Mortgage shall be conclusive evidence of such fact.

2. (a) Mortgagor shall provide, maintain and make available to Mortgagee policies



of fire, casualty, builder's risk, flood, and hazard insurance with extended coverage, and shall assign, with endorsements, and deliver to Mortgagee, with Mortgagee's clauses, all insurance policies of any kind or in any amount now or hereafter issued with respect to the real estate. Such insurance policies shall provide that Mortgagee shall receive twenty (20) days notice before the expiration or termination of any policy. Prior to the expiration or termination of any policy, Mortgagor shall provide evidence of renewal or issuance of a new policy with evidence of premium payment. All policies, certificates of insurance, or evidence of renewal shall be delivered to Mortgagee within 15 days of issuance. If any insurance, or any part thereof, shall expire, or be withdrawn, or become void by Mortgagor's breach of any condition thereof, or become void by reason of the failure or impairment of the capital of any company with whom the insurance may then be carried, Mortgagor shall procure and deliver to Mortgagee new insurance on the real estate. Mortgagor shall give immediate notice in writing to Mortgagee of any loss, injury, or damage affecting the mortgaged real estate caused by any casualty or occurrence. Full power is hereby conferred upon the Mortgagee to settle and compromise claims under all policies and to demand and receive all monies becoming payable thereunder and to assign absolutely all policies to any holder of the note or to the grantee of the real estate in the event of foreclosure of this mortgage and security agreement or other transfer of title to the real estate and extinguishment of the indebtedness secured hereby.

(b) That Mortgagor shall pay and discharge as the same become due, all taxes and assessments that may accrue or be assessed upon the real estate or any part thereof, or that become a lien against the property, regardless of whether such tax or assessment would have priority in payment to the indebtedness secured hereby, or upon Mortgagee's interest therein, or upon this Mortgage or the indebtedness secured hereby. Mortgagor shall not suffer or permit any such taxes on the said real estate to become or remain delinquent or permit any part of the real estate or any interest therein to be sold for any taxes or assessments; and further shall furnish annually to Mortgagee, prior to the date when they become delinquent, certificates or receipts from the proper offices showing full payment of all such taxes and assessments.

3. Irrespective of any other provision in this Mortgage or any other document to the contrary, Mortgagee shall not commence any action or proceeding under this Mortgage or any other document to take possession of the Property, remove Mortgagor or foreclose on the Property until Mortgagee has given Mortgagor written notice of default or any other act or omission which would entitle Mortgagee to so act, and provide Mortgagor (i) in the case of a monetary default, a period of ten (10) days to cure such default, or (ii) in the case of a non-monetary default, a period of thirty (30) days to cure such default.

4. No building or other improvement on the real estate shall be removed or demolished, without the Mortgagee's prior written consent, nor shall any fixture or chattel covered by this Mortgage and adapted to the proper use and enjoyment of the real estate be removed at any time without like consent unless actually replaced by an article which is equally suitable and owned by the Mortgagor.

5. Mortgagor shall not allow any statement of lien to be filed under the statutes of Alabama relating to the liens of mechanics and materialmen without regard to form and contents of such statement, and without regard to the existence or non-existence of the debt, or any part





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thereof, or of the lien on which such statement is based, unless such lien is satisfied and discharged of record or bonded off within 30 days of the recordation of such lien.

6. The Mortgagor shall comply with all statutes, ordinances, regulations, and laws promulgated by any governmental entity asserting jurisdiction over the real estate and any and all legal requirements shall be fully complied with by the Mortgagor.

7. The real estate and improvements thereon shall not be abandoned and shall be kept in good condition and no waste permitted or committed thereon.

8. Should it be discovered after the execution and delivery of this instrument that there is a defect in the title to or a lien or encumbrance of any nature on the real estate superior to the lien hereof; or in case of any error or defect in the above-described note, this instrument or any other loan documentation executed in connection therewith, or in the execution of the acknowledgment thereof; or if a homestead claim be set up to the real estate or any other part thereof adverse to this mortgage, the Mortgagor shall within thirty (30) days after demand by the Mortgagee, correct such defects in the title, remove any such lien or encumbrance or homestead claim, or correct any error in said note or this instrument or its execution.

9. No right, title, or interest in or to the mortgaged real estate, or any part thereof, shall be sold, transferred, assigned, conveyed, mortgaged, or encumbered by a lien at any time prior to the payment in full of the indebtedness secured hereby without first obtaining the prior written consent and approval of Mortgagee, which consent and approval will not be unreasonably withheld.

10. The Mortgagor, at Mortgagee's request, shall furnish to Mortgagee such financial records as the holder of this Mortgage may require, including, but not limited to, an annual statement of the operation of the real estate, if applicable, which shall include annual statements itemizing the income and expenses, a rent roll, together with unaudited financial statement of Mortgagor's assets and liabilities.

11. If the indebtedness evidenced by the note is being advanced by Mortgagee to Mortgagor under the terms and provisions and in accordance with a Loan Agreement ("Agreement"), the terms and provisions of said Agreement are hereby incorporated by reference as a part of this Mortgage as if fully set forth herein and any default in the performance of the provisions thereof, or any contract or agreement between Mortgagor and Mortgagee, shall constitute a default hereunder entitling Mortgagee to exercise the remedies provided herein, including the right to foreclose this Mortgage in accordance with the provisions hereof.

12. In the event a voluntary or involuntary bankruptcy proceeding in the name of the Mortgagor, all pre-petition arrearage due and owing to Mortgagee which is proposed to be paid in a confirmed plan of reorganization shall be at the option of Mortgagee deemed fully secured by the mortgaged property, and shall bear interest at the rate of interest in effect under the promissory note as of the date of the filing of the petition in bankruptcy.

13. Mortgagor warrants that title conveyed to Mortgagee hereunder constitutes a first



mortgage lien and is free and clear of all liens and encumbrances, and that Mortgagor shall defend Mortgagee's title against any and all claims and liens whatsoever.

14. Notwithstanding that the assignment of awards referred to above shall be deemed to be self-executing, Mortgagor, after the allowance of a condemnation award, and the ascertainment of the amount due thereon, and the issuing of a warrant by the condemnor for the payment thereof, shall execute, at Mortgagee's request, and forthwith deliver to Mortgagee, a valid assignment in recordable form, assigning such condemnation claims, awards, or damages to Mortgagee, but not in excess of an amount sufficient to pay, satisfy, and discharge the principal sum of this mortgage and any advances made by Mortgagee as herein provided then remaining unpaid, with interest thereon at the rate specified herein, or in the note which this mortgage secures, to the date of payment, whether such remaining principal sum is then due or not by the terms of said note or of this mortgage.

15. Mortgagee and Mortgagor agree that the purpose of the loan secured by this Mortgage is to finance the purchase of the Premises which is currently leased to a tenant on a long term basis. Mortgagor agrees to cause to be executed an Assignment of Leases and Rents and a Subordination, Non-Disturbance and Attornment Agreement, in favor of the Mortgagee.

16. If Mortgagor fails to comply with any requirements herein, defaults upon or breaches any obligation hereof, or fails to pay any sum or satisfy any obligation imposed herein, the Mortgagee may, at its discretion, comply with said requirement; cure, pay or satisfy any such obligation, and any money which Mortgagee shall have so paid shall constitute a debt to Mortgagee additional to the indebtedness secured hereby; which shall be secured by this Mortgage; and shall bear interest at the rate set out in the note hereinabove referred to from the date paid or incurred; shall be immediately due and payable, and constitute grounds for declaring the maturity of the indebtedness secured hereby.

17. No delay or failure of Mortgagee to exercise any option herein given or reserved or to perform any act which it is empowered to do shall constitute a waiver of such option or estop Mortgagee from afterwards exercising same or any other option at any time, and the payment, or contracting to pay, by Mortgagee of anything Mortgagor has herein agreed to pay shall not constitute a waiver of default of Mortgagor in failing to make said payments and shall not estop Mortgagee from foreclosing this mortgage on account of such failure of Mortgagor. It is further agreed that no term or condition contained in this mortgage can be waived, altered, or amended, except as evidenced in writing signed by the Mortgagor and the holder hereof. The waiver of any default or breach of covenant or any other requirement contained herein shall not constitute a waiver of any other or subsequent default or breach.

18. Any promise made by Mortgagor herein to pay money may be enforced by a suit at law, and the security of this Mortgage shall not be waived thereby. As to the debts secured hereby, the Mortgagor waives all right of exemption under the laws and Constitution of the State of Alabama and agrees to pay, as permitted by law, a reasonable attorney's fee for collection thereof, which shall be limited by the terms of the instruments of indebtedness secured hereby.





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19. It is further agreed that, if Mortgagor shall fail to pay, or cause to be paid, any indebtedness secured hereby, whether in whole or any portion of the principal sum or any installment due thereon, as they or any of them mature, either by lapse of time or otherwise, in accordance with the agreements and covenants herein contained, or should default be made in the payment of any mechanics lien, materialmen's lien, insurance premiums, taxes or assessments now, or which may hereafter be, levied against, or may become a lien on the real estate, or should default be made in any of the covenants, obligations, conditions and agreements of Mortgagor herein contained, contained in any instrument secured by this Mortgage, or contained in any other loan document executed in connection with any indebtedness secured by this Mortgage, then and in that event the whole of said principal sum, with interest thereon, and all other indebtedness hereby secured, shall, at the option of the then holder of said indebtedness, be and become due and payable according to the terms of such obligation, and the holder of the indebtedness hereby secured shall have the right to enter upon and take possession of the real estate and after, or without, taking such possession of same, sell the mortgaged real estate at public outcry, in front of the courthouse door of the county wherein the real estate is located, to the highest bidder for cash, either in person or by auctioneer, after first giving notice of the time, place, and terms of such sale by publication once a week for three (3) consecutive weeks in a newspaper published in said county and, upon the payment of the purchase money, the Mortgagee or any person conducting said sale for it is authorized and empowered to execute to the purchaser at said sale a deed to the real estate. The Mortgagee, or the then holder of the indebtedness hereby secured, may bid at such sale and become the purchaser of the real estate if the highest bidder thereof. The proceeds of any such sale shall be applied first to the expenses incurred in making the sale and in all prior efforts to effect collection of the indebtedness secured hereby or to enforce or protect the interest of the Mortgagee, and the pursuit of any efforts theretofore directed to that end, including, but not limited to, the defense of any proceedings instituted by the Mortgagor or anyone liable for said indebtedness or interested in the mortgaged real estate to prevent or delay, by any means, the exercise of said power of sale and the foreclosure of this mortgage; then to the payment of whatever advances or sums Mortgagee may have paid out or become liable to pay, in carrying out the provisions of this mortgage, together with interest thereon; then to the payment and satisfaction of accrued interest on the principal indebtedness to the day of sale; then to the payment of the principal indebtedness secured hereby and any other indebtedness secured by this mortgage; and the balance, if any, shall be paid over to that entity or entities which may be lawfully entitled to receive the same, including the Mortgagor, or the Mortgagor's successors or assigns. In any event, the purchaser under any foreclosure sale, as provided herein, shall be under no obligation to see to the proper application of the purchase money.

20. The Mortgagor agrees for itself and any and all persons or concerns claiming, by, through, or under Mortgagor, that if it or any one or more of them shall hold possession of the above described real estate or any part thereof subsequent to foreclosure hereunder, it or the parties so holding possession, shall become and be considered as tenants at will of the purchaser or purchasers at such foreclosure sale; and any such tenant failing or refusing to surrender possession upon demand shall be guilty of forcible detainer and shall be liable to such purchaser or purchasers for reasonable rental of the real estate, and shall be subject to eviction or removal, forcible or otherwise, and all damages which may be sustained by any such tenant as a result hereof being hereby expressly waived.





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21. Unless Mortgagor notifies Mortgagee, in writing, of another address for the purpose of notice. All notices which are required or permitted under the terms of this Mortgage shall be given to the Mortgagor by first class mail, postage prepaid at the following address: 1420 E. Carroll, P.O. Box 728, Macomb, Illinois 61455.

22. Singular or plural words used herein to designate the Mortgagor shall be construed to refer to the maker or makers of this Mortgage, or any one of them, and all covenants and agreements herein contained shall bind the successors and assigns of the Mortgagor and every option, right, and privilege herein reserved or secured to Mortgagee shall inure to the benefit of its successors and assigns.

23. The unenforceability or invalidity of any provision or provisions of this Mortgage shall not render any other provision or provisions herein contained unenforceable or invalid. All rights or remedies of Mortgagee and Mortgagor hereunder are cumulative and not alternative, and are in addition to those provided by law.

24. MORTGAGOR HEREBY WAIVES ANY RIGHT THAT IT MAY HAVE TO A TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SETOFF, DEMAND, ACTION OR CAUSE OF ACTION (A) ARISING OUT OF OR IN ANY WAY RELATED TO THIS MORTGAGE OR THE LOAN, OR (B) IN ANY WAY CONNECTED WITH OR PERTAINING OR RELATED TO OR INCIDENT TO ANY DEALINGS OF MORTGAGEE AND/OR MORTGAGOR WITH RESPECT TO THE LOAN DOCUMENTS OR IN CONNECTION WITH THIS MORTGAGE OR THE EXERCISE OF EITHER PARTY'S RIGHTS AND REMEDIES UNDER THIS MORTGAGE OR OTHERWISE, OR THE CONDUCT OR THE RELATIONSHIP OF THE PARTIES HERETO, IN ALL OF THE FOREGOING CASES WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. BORROWER AGREES THAT LENDER MAY FILE A COPY OF THIS MORTGAGE WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY, AND BARGAINED AGREEMENT OF BORROWER IRREVOCABLY TO WAIVE ITS RIGHTS TO TRIAL BY JURY AS AN INDUCEMENT TO LENDER TO MAKE THE LOAN, AND THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY DISPUTE OR CONTROVERSY WHATSOEVER (WHETHER OR NOT MODIFIED HEREIN) BETWEEN MORTGAGOR AND MORTGAGEE SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

25. This Mortgage is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the items specified above as part of the Property which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and Mortgagor hereby grants and conveys to Mortgagee a first and prior security interest in all of the Property that constitutes personalty, whether now owned or hereafter acquired. Any reproduction of this Mortgage or of any other security agreement or financing statement shall be sufficient as a financing statement. In addition, Mortgagor agrees to execute and deliver to Mortgagee, upon Mortgagee's request, any financing statements, as well as extensions, renewals and amendments thereof, and reproductions of this Mortgage in such form as Mortgagee may





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require to perfect a security interest with respect to the foregoing items. Mortgagor shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all costs and expenses of any record searches for financing statements Mortgagee may require. Without the prior written consent of Mortgagee, Mortgagor shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said items, including replacements and additions thereto. Upon Mortgagor's breach of any covenant or agreement of Mortgagor contained in this Mortgage, including the covenants to pay when due all sums secured by this Mortgage, Mortgagee shall have the remedies of a secured party under the Uniform Commercial Code. In exercising any of said remedies Mortgagee may proceed against the items of real property and any items of personal property specified above separately or together and in any order whatsoever, without in any way affecting the availability of Mortgagee's remedies under the Uniform Commercial Code. Within ten (10) days following any request therefor by Mortgagee, Mortgagor shall prepare and deliver to Mortgagee a written inventory specifically listing all of the personal property covered by the security interest herein granted, which inventory shall be certified by Mortgagor as being true, correct, and complete.

26. In the event suit or action is instituted to enforce or interpret any of the terms of this Mortgage (including without limitation efforts to modify or vacate any automatic stay or injunction), the prevailing party shall be entitled to recover all expenses reasonably incurred at, before and after trial and on appeal whether or not taxable as costs, or in any bankruptcy proceeding including, without limitation, attorneys' fees, witness fees (expert and otherwise), deposition costs, copying charges and other expenses. Whether or not any court action is involved, all reasonable expenses, including but not limited to the costs of searching records, obtaining title reports, surveyor reports, and title insurance, incurred by Mortgagee that are necessary at any time in Mortgagee's opinion for the protection of its interest or enforcement of its rights shall become a part of the indebtedness payable on demand and shall bear interest from the date of expenditure until repaid at the interest rate as provided in the note. The term "attorneys' fees" as used in the Loan Documents shall be deemed to mean such fees as are reasonable and are actually incurred.

27. Upon payment of all sums secured by this Mortgage, Mortgagee shall execute a satisfaction (or at Mortgagor's option, an assignment) of this Mortgage and shall surrender this Mortgage and all notes evidencing the indebtedness secured by this Mortgage to the person or persons legally entitled thereto. Such person or persons shall pay Mortgagee's costs incurred in connection with satisfaction or assignment of this Mortgage.

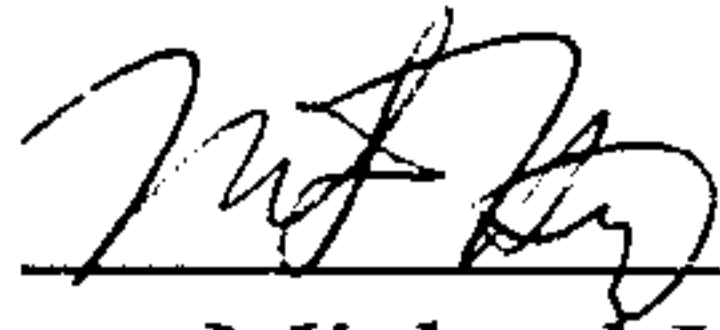
28. By its execution hereof, Mortgagor acknowledges that it has received a complete copy of this Mortgage.

IN WITNESS WHEREOF, the undersigned have set their hands and seals to this instrument effective the 1st day of March, 2012.



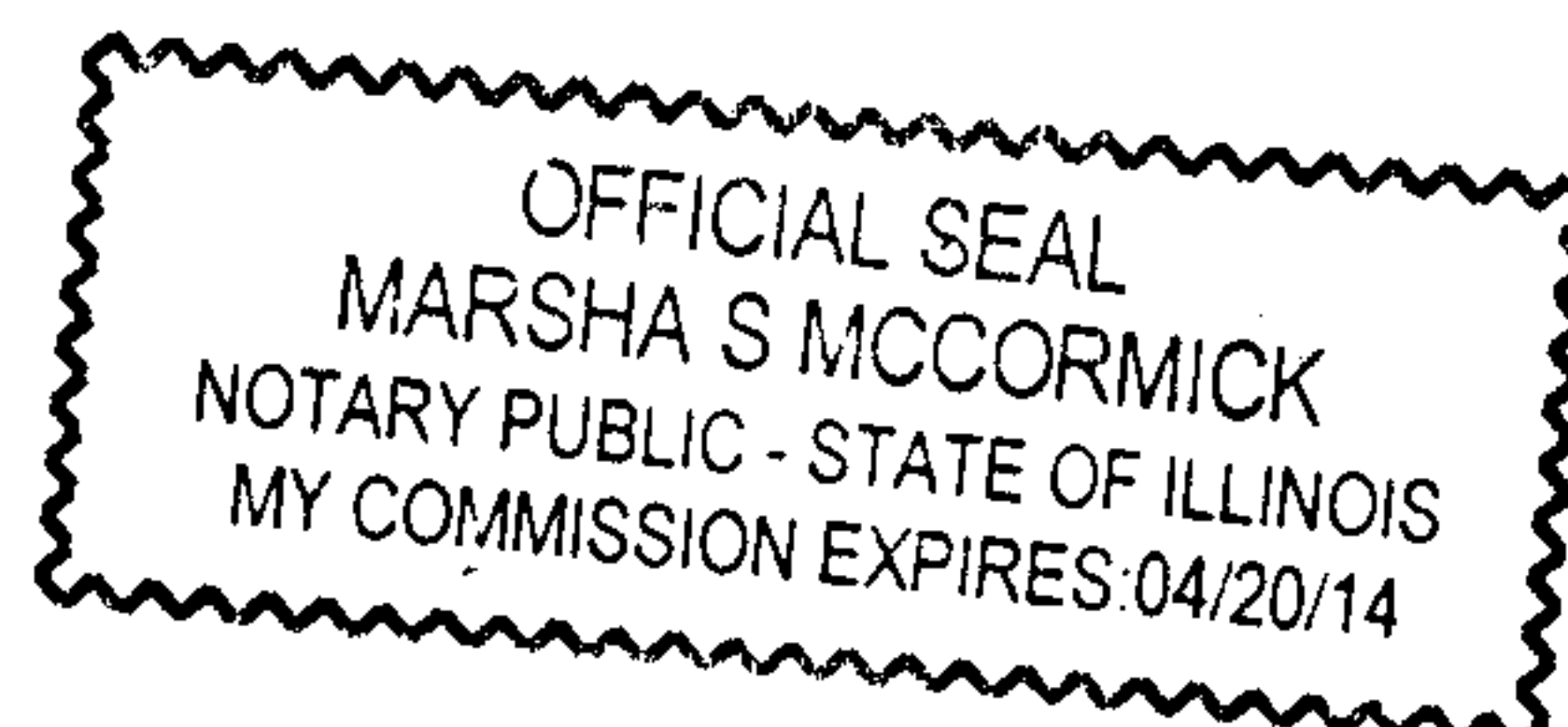
MORTGAGOR:


TRIPLE H INVESTMENTS, LLC

By:   
Michael Hillyer, Pursuant to Resolution  
Adopted by the Members of Triple H  
Investments, LLC

STATE OF ILLINOIS                    )  
  )     SS:  
COUNTY OF MCDONOUGH            )

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT **MICHAEL HILLYER**, personally known to me to be a Member of Triple H Investments, LLC, an Illinois limited liability company, whose name is subscribed to the foregoing instrument as having executed the same, appeared before me this day in person and stated that he is duly authorized to execute the foregoing instrument on behalf of said company, pursuant to Resolution adopted by the Members of Triple H Investments, LLC, and acknowledged that he has executed the foregoing instrument as his own free act and deed and as the free act and deed of the company for the uses and purposes set forth therein.



  
Notary Public

Mortgagee's Address:  
MidAmerica National Bank  
130 North Side Square  
Macomb, Illinois 61455-1300

Mortgagor's Address:  
Triple H Investments, LLC  
1420 E. Carroll  
P.O. Box 728  
Macomb, Illinois 61455