


PREPARED BY AND RETURN TO:  
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665 Simonds Rd.  
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Shelby Cnty Judge of Probate, AL  
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## **MORTGAGE AND SECURITY AGREEMENT**

**THIS MORTGAGE AND SECURITY AGREEMENT** (the "Mortgage") dated effective as of May 11, 2012, between **LIBERTY SHORES, LLC**, a Delaware limited liability company, as mortgagor and debtor (hereinafter called "Mortgagor"), and **AMERICAN LAND MANAGEMENT CORPORATION** a Florida corporation, having a place of business of 665 Simonds Road Williamstown, MA 01267 as mortgagee and secured party (hereinafter called "Mortgagee");

### **WITNESSETH:**

**WHEREAS**, Mortgagor is justly indebted to Mortgagee in the principal sum of \$500,000.00 as evidenced by a certain promissory note (the "Note") of even date herewith, executed by Mortgagor and delivered to Mortgagee, payable according to the terms therein provided, and by reference being made a part hereof to the same extent as though set out in full herein.

**NOW THIS INDENTURE WITNESSETH**, to secure the performance and observance by Mortgagor of all the covenants and conditions in the Note and this Mortgage, of even date herewith between Mortgagor and Mortgagee (and all other instruments and documents now or hereafter evidencing or securing the indebtedness secured hereby (the Note, this Mortgage, and all such other instruments and documents being sometimes referred to collectively as the "Loan Documents")) and in order to charge the properties, interests and rights hereinafter described with such payment, performance and observance, and for and in consideration of the sum of \$10.00 paid by Mortgagee to Mortgagor on or before the delivery of this Mortgage, and for other valuable considerations, the receipt of which is hereby acknowledged, Mortgagor does hereby grant, bargain, sell, alien, remise, release, convey, assign, transfer, mortgage, hypothecate, pledge, deliver, set over, warrant and confirm unto Mortgagee, its successors and assigns forever:

### **THE MORTGAGED PROPERTY**

**BEING** that certain piece, parcel or tract of land in which the Mortgagor has a fee simple interest situate in the County of Shelby and State of Alabama more particularly described in **Exhibit "A"** attached hereto and made a part hereof (hereinafter called the "Land").

**TOGETHER WITH** all buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land, and all fixtures, machinery, equipment, attachments, appliances, furniture, vehicles and other personal property of every nature whatsoever now or hereafter owned by Mortgagor and located in, on, or used or intended to be used in connection with or with the operation of the Land, buildings, structures or other



improvements, including all extensions, additions, improvements, betterments, renewals, and replacements to any of the foregoing; and all of the right, title and interest of Mortgagor in any such personal property or fixtures subject to a conditional sales contract, chattel mortgage or similar lien or claim together with the benefit of any deposits or payments now or hereafter made by Mortgagor on its behalf;

**TOGETHER WITH** all easements, rights of way, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, and all estates, rights, titles, interest, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way belonging, relating or appertaining to any of the property hereinabove described, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Mortgagor, and the reversion and reversions, remainder and remainders, rents, issues, profits thereof, and all 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, including, but not limited to, all judgments, payments, awards of damages and settlements hereafter made and resulting from condemnation proceedings or the taking of the "Mortgaged Property" (as hereinafter defined) or any part thereof under the power of eminent domain, the alteration of the grade of any street, or for any damage whether caused by such taking or otherwise to the Mortgaged Property or any part thereof, or to any appurtenant thereto, and all proceeds of any sales or other dispositions of the Mortgaged Property or any part thereof;

**TOGETHER WITH** all rents, royalties, issues, profits, revenue, income and other benefits from the Mortgaged Property to be applied against the indebtedness secured hereby, provided however, that permission is hereby given to Mortgagor so long as no default has occurred hereunder, to collect, receive, take, use and enjoy such rents, royalties, issues, profits, revenue, income, licenses, foreclosures, concessions and other benefits as they become due and payable, but not in advance thereof. The foregoing assignment shall be fully operative without any further action on the part of either party and, specifically, Mortgagee shall be entitled, at its option upon the occurrence of a default hereunder, to all rents, royalties, issues, profits, revenue, income and other benefits from the Mortgaged Property, whether or not Mortgagee takes possession of the Mortgaged Property. Upon any such notice of default hereunder, the permission hereby given to Mortgagor to collect such rents, royalties, issues, profits, revenue, income and other benefits from the Mortgaged Property shall terminate and such permission shall not be reinstated upon a cure of the default without Mortgagee's specific consent. Exercise of rights under this paragraph, and the application of any such rents, royalties, issues, profits, revenue, income or other benefits to such indebtedness, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant hereto, but shall be cumulative and in addition to all other rights and remedies of Mortgagee;

**TOGETHER WITH** all right, title and interest of Mortgagor in and to any and all leases, subleases, permits, licenses, franchises or certificates covering the property or any portion thereof, now or hereafter on or affecting the Mortgaged Property, together with all security therefor and all monies payable thereunder, including, without limitation, all cash or security deposits, advance rentals and deposits or payments of similar nature, subject, however, to the conditional permission hereinabove given to Mortgagor to collect the rentals under such leases, provided that the existence or exercise of such right of Mortgagor shall not operate to



subordinate this assignment to any subsequent assignment, in whole or in part, by Mortgagor, and any such subsequent assignment by Mortgagor shall be subject to the rights of secured party hereunder. The foregoing assignment of any lease shall not be deemed to impose upon Mortgagee any of the obligations or duties of Mortgagor provided in any such lease, and Mortgagor agrees to perform fully all obligations of the lessor under all such leases. Upon Mortgagee's request, Mortgagor agrees to send to Mortgagee a list of all leases covered by the foregoing assignment and as any such lease shall expire or terminate or as any new lease shall be made, Mortgagor shall so notify Mortgagee in order that at all times Mortgagee shall have a current list of all leases affecting the Mortgaged Property. Mortgagee shall have the right, at any time and from time to time, to notify any lessee of the rights of Mortgagee as provided by this paragraph. From time to time, upon request of Mortgagee, Mortgagor shall specifically assign to Mortgagee as additional security hereunder, by an assignment in writing in form approved by Mortgagee, all right, title and interest of Mortgagor in and to any and all leases now or hereafter on or affecting the Mortgaged Property, together with all security therefor and all monies payable thereunder, subject to the conditional permission hereinabove given to Mortgagor to collect the rentals under any such lease. Mortgagor also shall execute and deliver to Mortgagee any notification, financing statement, or other document required by Mortgagee to perfect the foregoing assignment as to any such lease;

**TOGETHER WITH** all monies escrowed for taxes, insurance or other charges in any way belonging, relating or appertaining to any of the Land herein described or any part thereof.

**TOGETHER WITH** a security interest in (i) all property, tools, equipment, machinery, goods and fixtures affixed to or located on the Mortgaged Property, which, to the fullest extent permitted by law, shall be deemed fixtures and a part of the real property, (ii) all articles of personal property and all materials delivered to the Mortgaged Property for the use and operation of said property or for use in any construction being conducted thereon, and owned by Mortgagor; (iii) all contract rights, including, without limitation, agreements and contracts of sale, construction contracts, service contracts, advertising contracts, purchase orders, equipment leases, all rights arising under any performance or payment bonds, and all other contract rights associated with the Mortgaged Property; (iv) all general intangibles, actions and rights of action, all deposits, prepaid expenses, permits, licenses, including all rights to insurance proceeds, surveys, architectural and engineering plans, drawings and specifications, (v) all right, title and interest of Mortgagor in all patents, service marks, copyrights, tradenames, designs, and trademarks, now or hereafter used in connection, or in connection with the use of, any of the property described herein, (vi) the proceeds of any permanent loan commitment now existing or hereafter executed by Mortgagor, and (vii) all proceeds, products, replacements, additions, substitutions, renewals and accessions of any of the foregoing. Mortgagor (Debtor) hereby grants to Mortgagee (Secured Party) a security interest in all fixtures, rights in action and personal property described herein.

This Mortgage is a self-operative security agreement with respect to personal property, but Mortgagor agrees to execute and deliver on demand such other security agreements, financing statements and other instruments as Mortgagee may request in order to perfect its security interest or to impose the lien hereof more specifically upon any of such property. Without limiting the foregoing, Mortgagor hereby irrevocably appoints Mortgagee attorney-in-



fact for Mortgagor to execute, deliver, and file such instruments for and on behalf of Mortgagor, and Mortgagor shall pay the costs of any such filing.

The Land, together with any and all of the aforescribed additional property and rights, now or hereafter acquired by Mortgagor, has herebefore been and shall sometimes hereinafter be, referred to as the "Mortgaged Property."

**TO HAVE AND TO HOLD** the Mortgaged Property and all parts thereof unto Mortgagee, its successors and assigns to its own proper uses and benefit forever, subject, however, to the terms and conditions herein:

**PROVIDED, HOWEVER**, that these presents are upon the condition that, if Mortgagor shall pay or cause to be paid to Mortgagee the principal and interest payable in respect of the Note, at the times and in the manner stipulated therein and herein, all without any deduction or credit for taxes or other similar charges paid by Mortgagor, and shall keep, perform and observe all and singular the covenants and promises in the Note, and any renewal, extension or modification thereof, and in this Mortgage expressed to be kept, performed and observed by and on the part of Mortgagor, all without fraud or delay, then this Mortgage, and all the properties, interest and rights hereby granted, bargained, sold, aliened, remised, released, conveyed, assigned, transferred, mortgaged, hypothecated, pledged, delivered, set over, warranted and confirmed, shall cease, terminate and be void, but shall otherwise remain in full force and effect.

**AND**, Mortgagor covenants and agrees with Mortgagee as follows:

## **ARTICLE I**

### **PARTICULAR COVENANTS OF MORTGAGOR**

1.1 Performance of Note and Mortgage. Mortgagor will perform, observe and comply with all the provisions hereof, of the Note secured hereby, of the other Loan Documents and of the provisions of any instrument evidencing or securing additional indebtedness of Mortgagor now existing or hereafter executed in connection with the Mortgaged Property and will promptly pay to Mortgagee the sum of money expressed in the Note with interest thereon, including a rate which is ten (10%) percent per annum as defined in the Note and all other sums required to be paid by Mortgagor pursuant to the provisions of this Mortgage, the other Loan Documents and any instrument evidencing or securing additional indebtedness of Mortgagor now existing or hereafter executed in connection with the Mortgaged Property on the days when payment shall become due, all without deduction or credit for taxes or other similar charges paid by Mortgagor, time being of the essence for such payments.

1.2 Warranty of Title. Mortgagor covenants, represents and warrants that it is indefeasibly seized of the Land in fee simple; that this Mortgage constitutes a valid first lien on the Mortgaged Property, that it has good and absolute title to all existing personal property hereby mortgaged; that it has full power and lawful right to convey and mortgage the same in the manner and form aforesaid; and that the Mortgaged Property is free from all liens and



encumbrances except taxes for the current year, and except for those matters which are set forth on \_\_\_\_\_ Title Commitment Agent No. \_\_\_\_\_. Mortgagor hereby makes further assurance to perfect fee simple title to the Land in Mortgagee as may be required. Mortgagor does hereby fully warrant the title to the Mortgaged Property against the lawful claims of all persons whomsoever.

1.3 Taxes, Liens and Utility Charges.

a. Mortgagor covenants and agrees to deliver to Mortgagee, on or before December 31 of each year, tax receipts evidencing the payment of all lawfully imposed taxes upon the Mortgaged Property for the then current calendar year; to deliver to Mortgagee receipts evidencing the payment of all liens, levies, fines and assessments for public improvements within 30 days after same shall become due and payable; and to pay or discharge no later than 30 days prior to delinquency, any and all governmental levies that may be made on the Mortgaged Property, on this Mortgage or the Note or in any other way resulting from the mortgage indebtedness secured by this Mortgage.

b. Mortgagor shall not permit any mechanics', laborer's, statutory or other lien to be created or to remain outstanding upon any of the Mortgaged Property and shall cause same to be released and discharged, or transferred to bond as permitted by law, within 10 days after the lien is filed of record;

c. If required by Mortgagee, Mortgagor shall pay to Mortgagee on the date of each regular installment of interest as required by the Note secured hereby, until the Note is fully paid, an amount equal to 1/12 or such proportionate share of the yearly taxes and assessments as estimated by Mortgagee to be sufficient to enable Mortgagee to pay at least 30 days before they become due, all taxes, assessments and other similar charges against the Mortgaged Property or any part thereof. Such added payment shall not be, nor be deemed to be, trust funds, but may be commingled with the general funds of Mortgagee, and no interest shall be payable in respect thereof. Upon demand of Mortgagee, Mortgagor agrees to deliver to Mortgagee such additional monies as are required to make up any deficiencies in the amounts necessary to enable Mortgagee to pay such taxes, assessments or similar charges. In the event of a default by Mortgagor in the performance of any of the terms, covenants and conditions in this Mortgage or the Note secured hereby, Mortgagee may apply to the reduction of the principal sum, in such manner as the Mortgagee shall determine, any amount under this Paragraph 1.3(c) of Article 1 remaining to Mortgagor's credit.

d. Mortgagor will pay when due and will not suffer to remain outstanding, any charges for utilities, whether public or private, with respect to the Mortgaged Property.

e. 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 mortgages or debts secured by mortgages, or the manner of collecting taxes so as to adversely affect the Mortgagee, at the option of the Mortgagee, the entire balance of the principal sum secured by this Mortgage



and all interest accrued thereon shall without notice become immediately due and payable unless Mortgagor shall pay such tax within 10 days after written notice thereof from Mortgagee.

1.4 No Tax Credits. The Mortgagor will not claim or demand or be entitled to receive any credit or credits on the principal or interest payable under the terms of the Note or on any other sums secured hereby, for so much of the taxes, assessments or similar impositions assessed against the Mortgaged Property or any part thereof, as are applicable to the indebtedness secured hereby or to the Mortgagee's interest in the Mortgaged Property. No deduction shall be claimed from the taxable value of the Mortgaged Property or any part thereof by reason of the Note or this Mortgage.

1.5 Insurance.

a. Mortgagor shall at its sole expense obtain for delivery to, and maintain for the benefit of, Mortgagee during the life of the Mortgage, comprehensive general liability insurance in such amounts and for such periods as Mortgagee may require. This insurance shall be non-contributing and not excess to any other insurance available to Mortgagee. Mortgagor shall pay promptly, when due, any premiums on the insurance policies and renewals.

b. Mortgagor shall keep the Mortgaged Property and the improvements now existing or hereafter erected on the Mortgaged Property insured against loss by fire and other hazards, casualties and contingencies, including, but not limited to, flood and builder's risk completed value coverage, in such amounts and for such periods as may be required by Mortgagee, and to pay promptly when due, any premiums on such insurance policies or renewals.

c. All insurance shall be carried on companies approved by Mortgagee as to financial standing according to such guidelines as may be adopted from time to time by Mortgagee, and the policies and renewals thereof shall be held by Mortgagee and shall have attached thereto loss payable clauses in favor of and in form acceptable to Mortgagee. All insurance policies shall require that written notice be sent to Mortgagee at least 30 days prior to the effective date of the expiration, termination or amendment thereto. At least 30 days prior to the termination or expiration date of all such policies, renewals thereof satisfactory to Mortgagee shall be delivered to Mortgagee. Mortgagor shall deliver to the Mortgagee receipts evidencing the payment of all such insurance policies and renewals. The delivery of the insurance policies shall constitute an assignment as further security of all unearned premiums. In the event of loss, Mortgagor will give immediate notice by mail to Mortgagee and Mortgagee may make proof of loss if not made promptly by Mortgagor, and each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Mortgagee instead of to Mortgagor and Mortgagee jointly, and the insurance proceeds or any part thereof may be applied by Mortgagee at its option either to the reduction of the indebtedness hereby secured or to the restoration or repair of the property damage. If Mortgagee elects to apply the insurance proceeds to reduce the outstanding indebtedness hereunder, Mortgagor shall remain responsible for repairing and/or maintaining the Mortgaged Property. Additionally, if Mortgagee applies the insurance proceeds to the reduction of the indebtedness secured hereby, the proceeds shall be applied to payments of principal in the inverse order of due dates, and Mortgagor shall remain



responsible for making payments of principal and interest to Mortgagee on the dates and in the manner required under the Note. In the event of foreclosure of this Mortgage or other transfer of title to the Mortgaged Property in extinguishment of the indebtedness secured hereby, all right, title and interest of Mortgagor in and to any insurance policies then in force shall pass to the purchaser or grantee.

d. If required by Mortgagee, Mortgagor shall pay to Mortgagee on the date of each regular installment of interest as required by the Note secured hereby, until the Note is fully paid, an amount equal to 1/12 or such proportionate share of the yearly premium for insurance as shall enable Mortgagee to pay for the insurance premiums when due. Such added payments shall not be, nor be deemed to be, trust funds, but may be commingled with the general funds of the Mortgagee, and no interest shall be payable with respect thereof. Upon demand of Mortgagee, Mortgagor agrees to deliver to the Mortgagee such additional monies as are necessary to make up any deficiencies in the amounts necessary to enable Mortgagee to pay such insurance premiums when due.

1.6 Condemnation. If all or any part of the Mortgaged Property 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), the entire indebtedness secured hereby shall at the option of Mortgagee become immediately due and payable. Mortgagee shall be entitled to all compensation, awards, and any other payments of relief therefor and is hereby authorized, at its option to commence, appear in and prosecute, in its own or Mortgagor's name, any action or proceeding relating to any condemnation. In the event of such an appearance by Mortgagee, Mortgagor agrees to pay the costs and reasonable attorneys' fees incurred by Mortgagee. Mortgagee shall be entitled to settle or compromise in its own or Mortgagor's name any claim in connection with any action or claim relating to condemnation. All compensation, awards, damages, claims, rights of action and proceeds and the right thereto are hereby assigned by Mortgagor to Mortgagee who, after deducting therefrom all its expenses, including attorneys' fees, may release any monies so received by it without affecting the lien of this Mortgage or may apply the same in such manner as Mortgagee shall determine, to the reduction of the sums secured hereby, and to any prepayment charge herein provided, and any balance of such monies then remaining shall be paid to Mortgagor. Mortgagor agrees to execute such further assignments of any compensations, awards, damages, claims, rights of action and proceeds as Mortgagee may require.

1.7 Care of Property.

a. Mortgagor shall preserve, operate and maintain the Mortgaged Property in good condition and repair. Mortgagor shall not permit, commit or suffer any waste, impairment or deterioration of the Mortgaged Property or of any part thereof, and will not take any action with will increase the risk of fire or other hazard to the Mortgaged Property or to any part hereof.

b. Except for the harvesting or sale of timber and as otherwise provided herein, no buildings, fixtures, personal property, or other part of the Mortgaged Property shall be removed, demolished or altered without the prior written consent of Mortgagee. Mortgagor may



sell or otherwise dispose of, free from the lien of this Mortgage, furniture, furnishings, equipment, tools, appliances, machinery, fixtures or appurtenances, subject to the lien hereof, which may become worn out, undesirable, obsolete, disused or unnecessary for use in the operation of the Mortgaged Property, not exceeding in value at the time of disposition thereof \$1,000.00 for any single transaction, or a total of \$10,000.00 in any one year, upon replacing the same by, or substituting for the same, other furniture, equipment, tools, appliances, machinery, fixtures or appurtenances not necessarily of the same character, but of at least equal value to 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 of this Mortgage.

c. Mortgagee is hereby authorized to enter upon and to inspect the Mortgaged Property at any time during normal business hours during the term of this Mortgage.

d. Mortgagor will comply promptly with all present and future laws, ordinances, rules and regulations of any governmental authority affecting the Mortgaged Property or any part thereof.

e. If all or any part of the Mortgaged Property shall be damaged by fire or other casualty, Mortgagor will give immediate written notice thereof to Mortgagee and shall promptly restore the Mortgaged Property to the equivalent of its original condition regardless of whether or not there shall be any insurance proceeds therefor. If a part of the Mortgaged Property shall be physically damaged through condemnation, Mortgagor will promptly restore, repair or alter the remaining property in a manner satisfactory to Mortgagee.

1.8 Further Assurances. Mortgagor will make, execute and deliver to Mortgagee and, where appropriate, shall cause to be recorded and/or filed and from time to time thereafter to be re-recorded and/or re-filed at such time and in such offices and places as shall be deemed desirable by Mortgagee, any and all such further mortgages, mortgage modifications, instruments of further assurance, certificates and other documents as may, in the opinion of Mortgagee, be necessary or desirable in order to effectuate, complete, enlarge or perfect, or to continue and preserve:

a. The obligation of Mortgagor under this Mortgage and the Note secured hereby, and

b. The lien of this Mortgage as a valid first lien upon all of the Mortgaged Property, whether now owned or hereafter acquired by Mortgagor.

Upon any failure by Mortgagor to do so, Mortgagee may make, execute, record, file, re-record and/or re-file any and all such mortgages, instruments, certificates and documents for and in the name of Mortgagor, and Mortgagor hereby irrevocably appoints Mortgagee the agent and attorney-in-fact of Mortgagor to do so.

1.9 After Acquired Property. Except for equipment leased by Mortgagor from unrelated third parties upon Mortgagee's prior approval, the lien of this Mortgage will



automatically attach, without further act, to all after acquired property of any nature whatsoever attached to, located in, on, or used in the operation of the Mortgaged Property or any part thereof, and Mortgagor covenants and warrants that it will have good and absolute title to all of the aforesaid after acquired property free of any lien or encumbrance.

1.10 Leases Affecting Mortgaged Property. Mortgagor will comply with and observe its obligations as landlord under all leases affecting the Mortgaged Property or any part thereof. Mortgagor will furnish Mortgagee with copies of all leases hereafter created on the Mortgaged Property, and all leases hereafter entered into will be in form and substance subject to the approval of Mortgagee. Mortgagee specifically reserves the right to approve all proposed leases as to financial capabilities. Notwithstanding the foregoing, Mortgagor shall have the right to enter into hunting, fishing and recreational leases in the ordinary course of business, provided that any such lease shall have a term not exceeding three (3) years and shall be subject to termination by the lessor on not more than thirty (30) days notice. Unless otherwise herein specifically provided, all leases shall be inferior and subordinate in all respects to the lien of this Mortgage, and the terms of each lease shall so provide. Mortgagor will not, without the express written consent of Mortgagee, modify, surrender, assign or terminate, either orally or in writing, any lease created upon the Mortgaged Property. Mortgagor will not accept payment of rent more than one month in advance without the express written consent of Mortgagee. If requested by Mortgagee, Mortgagor will specifically assign to Mortgagee as additional security any and all such leases hereafter created, including, without limitation, all rents, royalties, issues and profits of the premises from time to time accruing, the parties hereto acknowledging that this Mortgage constitutes a general assignment of any and all such future leases.

1.11 Expenses. Mortgagor shall pay or reimburse Mortgagee for all costs, charges, payments and expenses, including reasonable attorneys' fees, including appellate proceedings, disbursements, and costs of abstracts of title incurred or paid by Mortgagee on account of or in any action, proceeding or dispute in which Mortgagee is made a party or appears as a party plaintiff or party defendant because of the failure of Mortgagor promptly and fully to perform and comply with all conditions and covenants of this Mortgage and the Note secured hereby, including, but not limited to, the foreclosure of this Mortgage, condemnation of all or part of the Mortgaged Property, or any action to protect the security thereof. All costs, charges and expenses so incurred by Mortgagee shall become due and payable upon demand. The amounts so paid or incurred by Mortgagee, together with interest thereon at the default rate provided in the Note from the date incurred until paid by Mortgagor, shall be secured by the lien of this Mortgage.

1.12 Mortgagee's Performance of Defaults. If Mortgagor shall default in the payment of any tax assessment, encumbrance or other imposition, in its obligation to furnish insurance hereunder or in the performance or observance of any other covenant, condition or term in this Mortgage or in any other instrument evidencing or securing additional indebtedness of Mortgagor now existing or hereafter executed in connection with the Mortgaged Property, then Mortgagee may, at its option, without waiving or affecting its option to foreclose or any other rights hereunder, 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 immediately repaid by Mortgagor to Mortgagee, upon demand, with interest thereon at the default rate



provided in the Note. Nothing contained herein shall be construed as requiring Mortgagee to advance or expend monies for any purposes mentioned in this paragraph. Mortgagee is hereby empowered to enter and to authorize others to enter upon the Mortgaged Property or any part thereof for the purpose of performing or observing any such defaulted covenant, condition or term, without thereby becoming liable to Mortgagor or any person in possession holding under Mortgagor.

1.13 Books and Records. Mortgagor shall keep and maintain in their main office, at all times, full, true and accurate books of accounts and records, adequate to reflect correctly the results of the operation of the Mortgaged Property.

1.14 Estoppel Affidavits. Mortgagor, within 10 days after written request from Mortgagee, shall furnish a written statement, duly acknowledged, setting forth the unpaid principal of, and interest on, the Note and whether or not any offsets or defenses exist against such principal and interest.

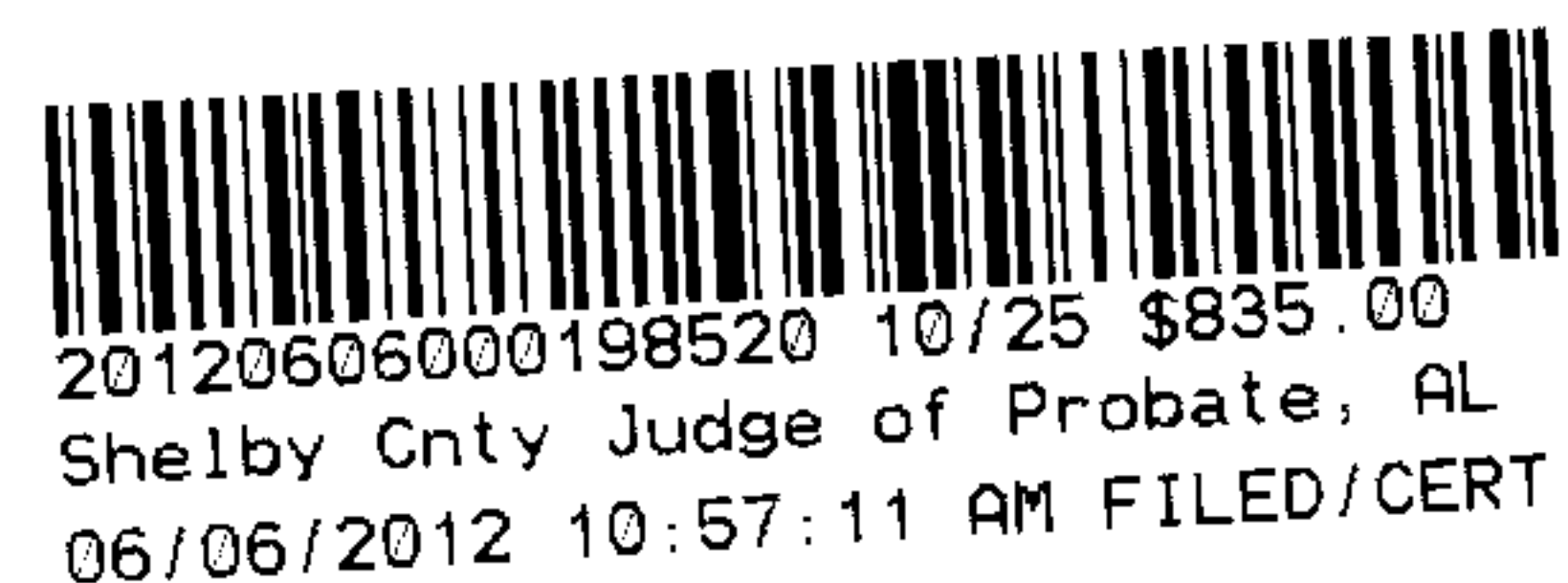
1.15 Waiver of Notice of Limitation of Indebtedness. Mortgagor hereby waives, on behalf of itself and its successors and assigns, the right to file for recording a notice limiting the maximum principal amount which may be secured by this Mortgage.

1.16 Financial Information.

a. Upon request by Mortgagee from time to time, Mortgagor shall at Mortgagor's sole cost and expense, furnish to Mortgagee such financial and other statements, reports, documents, returns and other information regarding Mortgagor and its operations as Mortgagee shall request, including, but not limited to, annual and quarterly balance sheets, income statements and cash flow statements prepared in accordance with generally accepted accounting principles consistently applied, in form acceptable to Mortgagee and certified to Mortgagee's satisfaction, and with respect to such annual statements, audited by an independent certified public accountant acceptable to Mortgagee who is a member of the American Institute of Certified Public Accountants, and copies of tax returns filed by Mortgagor with the Internal Revenue Service and any state, local or other governmental authority.

b. Mortgagor will permit Mortgagee's representatives from time to time during normal business hours to visit Mortgagor's offices, to inspect Mortgagor's books of account, records, reports and other papers, to make copies and extracts therefrom and to discuss Mortgagor's business affairs, finances and accounts with Mortgagor's members, officers, employees and independent public accountants.

1.17 Maintenance of Organizational Documents. The Mortgagor's Certificate of Organization and the Limited Liability Company Agreement, each dated as of May 1, 2012, shall not be changed, modified, canceled or altered in any manner without the prior written consent of Mortgagee, and such Certificate and Agreement of Mortgagor shall be maintained in full force and effect and in good standing.





1.18 Partial Releases. During the term of this Mortgage, so long as Mortgagor is not in default with respect to any terms or conditions of the Loan Documents, Mortgagee shall provide Mortgagor with a partial release from this Mortgage at the time of sale of a portion of the Mortgaged Property, to bonafide purchasers, which purchasers are not affiliated or related to the Mortgagor. Said releases shall be in accordance with the provisions of the Loan Documents..

1.19 Transfers to Affiliate. Intentionally omitted.

## ARTICLE 2

### DEFAULTS

2.1 Event of Default. The term "Event of Default," wherever used in the Mortgage, shall mean any one or more of the following events:

a. Failure by Mortgagor to pay, as and when due and payable, any installment of principal or interest due under the Note, or any deposits for taxes and assessments or insurance premiums due hereunder, or any other sums to be paid by Mortgagor hereunder or under any of the other Loan Documents or under any other instrument of indebtedness to which Mortgagor is a party.

b. Failure by Mortgagor to duly keep, perform and observe any other covenant, condition or agreement in the Note, this Mortgage, any of the other Loan Documents or any other instrument collateral to the Note or executed in connection with the sums secured hereby.

c. Failure by Mortgagor to duly keep, perform and observe any other covenant, condition or agreement contained in any instrument securing additional indebtedness of Mortgagor now existing or hereafter executed in connection with the Mortgaged Property.

d. If Mortgagor or any endorser or guarantor of the Note shall file a voluntary petition in bankruptcy or shall admit in writing its inability to pay its debts as they mature or shall make an assignment of its debts as they mature or shall be adjudicated bankrupt or insolvent, or shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, wage earner's plan, assignment for the benefit of creditors, receivership, dissolution or similar relief under any present or future Federal Bankruptcy Act or any other present or future applicable federal, state or other statute or law, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Mortgagor or of all or any part of the properties of Mortgagor or any guarantor or endorser of the Note; or if within 30 days after commencement of any proceeding against Mortgagor or any guarantor or endorser of the Note, seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, debtor relief or similar relief under any present or future Federal Bankruptcy Act or any other present or future federal, state or other statute or law, such proceeding shall not have been dismissed, or stayed on appeal; or if, within 30 days after the appointment, without the consent or acquiescence of Mortgagor or any endorser or guarantor of the Note, of any trustee, receiver, or liquidator of Mortgagor or any endorser or guarantor of the



Note, or of all of any portion of the Mortgaged Property, such appointment shall not have been vacated or stayed on appeal or otherwise; or if within 10 days after the expiration of any such stay, such appointment shall not have been vacated.

e. The entry by a court of last resort of a decision that an undertaking by the Mortgagor as herein provided to pay taxes, assessments, levies, liabilities, obligations and encumbrances is legally inoperative or cannot be enforced, or in the event of the passage of any law changing in any way or respect the laws now in force for the taxation of mortgages or debts secured thereby for any purpose or the manner of collection of any such taxes, so as to adversely affect this Mortgage or the debt secured hereby, provided that Mortgagor has not paid such taxes within 15 days of notice thereof.

f. The occurrence of any default in any mortgage superior or inferior to the Mortgage, or the institution of foreclosure proceedings on any mortgage superior or inferior to this Mortgage, or if any foreclosure proceeding on any lien of any kind, provided that such proceedings are not terminated within 10 days of their institution.

g. Any modification of any mortgage superior or inferior to this Mortgage, or any increase in the amount outstanding under any mortgage superior or inferior to this Mortgage, whether pursuant to a future advance agreement or otherwise, or any waiver of any principal or any interest payments on any note or mortgage superior to this Mortgage, or release of any guarantor or modification of any guaranty affecting any superior mortgage.

h. Any breach of any warranty or untruth of any representation of Mortgagor contained in the Note, this Mortgage, the "Guaranty" (as hereinafter defined) or any other instrument securing the Note.

i. The filing by Mortgagor for recording of a notice limiting the maximum principal amount which may be secured by this Mortgage.

j. Failure by any "Guarantor" (as hereinafter defined) of the Note to perform any covenant, term, or condition of the Guaranty.

k. The existence of any material adverse change in the financial condition of Mortgagor or any Guarantor.

l. The transfer, conveyance, sale, pledge, mortgage, or lien of or upon the Mortgaged Property, other than as expressly contemplated in the Loan Documents or in this Mortgage, or of any interest in Mortgagor without having first obtained the prior written consent of Mortgagee.

m. With respect to monetary defaults, Borrower shall not be considered to be in default until five (5) days after the due date for the payment. With respect to non-monetary defaults, Borrower shall not be considered to be in default until thirty (30) days from the commencement of the default.



2.2 Acceleration of Maturity. If an Event of Default shall have occurred, Mortgagee may declare the entire unpaid principal amount of the Note then unpaid, and the interest accrued thereon, to be due and payable immediately, and upon such declaration such principal and interest shall forthwith become and be due and payable, as fully and to the same effect as if the date of such declaration were the date originally specified for the maturity of the unpaid balance of the Note.

2.3 Mortgagee's Right to Enter and Take Possession, Operate and Apply Income.

a. If an Event of Default shall have occurred, Mortgagor, upon demand of Mortgagee, shall forthwith surrender to Mortgagee the actual possession of the Mortgaged Property, and to the extent permitted by law Mortgagee may enter and take possession of all the Mortgaged Property, and may exclude Mortgagor and its agents and employees wholly therefrom, and may have joint access with Mortgagor to the books, papers and accounts of Mortgagor.

b. If Mortgagor shall, for any reason, fail to surrender or deliver any such Mortgaged Property or any part thereof after such demand by Mortgagee, Mortgagee may obtain a judgment or decree conferring on Mortgagee the right to immediate possession or requiring Mortgagor to deliver immediate possession of all or part of such Mortgaged Property to Mortgagee, to the entry of which judgment or decree Mortgagor hereby specifically consents.

c. Mortgagor will pay to Mortgagee, upon demand, all expenses of obtaining such judgment or decree and reasonable compensation to Mortgagee, its attorneys and agents and all such expenses and compensation shall, until paid, be secured by the lien of this Mortgage.

d. Upon every such entering upon or taking of possession, Mortgagee may hold, store, use, operate, manage and control the Mortgaged Property and conduct the business thereof, and, from time to time:

(1) make all necessary maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon, and purchase or otherwise acquire additional fixtures, personalty and other property, as determined by Mortgagee in its sole and absolute discretion;

(2) insure or keep the Mortgaged Property insured and exercise all the rights and powers of Mortgagor in its name or otherwise, with respect to the same;

(3) manage and operate the Mortgaged Property and exercise all the rights and powers of Mortgagor in its name or otherwise, with respect to the same; and

(4) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted Mortgagee, all as Mortgagee from time to time may determine to be to its best advantage; and Mortgagee may collect and receive all the income, revenues, rents, issues and profits of the same, including those past due as well as those accruing thereafter, and after deducting:



- (i) all expenses of taking, holding, managing and operating the Mortgaged Property (including reasonable compensation for the services of all persons employed for such purposes);
- (ii) the cost of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements and purchases and acquisitions;
- (iii) the cost of such insurance;
- (iv) such taxes, assessments and other charges prior to the lien of this Mortgage as Mortgagee may determine to pay;
- (v) other proper charges upon the Mortgaged Property or any part thereof; and
- (vi) the reasonable compensation expenses, and disbursements of the attorneys and agents of Mortgagee

shall apply the remainder of the monies so received by Mortgagee, first to the payment of accrued interest; second to the payment of any required tax deposit, insurance deposit or expenses required by Mortgagee; and third toward the outstanding principal balance on the Note.

2.4 Mortgagee's Power of Enforcement. If an Event of Default shall have occurred 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 by any other appropriate proceeding or remedy (a) to enforce payment of the Note or the performance of any term hereof or any other right, (b) to foreclose this Mortgage and to sell, as an entirety or in separate lots or parcels, the Mortgaged Property, under the judgment or decree of a court or courts of competent jurisdiction, and (c) to pursue any other remedy available to it, all as Mortgagee shall deem most effectual for such purposes. Mortgagee shall take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, as Mortgagee may determine. Mortgagee shall have all the rights and remedies in addition to those specified herein of a secured party under the Uniform Commercial Code.

2.5 Leases. Mortgagee, at Mortgagee's option, is authorized to foreclose this Mortgage, and the failure to make any tenants of the Mortgaged Property parties defendant to any such foreclosure proceedings and to foreclose their rights will not be, nor be asserted to be by Mortgagor, a defense to any proceedings instituted by Mortgagee to collect the sums secured hereby, or any deficiency remaining unpaid after the foreclosure sale of the Mortgaged Property.

2.6 Principal and Interest Become Due on Foreclosure. Upon commencement of suit for foreclosure of this Mortgage, the unpaid principal of the Note, if not previously declared due, and the interest accrued thereon, shall at once become and be immediately due and payable.



2.7 Purchase by Mortgagee. Upon any such foreclosure sale, pursuant to judicial proceedings, Mortgagee may bid for and purchase the Mortgaged Property and, upon compliance with the terms of sale, may hold, retain and possess and dispose of such property in its own absolute right, without further accountability.

2.8 Application of Indebtedness Toward Purchase Price. Upon any such foreclosure sale, pursuant to judicial proceedings, Mortgagee may, if permitted by law, after allowing for the proportion of the total purchase price required to be paid in cash for the costs and expenses of the sale, compensation and other charges, in paying the purchase price, apply to the purchase price, in lieu of cash any portion of or all sums due to Mortgagee under the Note and this Mortgage.

2.9 Waiver of Appraisalment, Valuation, Stay, Extension and Redemption Laws. Mortgagor agrees to the full extent permitted by law, that in case of a default on its part hereunder, neither Mortgagor nor anyone claiming through or under it shall or will set up, claim or seek to take advantage of any appraisalment, valuation, stay, extension or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, or the absolute sale of the property hereby conveyed, or the final and absolute putting into possession thereof, immediately after such sale, of the purchasers thereat, and Mortgagor, for itself and all who may at any time claim through or under it, hereby waives to the full extent that it may lawfully do so, the benefit of all such laws, and any and all right to have the assets comprised in the security intended to be created hereby marshalled upon any foreclosure of the lien hereof and agrees that Mortgagee or any court having jurisdiction to foreclosure such lien may sell the Mortgaged Property as an entirety.

2.10 Receiver. If an Event of Default shall occur and then upon the filing of a bill in equity or other commencement of judicial proceedings to enforce the rights of Mortgagee, Mortgagee to the extent permitted by law, and without regard to the value or occupancy of the security and without regard to the solvency of Mortgagor or any other person or entity who may be liable for the indebtedness secured hereby, shall be entitled as a matter of right to the appointment of a receiver to enter upon and take possession of the Mortgaged Property. The receiver shall collect all rents, revenues, issues, income, products and profits thereof, pending such proceedings and apply the same as the court may direct. Mortgagor hereby specifically waives the right to object to the appointment of a receiver as described herein and hereby expressly consents that such appointment shall be made as Mortgagee's absolute right and that such appointment may be made without notice to Mortgagor. The receiver shall have all rights and powers permitted under the laws of Alabama and such other powers as the court making such appointment shall confer. The expenses, including receiver's fees, reasonable attorneys' fees, costs and agent's compensation, incurred pursuant to the powers herein contained shall be secured by this Mortgage. The right to enter and take possession of, to manage and operate, the Mortgaged Property, to collect the rents, issues and profits thereof, whether by a receiver or otherwise, shall be cumulative to any other right or remedy hereunder or afforded by law, and may be exercised concurrent therewith or independently thereof. Mortgagee shall be liable to account only for such rents, issues and profits actually received by Mortgagee, whether received pursuant to this Paragraph 2.10 or Paragraph 2.3 above. Notwithstanding the appointment of any receiver, trustee or other custodian, Mortgagee shall be entitled as pledgee to the possession and



control of any cash, or other instruments at the time held by, or payable or deliverable under the terms of this Mortgage to Mortgagee.

2.11 Suits to Protect the Mortgaged Property. The Mortgagee shall have power (a) to institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Mortgaged Property by any acts which may be unlawful or any violation of this Mortgage, (b) to preserve or protect its interest in the Mortgaged Property and in the income, revenues, rents and profits arising therefrom and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with, such enactment, rule or order would impair the security hereunder or be prejudicial to the interest of Mortgagee.

2.12 Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial 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.

2.13 Acceleration; Application of Monies by Mortgagee.

a. If default shall be made in the payment of any amount due under the Mortgage or the Note secured hereby, then, upon demand of Mortgagee, Mortgagor shall pay to Mortgagee the entire amount due and payable under the Note. If Mortgagor shall fail to pay the same forthwith upon such demand, Mortgagee shall be entitled to sue for and to recover judgment for the whole amount so due and unpaid, together with costs, which shall include the reasonable compensation, expenses and disbursements of Mortgagee's agents and attorneys either before, after or during the pendency of any proceedings for the enforcement of this Mortgage, including appellate proceedings. The right of Mortgagee to recover such judgment shall not be affected by any taking, possession or foreclosure sale hereunder, or by the exercise of any other right, power or remedy for the enforcement of the terms of this Mortgage, or the foreclosure of the lien hereof.

b. In case of a foreclosure sale of any of the Mortgaged Property and of the application of the proceeds of sale to the payment of the debt hereby secured, Mortgagee shall be entitled to enforce payment of and to receive all amounts then remaining due and unpaid upon the Note, and Mortgagee shall be entitled to recover judgment for any portion of the debt remaining unpaid, with interest.

c. Mortgagor agrees, to the full extent that it may lawfully so agree, that no recovery of any such judgment by Mortgagee and no attachment or levy of any execution upon any such judgment upon any of the Mortgaged Property or upon any other property shall in any manner or to any extent affect the lien of this Mortgage upon the Mortgaged Property or any part



thereof or any lien, rights, powers or remedies of Mortgagee hereunder, but such lien, rights, powers and remedies shall continue unimpaired as before.

d. Any monies thus collected by Mortgagee or received by Mortgagee under this Paragraph 2.13 shall be applied as follows:

First to the payment of the reasonable attorneys' fees and expenses incurred by Mortgagee, its agents and attorneys, including, but not limited to, taxes paid, insurance premiums paid, receivers fees, etc.; and

Second, toward payment of the amounts due and unpaid upon the Note.

2.14 Delay or Omission No Waiver. No delay or omission of Mortgagee or of any holder of the Note to exercise any right, power or remedy accruing upon any default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such default or acquiescence therein; and every right, power and remedy given by this Mortgage to Mortgagee may be exercised from time to time and as often as may be deemed expedient by Mortgagee.

2.15 No Waiver of One Default to Affect Another. No waiver of any default hereunder shall extend to or shall affect any subsequent or any other then existing default or shall impair any rights, powers or remedies consequent thereon. If Mortgagee (a) grants forbearance or an extension of time for the payment of any sums secured hereby; (b) takes other or additional security for the payment thereof; (c) accepts full or partial payment of interest or principal due and payable under the Note after the occurrence of an Event of Default; (d) waives or does not exercise any right granted herein or in the Note; (e) releases any part of the Mortgaged Property from the Note or Mortgage; (f) consents to the filing of any map, plat or replat thereof; (g) consents to the granting of any easement thereon; or (h) makes or consents to any agreement subordinating the lien hereof, any such act or omission shall not release, discharge, modify, change or affect the original liability under the Note, Mortgage or otherwise of Mortgagor or any subsequent purchaser of the Mortgaged Property or any part thereof, or any maker, co-signer, endorser, surety or guarantor; nor shall any such act or omission preclude Mortgagee from exercising any right, power or privilege herein granted or intended to be granted in the event of any other default then made or of any subsequent default nor, except as otherwise expressly provided in an instrument or instruments executed by Mortgagee, shall the lien of this Mortgage be altered thereby. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Mortgaged Property, Mortgagee, without notice to any person or entity, is hereby authorized and empowered to deal with any such vendee or transferee with reference to the Mortgaged Property or the indebtedness secured hereby, or with reference to any of the terms or conditions hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any of the liabilities or undertakings hereunder.



2.16 Discontinuance of Proceedings; Position of Parties Restored. In case Mortgagee shall have proceeded to enforce any right 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 and 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 proceeding has been taken.

2.17 Remedies Cumulative. No right, power or remedy conferred upon or reserved to Mortgagee by this Mortgage is intended to be exclusive of any other right, power or remedy but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity or by statute

2.18 Subrogation. Mortgagee hereby is subrogated to the claims and liens of all parties whose claims or liens are discharged or paid with the proceeds of the indebtedness secured by this Mortgage.

2.19 Abstract. Any abstract of title covering the Mortgaged Property shall belong to and remain in the possession of Mortgagee during the lien of this Mortgage.

### ARTICLE III

#### MISCELLANEOUS PROVISIONS

3.1 Successors and Assigns Included in Parties. Whenever in this Mortgage one of the parties hereto is named or referred to, the successors and assigns of such party shall be included and all covenants and agreements contained in this Mortgage by or on behalf of Mortgagor or by or on behalf of Mortgagee, shall bind and inure to the benefit of their respective successors and assigns, whether so expressed or not. Whenever the singular or plural number, masculine or feminine or neuter gender is used herein, it shall equally include the other.

3.2 Notice.

a. Mortgagor. Any notice, demand or other instrument authorized by this Mortgage to be served on or given to Mortgagor may be served on or given to Mortgagor, at the following address:

LIBERTY SHORES, LLC  
665 Simonds Road  
Williamstown, MA 01267

or at such other address as may have been furnished in writing to Mortgagee by Mortgagor.



b. Mortgagee. Any notice, demand or other instrument to be served on or given to Mortgagee may be served on or given to Mortgagee at its offices located at the following address:

American Land Management  
Corporation  
Attn: Tim Smith  
665 Simonds Road  
Williamstown, MA 01267

with a copy to:

or at such other address as may have been furnished in writing to Mortgagor by Mortgagee.

c. Notice shall be deemed given when hand delivered, properly receipted, or placed in the United States mails, certified or registered, return receipt requested, postage prepaid, to the above addresses.

3.3 Headings. The headings of the articles, sections, paragraphs and subdivisions of this Mortgage are for convenience of reference only, and are not to be considered a part hereof, and shall not limit or otherwise affect any of the terms hereof.

3.4 Invalid Provisions to Affect No Others. In case any one or more of the covenants, agreements, terms or provisions contained in this Mortgage or in the Note shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein and in the Note shall not be affected, prejudiced or disturbed thereby in any manner.

3.5 Modifications. It is understood and agreed that Mortgagee may at any time, without notice to any person, grant to Mortgagor any modification of any kind or nature whatsoever, or allow any change or changes, substitution or substitutions or any of the property described in this Mortgage or any other collateral which may be held by Mortgagee without in any manner affecting the liability of Mortgagor, any endorsers or guarantors of the indebtedness hereby secured or any other person for the payment of said indebtedness, together with interest and any other sums which may be due and payable to Mortgagee, and also without in any manner affecting or impairing the lien of this Mortgage upon the remainder of the Mortgaged Property and other collateral which is not changed or substituted; and it is also understood and agreed that the Mortgagee may at any time, without notice to any person, release any portion of the property described in this Mortgage or any other collateral, or any portion of any other collateral which may be held as security for the payment of the indebtedness hereby secured, either with or without any consideration of such release or releases, without in any manner affecting the liability of Mortgagor, all endorsers or guarantors, if any, and all other persons who are or shall be liable for the payment of said indebtedness, and without affecting, disturbing or impairing in any manner whatsoever the validity and priority of the lien of this Mortgage for the full amount of the indebtedness remaining unpaid, together with all interest and advances which shall become payable, upon the entire remainder of the Mortgaged Property which is unreleased,



and without in any manner affecting or impairing to any extent whatsoever any and all other collateral security which may be held by Mortgagee. It is distinctly understood and agreed by Mortgagor and the Mortgagee that any release or releases may be made by Mortgagee without the consent or approval of any other person or persons whomsoever.

3.6 Uniform Commercial Code. The parties agree that this Mortgage is a security agreement under the Uniform Commercial Code for the purpose of creating a lien on and granting to Mortgagee a security interest in the personal property and fixtures described herein.

3.7 No Transfer or Encumbrance. It is understood and agreed by Mortgagor that as part of the inducement to Mortgagee to make the loan evidenced by the Note, Mortgagee has considered and relied on the credit worthiness and reliability of Mortgagor. Except as otherwise expressly permitted under the Loan Documents or this Mortgage, Mortgagor covenants and agrees not to sell, convey, transfer, lease, execute any management agreement, easement or other agreement covering, or further encumber any interest in any part of the Mortgaged Property or Mortgagor, and any such sale, conveyance, transfer, lease or encumbrance shall constitute an Event of Default hereunder; provided, however, Mortgagor may enter into commercially reasonable management agreements and easements in the ordinary course of business if (a) any such management agreement is subject to termination by Mortgagor on not more than sixty (60) days notice, is subject and subordinate to this Mortgage and does not constitute a lien or encumbrance on the Mortgaged Property, and (b) any such easement does not have a material, adverse effect on the use, value or marketability of the Mortgaged Property for management and operation as timberlands and/or for development for other uses and purposes. A contract to deed or agreement for deed or assignment of beneficial interest in any land trust or a transfer, conveyance or pledge of any interest, including, but not limited to, shares of stock or any membership interests or partnership interests in Mortgagor shall constitute a transfer pursuant to the provisions of this paragraph. If any person should obtain an interest in all or any part of the Mortgaged Property, pursuant to the execution or enforcement of any lien, security interest or other right, whether superior, equal or subordinate to this Mortgage or the lien hereof, such event shall be deemed to be a transfer by Mortgagor and an Event of Default hereunder.

3.8 Sales Commissions. Mortgagor covenants that every agreement to pay sales commissions with respect to the sale of the Mortgaged Property, or any part thereof, are and shall be subject, subordinate and inferior to the right of Mortgagee, so that in the event Mortgagee acquires title to the Mortgaged Property either at a foreclosure sale or by other means, Mortgagee will be exonerated and discharged from all liabilities for the payment of any such commissions or compensations.

3.9 Time is of the Essence. It is specifically agreed that time is of the essence of this Mortgage and that no waiver of any obligation hereunder or of the obligation secured hereby shall at any time thereafter be held to be a waiver of the terms hereof or of the instrument secured hereby.

3.10 Attorneys' Fees and Expenses. Wherever provision is made herein for payment for reasonable attorneys' or counsels' fees or expenses incurred by Mortgagee, said provision shall include, but not be limited to, reasonable attorneys' or counsels' fees or expenses incurred



in any and all judicial, bankruptcy, reorganization, administrative, or other proceedings, including appellate proceedings, whether such proceedings arise before or after entry of a final judgment.

3.11 Maximum Rate of Interest. Nothing herein contained, in the Note secured hereby or any instrument or transaction related thereto, shall be construed or so operate as to require Mortgagor, or any person liable for the payment of the loan made pursuant to the Note, to pay interest in an amount or at a rate greater than the maximum allowed by law. Should any interest or other charges in the nature of the interest paid by Mortgagor, or any parties liable for the payment of the loan made pursuant to the Note, result in the computation or earning of interest in excess of the maximum rate of interest allowed by applicable law, then any and all such excess shall be and the same is hereby waived by the holder hereof, and all such excess shall be credited automatically against and in reduction of the principal balance, and any portion of said excess which exceeds the principal balance shall be paid by the holder hereof to Mortgagor, or any parties liable for the payment of the loan made pursuant to the Note, it being the intent of parties hereto that under no circumstances shall Mortgagor, or any parties liable for the payment of the loan hereunder, be required to pay interest in excess of the maximum rate allowed by law.

3.12 Contract. This Mortgage is made by Mortgagor and accepted by Mortgagee in the State of Alabama with reference to the laws of such State, and shall be construed, interpreted, enforced and governed by and in accordance with such laws (excluding the principles thereof governing conflicts of law) and federal law, in the event (and only in the event) federal law preempts State law.

3.13 Attorney-in-Fact. Mortgagor hereby appoints Mortgagee or substitutes appointed by Mortgagee or its successors and assigns as Mortgagor's true and lawful attorney, for Mortgagor and in Mortgagor's name to perform and do all and every act and thing whatsoever requisite and necessary to be done under all contracts, licenses, leases and similar documents and agreements in which Mortgagee has a security interest, upon an Event of Default hereunder. This appointment shall be coupled with an interest and shall be non-cancelable except upon satisfaction of the indebtedness secured hereby. Mortgagor hereby ratifies and confirms all that Mortgagee shall lawfully do or cause to be done pursuant hereto.

3.14 Indemnification. Mortgagor shall protect, indemnify and hold Mortgagee harmless from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including without limitation attorneys' fees and expenses) imposed upon or incurred by or asserted against Mortgagee by reason of (a) ownership of this Mortgage, the Mortgaged Property or any interest therein or receipt of any rents; (b) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Mortgaged Property or any part thereof; (c) any use, non-use or condition in, on or about the Mortgaged Property; (d) any failure on the part of Mortgagor to perform or comply with any of the terms of this Mortgage; or (e) performance of any labor or services or the furnishing of any materials or other property in respect of the Mortgaged Property or any part thereof. All amounts payable to Mortgagee by reason of the application of this paragraph shall become immediately due and payable and shall bear interest at the rate of the lesser of (i) two percent above the interest rate specified in the Note, or (ii) the maximum interest rate permitted by applicable law, from the



date loss or damage is sustained by Mortgagee until paid. The obligations of Mortgagor under this paragraph shall survive any termination or satisfaction of this Mortgage.

### 3.15 Hazardous Substances.

a. Mortgagor hereby represents that (i) neither Mortgagor nor any other person within Mortgagor's knowledge, based upon reasonable investigation, has ever caused or permitted any "Hazardous Substances" (hereinafter defined) to be placed, held, located or disposed on, under or at the Mortgaged Property or any part thereof and neither the Mortgaged Property nor any part thereof ever has been used (whether by the Mortgagor or by any other person) as a dump site or storage site (whether permanent or temporary) for any Hazardous Substances, (ii) the current use and occupancy of the Mortgaged Property comply with all Federal, state and local environmental laws, statutes, ordinances, codes, rules, regulations, orders and decrees.

b. Mortgagor hereby agrees to indemnify Mortgagee and hold Mortgagee harmless from and against any and all losses, liabilities, including strict liability, damages, injuries, expenses, including reasonable attorneys' fees, claims for damage to the environment, claims for owed penalties, costs of any settlement or judgment and claims of any and every kind whatsoever paid or incurred and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, Mortgagee by any person or entity or governmental agency for, with respect to, or as a direct or indirect result of, the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission, discharging or release from, the Mortgaged Property of any Hazardous Substances (including, without limitation, any losses, liabilities, including strict liability, damages, injuries, expenses, including reasonable attorneys' fees, costs of any settlement or judgment or claims asserted or arising under the Comprehensive Environmental Response, Compensation and Liability Act, any so called federal, state or local "superfund" or "super lien" law, statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability, including strict liability, substances or standards of conduct concerning any Hazardous Substances), regardless of whether or not caused by, or within the control of Mortgagor.

c. For purposes of this Mortgage, "Hazardous Substances" shall have the meaning ascribed in and shall include those substances listed in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 et seq. and the regulations promulgated thereunder (as amended from time to time) and includes oil and oil waste as those terms are defined in the Clean Water Act, 33 U.S.C. §1251 et seq. and the regulations promulgated thereunder (as amended from time to time) and the Resource, Conservation and Recovery Act, 42 U.S.C. §6901 et seq., and shall include any other elements or compounds which are contained in the list of hazardous substances adopted by the United States Environmental Protection Agency (the "EPA") and the list of toxic pollutants designated by Congress or the EPA or defined by any other Federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, now existing or at any time hereafter in effect.



d. If Mortgagor receives any notice of (i) the happening of any event involving the use, spill, release, leak, seepage, discharge or cleanup of any Hazardous Substances or (ii) any complaint, inspection by any governmental agency which lists any noncompliance, order, citation or notice with regard to air emissions, water discharges, or any other environmental, health or safety matter affecting Mortgagor or the Mortgaged Property (an "Environmental Complaint") from any person or entity (including without limitation the EPA), Mortgagor immediately shall notify Mortgagee either orally or in writing of such notice.

e. Mortgagee shall have the right but not the obligation and without limitation of Mortgagee's rights under this Mortgage, to enter onto the Mortgaged Property or to take such other actions as it deems necessary or advisable to clean up, remove, resolve, or minimize the impact of, or otherwise deal with, any of such Hazardous Substances or Environmental Complaint following receipt of any notice from any person or entity (including without limitation the EPA) asserting the existence of any Hazardous Substances or an Environmental Complaint pertaining to the Mortgaged Property or any part thereof which, if true, could result in an order, suit, lien or other action against Mortgagor and/or the Mortgaged Property and/or which, in the sole opinion of Mortgagee, could jeopardize its security under this Mortgage. All reasonable costs and expenses incurred by Mortgagee in the exercise of any such rights shall be secured by this Mortgage and shall be payable by Mortgagor upon demand.

f. Mortgagee shall have the right, in its sole discretion, to require Mortgagor to perform periodically (at Mortgagor's expense) an environmental audit and, if deemed necessary by Mortgagee, an environmental risk assessment, each of which must be satisfactory to Mortgagee, of the Mortgaged Property, hazardous waste management practices and/or hazardous waste disposal sites used by Mortgagor. Each such audit and/or risk assessment must be prepared by an environmental consultant satisfactory to Mortgagee. Should Mortgagor fail to perform any environmental audit or risk assessment within 30 days of Mortgagee's written request, Mortgagee shall have the right but not the obligation to retain an environmental consultant to perform such environmental audit or risk assessment. All costs and expenses incurred by Mortgagee in the exercise of such rights shall be secured by this Mortgage and shall be payable by Mortgagor upon demand or charged to Mortgagor's obligations secured by this Mortgage at the discretion of Mortgagee.

## ARTICLE IV

### ADDITIONAL PROVISIONS

4.1 Guarantors. Intentionally Omitted.

4.2 WAIVER OF JURY TRIAL. MORTGAGOR HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS MORTGAGE AND ANY DOCUMENT EXECUTED IN CONJUNCTION THEREWITH OR ANY COURSE OF CONDUCT,



COURSE OF DEALING, STATEMENT (WHETHER ORAL OR WRITTEN) OR ACTIONS  
OF OR BY MORTGAGOR OR MORTGAGEE.


Executed as of the 10<sup>th</sup> day of May, 2012.

LIBERTY SHORES LLC, a Delaware limited liability  
company

By: NATIONAL LAND, PARTNERS, LLC,  
a Delaware limited liability company, sole Member

By: AMERICAN LAND PARTNERS, INC., a Delaware  
corporation, Manager

By:

  
TIMOTHY D. SMITH, Treasurer

COMMONWEALTH OF MASSACHUSETTS )  
 ) SS.  
COUNTY OF BERKSHIRE )

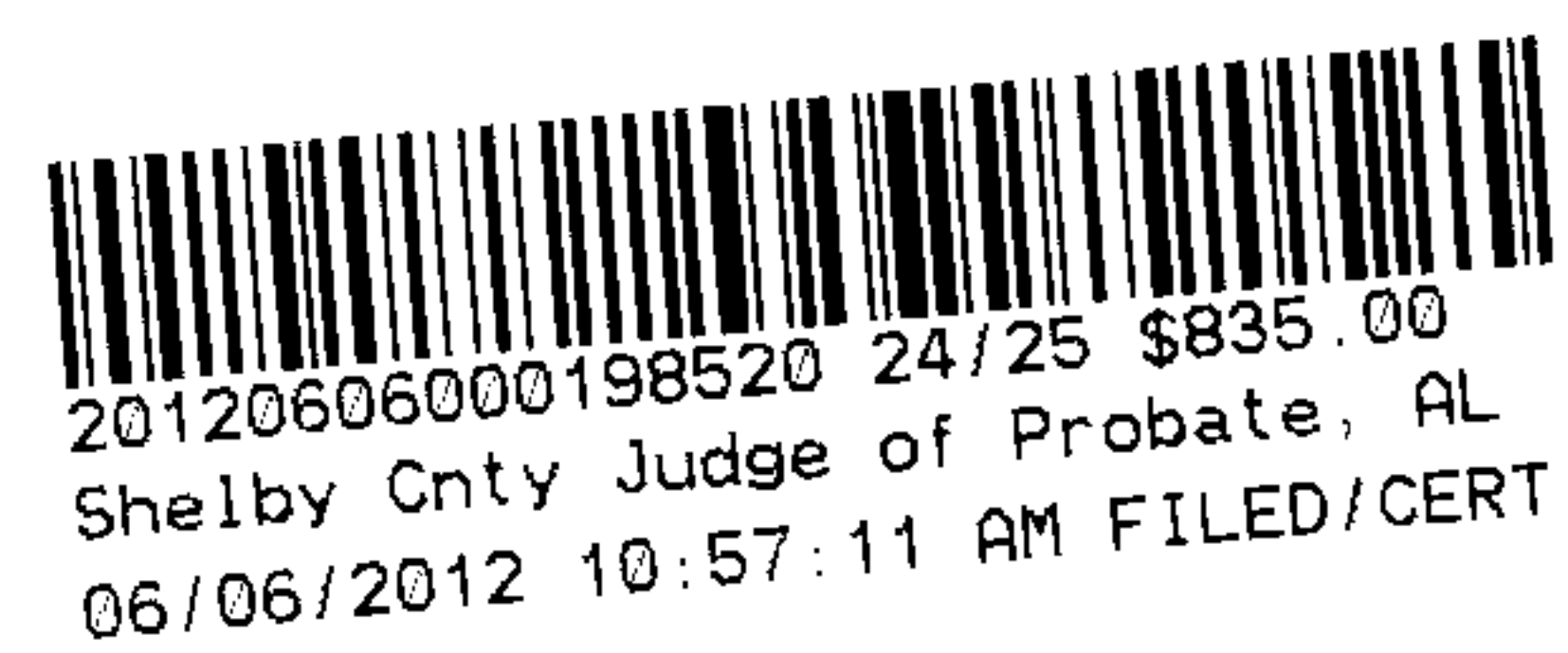
I, the undersigned authority, a Notary Public, in and for said State and County, do  
hereby certify that Timothy D. Smith whose name as Treasurer of American Land Partners, Inc.,  
a Delaware corporation, is signed to the foregoing instruments, and who is known to me,  
acknowledged before me on this day, that being informed of the contents of said instruments, as  
such officer and with fully authority, executed the same voluntarily for and as the act of said  
corporation.

GIVEN under my seal this the 10<sup>th</sup> day of May, 2012



Print Name: TRACY M. DESAUTELS  
Notary Public, Commonwealth of Massachusetts

My commission expires: OCT 7, 2016





**EXHIBIT "A"**  
**to**  
**MORTGAGE AND SECURITY AGREEMENT**

The legal description of the Land is as follows:

All of Fraction "H" and all of Fraction "G" in Section 20, Township 19 South, Range 3 East, being the SE  $\frac{1}{4}$  of said Section lying West of the Coosa River; Fraction "C", being the NW  $\frac{1}{4}$  of NE  $\frac{1}{4}$ , Section 29, Township 19 South, Range 3 East; A portion of Fraction "E" being the SE  $\frac{1}{4}$  of NE  $\frac{1}{4}$  Section 29 Township 19 South, Range 3 East; All of Fraction "F" being the SW  $\frac{1}{4}$  of NE  $\frac{1}{4}$  and NW  $\frac{1}{4}$  of SE  $\frac{1}{4}$  of Section 29, Township 19 South, Range 3 East; and Fraction "D" being the NE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 29, Township 19 South, Range 3 East.

Less and except the at portion located in Section 20, Township 19 South, Range 3 East, previously conveyed to Jack Cooper and wife, Barbara Cooper, as shown by deed recorded in Deed Book 316, Page 690, and corrective deed recorded in Deed 329, page 341, in Probate Office.

Less and except that portion located in Section 29, Township 19 South, Range 3 East previously conveyed to Ben W. Hooks and wife, Jackie L. Hooks as shown by deed recorded in Deed Book 316, page 688, in Probate Office.

Less and except that portion previously conveyed to GL Macon and Lucille Macon, as shown by deed recorded in Deed Book 353, page 608, in Probate Office.

Less and except that portion previously conveyed to Rodney L. Higgins as shown by Deed recorded in Instrument No. 20060912000451400, in Probate Office.