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Shelby Cnty Judge of Probate, AL  
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**THIS INSTRUMENT PREPARED BY:**

**James E. Vann, Esquire**  
**Sirote & Permutt, P.C.**  
**2311 Highland Avenue South - 35205**  
**P.O. Box 55727**  
**Birmingham, Alabama 35255-5727**  
**(205) 930-5484**



20120605000633450 1/37  
**Bk: LR201214 Pg: 10623**  
**Jefferson County, Alabama**  
I certify this instrument filed on  
06/05/2012 10:44:29 AM MTG  
Judge of Probate- Alan L. King

**STATE OF ALABAMA**

**COUNTIES OF JEFFERSON AND SHELBY**

**NOTE TO PROBATE COURT: 37% OF THE VALUE OF THE PROPERTY COVERED BY THIS MORTGAGE IS ALLOCABLE TO JEFFERSON COUNTY AND 63% IS ALLOCABLE TO SHELBY COUNTY.**

**MORTGAGE AND SECURITY AGREEMENT**  
**(ALABAMA)**

**THIS INDENTURE** made as of the 23<sup>rd</sup> day of May, 2012 between **Jack W. Kidd** (aka Jack Whitson Kidd) (hereinafter, "Mr. Kidd"), **Faye D. Kidd** (hereinafter, "Mrs. Kidd"), **Jack Rabbit, LLC**, an Alabama limited liability company (hereinafter, "Jack Rabbit"), **Eastwood Mini Storage Company**, an Alabama general partnership (hereinafter, "Eastwood"), **FDK, L.L.C.**, an Alabama limited liability company (hereinafter, "FDK"), **280 Station, LLC**, an Alabama limited liability company (hereinafter, "280 Station"), **AJK, LLC**, an Alabama limited liability company (hereinafter, "AJK"), and **JWK, LLC**, an Alabama limited liability company (hereinafter called "JWK" and, together with Mr. Kidd, Mrs. Kidd, Jack Rabbit, Eastwood, FDK, 280 Station and AJK, individually and collectively referred to as the "Mortgagor"), as mortgagor, and **First Commercial, a division of Synovus Bank** (hereinafter the said mortgagee(s) and any subsequent holder of the Mortgage are referred to as the "Lender" or "Mortgagee" whether one or more), as mortgagee.

**WITNESSETH:**

**WHEREAS**, Mr. Kidd is justly indebted to Lender on a loan in the principal sum of **Six Million Six Hundred Forty Nine Six Hundred Twenty and 02/100 Dollars (\$6,649,620.02)** (the "Kidd Loan"), or so much as may from time to time be disbursed thereunder, as evidenced by a promissory note dated of even date herewith, payable to Lender with interest thereon (the "Kidd Note") as provided in the Kidd Note;

**WHEREAS**, 280 Station is justly indebted to Lender on a loan in the principal sum of **One Million Five Hundred Forty Six Thousand Nine Hundred Sixty Nine and 41/100 Dollars (\$1,546,969.41)** (the "280 Loan"), or so much as may from time to time be disbursed thereunder, as evidenced by a promissory note dated of even date herewith, payable to Lender with interest thereon (the "280 Note") as provided in the 280 Note;

**WHEREAS**, AJK is justly indebted to Lender on a loan in the principal sum of **Four Hundred Thirty Eight Thousand Six Hundred Forty Three and 19/100 Dollars (\$438,643.19)** (the "AJK Loan"), or so much as may from time to time be disbursed thereunder, as evidenced by a promissory note dated of even date herewith, payable to Lender with interest thereon (the "AJK Note") as provided in the AJK Note;

**WHEREAS**, JWK is justly indebted to Lender on a loan in the principal sum of **Four Hundred Sixty Thousand One Hundred Twenty Eight and 14/100 Dollars (\$460,128.14)** (the "JWK Loan"), or so much as may from time to time be disbursed thereunder, as evidenced by a promissory note dated of even date herewith, payable to Lender with interest thereon (the "JWK Note") as provided in the JWK Note;

**WHEREAS**, FDK and Mr. Kidd are justly indebted to Lender on a loan in the principal sum of **Two Million One Hundred Twenty Nine Thousand Five Hundred Six and 95/100 Dollars (\$2,129,506.95)** (the "FDK Loan" and, together with the Kidd Loan, 280 Loan, AJK Loan and JWK Loan, individually and collectively referred



to as the "Loan"), or so much as may from time to time be disbursed thereunder, as evidenced by a promissory note dated of even date herewith, payable to Lender with interest thereon (the "FDK Note" and, together with the Kidd Note, 280 Note, AJK Note and JWK Note, individually and collectively referred to as the "Note") as provided in the FDK Note;

**WHEREAS**, the parties desire to secure the principal amount of the Note with interest, and all renewals, amendments, extensions, modifications and consolidations thereof, and all refinancing of any part of the Note and any and all other additional indebtedness of Mortgagor to Lender now existing or hereafter arising, whether joint or several, due or to become due, absolute or contingent, direct or indirect, liquidated or unliquidated, and any renewals, extensions and modifications thereof, and whether incurred or given as maker, endorser, guarantor or otherwise (herein "Other Indebtedness"); and

**WHEREAS**, in order to induce Lender into making the Loan described in the preceding recitals, each Mortgagor has agreed to execute this Mortgage as an accommodation mortgagor for each Loan for which said Mortgagor is not a borrower.

**NOW, THEREFORE**, the Mortgagor, in consideration of making the Loan above-mentioned, and to secure the prompt payment of same, with the interest thereon, and any extensions, renewals, amendments, modifications, consolidations and refinancing of same, and any charges herein incurred by Lender on account of Mortgagor, including but not limited to attorneys' fees, and any and all Other Indebtedness of Mortgagor to Lender as set forth herein, and further to secure the performance of the covenants, conditions and agreements hereinafter set forth and set forth in the Note and set forth in all other documents evidencing, securing or executed in connection with the Loan (together with the Note and this Mortgage, the "Loan Documents"), and as may be set forth in instruments or agreements evidencing or securing Other Indebtedness of Mortgagor to Lender (the "Other Indebtedness Instruments") has bargained and sold and does hereby grant, bargain, sell, alien and convey unto the Lender, its successors and assigns, the following described land, real estate, estates, leasehold estates, buildings, improvements, fixtures, furniture, and personal property (which together with any additional such property in the possession of the Lender or hereafter acquired by the Mortgagor and subject to the lien of this Mortgage, or intended to be so, as the same may be constituted from time to time is hereinafter sometimes referred to as the "Mortgaged Property") to wit:

(a) All that tract or parcel or parcels of land and estates more particularly described on Exhibit A attached hereto and made a part hereof (the "Land");

(b) That certain Lease Agreement and the leasehold estate created and existing by virtue of the Lease Agreement (the "Eastwood Lease") between JWK, as lessee, and Eastwood, as lessor, dated on or about May 21, 2003, covering Parcel 40 of the property described on Exhibit A attached hereto (the "Eastwood Property"). Also, (i) all other rights, titles and interest under the Eastwood Lease in and to the Eastwood Property, or any part thereof, including any reversions and remainders in and to JWK's interest in the Eastwood Property, (ii) all right, title and interest to JWK in and to (A) all modifications, extensions, renewals, supplements and restatements of the Eastwood Lease; (B) all credits and deposits made thereunder; (C) all options and rights to renew or extend the same, including, without limitation, the options and rights contained in Section 2.4 of the Eastwood Lease; (D) all options and rights to purchase or of first refusal with respect to the Eastwood Property, or any part thereof; and (E) all other titles, estates, options, privileges, interests and rights that JWK may now have or hereafter acquire in and to Eastwood Property and the Eastwood Lease, including the right of JWK to possession under Section 365 of the United States Bankruptcy Code, 11 U.S.C. §§ 101 *et seq* as amended (the "Bankruptcy Code"), in the event of the rejection of the Eastwood Lease by the lessor or its trustee pursuant to said section, the right to exercise options or give consents with respect to the Eastwood Lease, or to modify, extend or terminate the Eastwood Lease, the right to surrender the Eastwood Lease, reject the Eastwood Lease or elect to treat the Eastwood Lease as rejected or remain in possession under Section 365 of the Bankruptcy Code, and the right to receive all deposits and other amounts payable to JWK under the Eastwood Lease.

(c) That certain Lease Agreement and the leasehold estate created and existing by virtue of the Lease Agreement (the "Jack Rabbit Lease" and, together with the Eastwood Lease, individually and collectively, the "Lease") between Zimmer-Wesson Associates, Inc., Profit Sharing Trust and Zimmer-Wesson Associates, Inc., a corporation, as lessor, and Joe H. Williamson, as lessee, dated November 25, 1986, recorded in Real Volume 3110,



page 912, and amended by instrument dated April 29, 1988, recorded in Real Volume 3377, page 346, and assigned by that certain Assignment of Contract Rights and Bill of Sale, dated February 27, 1987, entered into by Joe H. Williamson, "Seller" and in favor of Mr. Kidd "Buyer", recorded in Real Volume 3150, page 123, and further assigned to Jack Rabbit in that certain Assignment and Assumption Agreement, recorded in Instrument No. 200306/3012, all in the Probate Office of Jefferson County, Alabama, covering Parcels 6 and 7 of the property described on Exhibit A attached hereto (the "Jack Rabbit Property" and, together with the Eastwood Property, the "Leased Property"). Also (i) all other rights, titles and interest under the Jack Rabbit Lease in and to the Jack Rabbit Property, or any part thereof, including any reversions and remainders in and to Jack Rabbit's interest in the Jack Rabbit Property, (ii) all right, title and interest to Jack Rabbit in and to (A) all modifications, extensions, renewals, supplements and restatements of the Jack Rabbit Lease; (B) all credits and deposits made thereunder; (C) all options and rights to renew or extend the same; (D) all options and rights to purchase or of first refusal with respect to the Jack Rabbit Property, or any part thereof; and (E) all other titles, estates, options, privileges, interests and rights that Jack Rabbit may now have or hereafter acquire in and to Jack Rabbit Property and the Jack Rabbit Lease, including the right of Jack Rabbit to possession under Section 365 of the Bankruptcy Code, in the event of the rejection of the Jack Rabbit Lease by the lessor or its trustee pursuant to said section, the right to exercise options or give consents with respect to the Jack Rabbit Lease, or to modify, extend or terminate the Jack Rabbit Lease, the right to surrender the Jack Rabbit Lease, reject the Jack Rabbit Lease or elect to treat the Jack Rabbit Lease as rejected or remain in possession under Section 365 of the Bankruptcy Code, and the right to receive all deposits and other amounts payable to Jack Rabbit under the Jack Rabbit Lease.

(d) All buildings, structures, and improvements of every nature whatsoever now or hereafter situated on the Land, and all fixtures, fittings, building materials, machinery, equipment, furniture and furnishings and personal property of every nature whatsoever (including, without limitation, property and collateral described in the Financing Statements executed, authorized or approved in connection herewith which are incorporated herein by reference as if set forth fully and at length) now or hereafter owned by the Mortgagor and used or intended to be used in connection with or with the operation of said property, buildings, structures or other improvements (except household goods of the Mortgagor not acquired with the proceeds of any amount secured hereby), including all extensions, additions, improvements, betterments, renewals, substitutions and replacements and accessions to any of the foregoing, whether such fixtures, fittings, building materials, machinery, equipment, furniture, furnishings and personal property actually are located on or adjacent to the Land or not, and whether in storage or otherwise, and wheresoever the same may be located (the "Improvements");

(e) All accounts (as presently or hereafter defined in the Uniform Commercial Code), general intangibles, goods, contracts and contract rights relating to the Land, Improvements, and other Mortgaged Property, whether now owned or existing or hereafter created, acquired or arising, including without limitation, all construction contracts, architectural services contracts, management contracts, leasing agent contracts, purchase and sales contracts, put or other option contracts, and all other contracts and agreements relating to the construction of improvements on, or the operation, management and sale of all or any part of the Land, Improvements and other Mortgaged Property;

(f) Together with all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, leases, subleases, licenses, rights, titles, interests, 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 the Mortgagor, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of the Mortgagor of, in and to the same, including but not limited to:

(i) All rents, royalties, profits, issues and revenues of the Land, Improvements, and other Mortgaged Property from time to time accruing, whether under leases or tenancies now existing or hereafter created, reserving to Mortgagor, however, so long as there is no default hereunder, the right to receive and retain the rents, issues and profits thereof; and

(ii) All judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the Land, Improvements, or other Mortgaged Property, or any part



thereof under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the Land, Improvements, or other Mortgaged Property, or any part thereof, or to any rights or appurtenances thereto, including any award for change of grade or streets. Lender is hereby authorized on behalf of and in the name of Mortgagor to execute and deliver valid acquittances for, and appeal from, any such judgments or awards. Lender may apply all such sums or any part thereof so received, after the payment of all its expenses, including costs and attorneys' fees on any of the indebtedness secured hereby in such manner as it elects, or at its option, the entire amount or any part thereof so received may be released.

(g) Any and all licenses, development permits, building permits, utility supply agreements, sewer and water discharge permits and agreements, and other licenses, permits and agreements relating to the use, development, construction, occupancy and operation of the Land and Improvements, whether now or hereafter issued or executed, and all modifications, amendments, replacements or re-issuances of the foregoing;

(h) All proceeds and products, cash or non-cash (including, but not limited to, all insurance, contract and tort proceeds and all inventory, accounts, chattel paper, documents, instruments, equipment, fixtures, consumer goods and general intangibles acquired with cash proceeds of any of the property described above) of any of the foregoing types or items of property described in subparagraphs(a), (b), (c) (d), (e), (f) or (g) above.

Some of the said items are or may become "fixtures" on the above-described property and as provided under Article 9 of the Uniform Commercial Code, this Mortgage, upon being filed for record in the real property records of the County where the Land is located, shall operate also as a "fixture filing" and financing statement upon such of the items which are or may become fixtures.

**TO HAVE AND TO HOLD** the Mortgaged Property and all parts thereof unto the Lender, its successors and assigns forever, subject however to the terms and conditions herein;

**PROVIDED, HOWEVER**, that these presents are upon the condition that, if the Mortgagor shall pay or cause to be paid to the Lender the principal and interest payable in respect to the Note, and any extensions, renewals, amendments, modifications, consolidations and refinancings of same, 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 the Mortgagor, and shall pay all charges incurred herein by Lender on account of Mortgagor, including, but not limited to, attorney's fees, and shall pay any and all Other Indebtedness of Mortgagor to Lender, and shall keep, perform and observe all and singular the covenants, conditions and agreements in this Mortgage, in the Note, in the other Loan Documents, and in the Other Indebtedness Instruments without fraud or delay, then this Mortgage, and all the properties, interest and rights hereby granted, bargained, sold and conveyed shall cease, determine and be void, but shall otherwise remain in full force and effect.

**AND** the Mortgagor further represents, warrants, covenants and agrees with the Lender as follows:

## **ARTICLE I**

**Section 1.1** **Performance of Mortgage, Note and Loan Documents.** The Mortgagor will perform, observe and comply with all provisions hereof, and Mortgagor expressly acknowledges and agrees that all obligations under this Mortgage are joint and several obligations the Mortgagor. Each Mortgagor will duly and punctually pay to the Lender the sum of money expressed in any Note for which said Mortgagor is a borrower or otherwise obligated. Each Mortgagor will pay all other sums required to be paid and perform all obligations pursuant to the provisions of the other Loan Documents and of the Other Indebtedness Instruments to which such Mortgagor is a party.

**Section 1.2** **Warranty of Title.** Mortgagor hereby warrants that, (i) subject to any exceptions shown on Exhibit A, Mortgagor is lawfully seized of an indefeasible estate in fee simple in the land and real property described on Exhibit A, other than the Jack Rabbit Property, or is lawfully seized of such other estate or interest as is shown on Exhibit A hereto, (ii) subject to any exceptions shown on Exhibit A, Jack Rabbit is lawfully seized of an indefeasible leasehold estate in the land and real property comprising the Jack Rabbit Property, (iii) Mortgagor and has good and absolute title to all existing personal property hereby mortgaged and has good right, full power and



lawful authority to sell, convey and mortgage the same in the manner and form aforesaid, (iv) except for liens in favor of Lender, the same is free and clear of all liens, charges, and encumbrances whatsoever, including, as to the personal property and fixtures, conditional sales contracts, chattel mortgages, security agreements, financing statements, and anything of a similar nature, and (v) Mortgagor shall and will warrant and forever defend the title thereto and the quiet use and enjoyment thereof unto the Lender, its successors and assigns, against the lawful claims of all persons whomsoever.

**Section 1.3      Future Advances, Revolving and Open-End Loans, Swap Obligations and Other Debts.**

(a) It is expressly understood and agreed that this Mortgage is intended to and does secure not only the Loan, but also future advances and any and all Other Indebtedness, obligations and liabilities, direct or contingent, of said Mortgagor to said Lender, whether now existing or hereafter arising, and any and all extensions, renewals, modifications and refinancings of same, or any part thereof, existing at any time before actual cancellation of this instrument on the probate records of the county or counties where the Mortgaged Property is located, and whether the same be evidenced by note, open account, assignment, endorsement, guaranty, pledge or otherwise. Provided, however, that the real property and other collateral described in this Mortgage (or, if appropriate, the applicable portion of the real property and other collateral described in this Mortgage) shall not secure Other Indebtedness if and to the extent (i) a non-possessory, non-purchase money security interest is created in "household goods" in connection with a "consumer loan" as those terms are defined by federal law governing unfair and deceptive credit practices or (ii) prohibited by any applicable law, rule, or regulation, including, without limitation, the Truth in Lending Act, 15 U.S.C. Sections 1601, et seq.

(b) The proceeds of the Loan may be advanced to the Mortgagor from time to time, subject to the terms and conditions of the Loan Documents between Mortgagor and Mortgagee, as applicable, and this Mortgage shall secure all amounts so advanced, whether or not the full amount of the Loan shall be advanced. It is specifically understood and agreed that this Mortgage and Security Agreement secures all sums advanced under any loan agreement between Mortgagor and Mortgagee executed in connection with the Loan (individually and collectively, the "Loan Agreement"), and the said Loan Agreement constitutes one of the Loan Documents as defined herein.

(c) The Loan and the Other Indebtedness may, if provided in the applicable loan instruments, provide for revolving or open-end loans and advances, all of which shall be secured by this Mortgage.

(d) Mortgagor and Lender or an affiliate of Lender ("Lender Parties") may from time to time enter into an agreement, including, but not limited to, an International Swap Dealers Association, Inc. (ISDA) Master Agreement or other arrangement which provides for an interest rate, currency, equity, credit or commodity swap, cap, floor or collar, spot or foreign currency exchange transaction, cross currency rate swap, currency option, any combination of, or option with respect to, any of the foregoing or similar transactions, for the purpose of hedging the Mortgagor's exposure to fluctuations in interest rates, exchange rates, currency, stock, portfolio or loan valuations or commodity prices, together with schedules and documents related thereto and confirmations issued in connection therewith (all such agreements, arrangements, schedules, documents and confirmations, as the same may hereafter be renewed, extended, supplemented, increased or modified and in effect from time to time, are hereinafter referred to collectively as "Swap Documents"). Mortgagor represents, warrants, covenants and agrees that all Swap Documents executed by Mortgagor shall be Loan Documents as herein defined. All fees, penalties and other amounts due from Mortgagor to any of the Lender Parties under or in connection with any Swap Documents shall, for all purposes of this Mortgage, be considered as obligations of Mortgagor to Lender under this Mortgage, and, notwithstanding anything contained herein or in any of the other Loan Documents to the contrary, all such fees, penalties and other amounts due from Mortgagor to any of the Lender Parties under any such Swap Documents shall further be considered to be part of the indebtedness owing by Mortgagor to Lender hereunder and under each of the other Loan Documents the repayment of which shall be secured by this Mortgage and all of the other Loan Documents.

**Section 1.4      Environmental Matters.** Mortgagor represents, warrants, and covenants as follows:

(a) No Hazardous Materials (hereinafter defined) have been or are, to Mortgagor's knowledge, or will be, while any part of the indebtedness secured by this Mortgage remains unpaid, contained in, treated, stored, handled, generated, located on, discharged from, or disposed of on, or constitute a part of, the Mortgaged Property,



except in the ordinary course of Mortgagor's business and in strict compliance with all environmental laws, rules, regulations, and orders. As used herein, the term "Hazardous Materials" includes without limitation, any asbestos, urea formaldehyde foam insulation, flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related or unrelated substances or material defined, regulated, controlled, limited or prohibited in the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA), as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. Sections 6901, et seq.), the Clean Water Act, as amended (33 U.S.C. Sections 1251, et seq.), the Clean Air Act, as amended (42 U.S.C. Sections 7401, et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. Sections 2601, et seq.), and in the rules and regulations adopted and publications promulgated pursuant thereto, and in the rules and regulations of the Occupational Safety and Health Administration (OSHA) pertaining to occupational exposure to asbestos, as amended, or in any other federal, state or local environmental law, ordinance, rule, or regulation now or hereafter in effect;

(b) To Mortgagor's knowledge, no underground storage tanks, whether in use or not in use, are located in, on or under any part of the Mortgaged Property;

(c) To Mortgagor's knowledge, all of the Mortgaged Property complies and will comply in all respects with applicable environmental laws, rules, regulations, and court or administrative orders;

(d) To Mortgagor's knowledge, there are no pending claims or threats of claims by private or governmental or administrative authorities relating to environmental impairment, conditions, or regulatory requirements with respect to the Mortgaged Property;

(e) The Mortgagor promptly shall comply with all present and future laws, ordinances, rules, regulations, orders and decrees of any governmental authority affecting the Mortgaged Property or any part thereof. Without limiting the foregoing, the Mortgagor represents and covenants that the Mortgaged Property is in present compliance with, and in the future shall comply with, as applicable, the Americans With Disabilities Act of 1990 ("ADA") (42 U.S.C. Sections 12101, et seq. ) and the Rehabilitation Act of 1973 ("Rehabilitation Act") (29 U.S.C. Sections 749, et seq. ), each such act as amended from time to time, and in the rules and regulations adopted and publications promulgated pursuant thereto; and

(f) Mortgagor shall give immediate oral and written notice to Lender of its receipt of any notice of a violation of any law, rule or regulation covered by this Paragraph 1.4, or of any notice of other claim relating to the environmental or physical condition of the Mortgaged Property, or of its discovery of any matter which would make the representations, warranties, and/or covenants herein to be inaccurate or misleading in any respect.

Mortgagor hereby agrees to indemnify and hold Lender harmless from all loss, cost, damage, claim and expense incurred by Lender on account of (i) the violation of any representation, warranty or covenant set forth in this Paragraph 1.4, (ii) Mortgagor's failure to perform any obligations of this Paragraph 1.4, (iii) Mortgagor's or the Mortgaged Property's failure to fully comply with all environmental laws, rules and regulations, or with all occupational health and safety laws, rules and regulations, or with or with the ADA or Rehabilitation Act, or (iv) any other matter related to environmental or physical conditions on, under or affecting the Mortgaged Property. This indemnification shall survive the closing of the Loan, payment of the Loan, the exercise of any right or remedy under any Loan Document, any subsequent sale or transfer of the Mortgaged Property, and all similar or related events. However, this indemnification shall not apply to any new Hazardous Material first stored, generated or placed on the Mortgaged Property after the acquisition of title to the Mortgaged Property by Lender through foreclosure or deed in lieu of foreclosure or purchase from a third party after the Loan has been paid in full. Mortgagor hereby releases and waives any future claims against Lender for indemnity or contribution in the event Mortgagor becomes liable for cleanup or other costs related to the Mortgaged Property, including, without limitation, under any applicable laws, rules, regulations or court orders.

In addition to other inspection rights of Lender, the Mortgagor shall and hereby does grant and convey to the Lender, its agents, representatives, contractors, and employees, an easement and license to enter on the Mortgaged Property at any time and from time to time for the purpose of making such audits, tests, inspections, and examinations, including, without limitation, inspection of buildings and improvements, subsurface exploration and



testing and groundwater testing, as the Lender, in its sole discretion, deems necessary, convenient, or proper to determine the condition and use of the Mortgaged Property, to make an inventory of the Mortgaged Property, and to determine whether the ownership, use and operation of the Mortgaged Property are in compliance with the terms and conditions set forth in the Loan Documents and with all federal, state and local laws, ordinances, rules and regulations, including, without limitation, environmental laws, health and public accommodation laws, the ADA and the Rehabilitation Act, as applicable, and ordinances, rules and regulations relating thereto. Any tests or inspections made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Mortgagor or to any other person or entity. Notwithstanding the grant of the above easement and license to the Lender, the Lender shall have no obligation to perform any such audits, test, inspections, or examinations, or to take any remedial action. All the costs and expenses incurred by the Lender with respect to any audits, tests, inspections, examinations and interviews which the Lender may conduct or take pursuant to this paragraph, including, without limitation, the fees of any engineers, laboratories, and contractors, shall be repaid by the Mortgagor, with interest, and shall be secured by the Mortgage and the other Loan Documents.

#### **Section 1.5      Taxes, Utilities and Liens.**

(a)      The Mortgagor will pay promptly, when and as due, and, if requested, will exhibit promptly to the Lender receipts for the payment of all taxes, assessments, water rates, utility charges, dues, charges, fines, penalties, costs and other expenses incurred, and impositions of every nature whatsoever imposed, levied or assessed or to be imposed, levied or assessed upon or against the Mortgaged Property or any part thereof, or upon the interest of the Lender in the Mortgaged Property or any charge which, if unpaid, would become a lien or charge upon the Mortgaged Property prior to or equal to the lien of this Mortgage for any amounts secured hereby or would have priority or equality with this Mortgage for any amounts secured hereby or would have priority or equality with this Mortgage in distribution of the proceeds of any foreclosure sale of the Mortgaged Property or any part thereof.

(b)      The Mortgagor promptly shall pay and will not suffer any mechanic's, laborer's, statutory or other lien which might or could be prior to or equal to the lien of this Mortgage to be created or to remain outstanding upon any of the Mortgaged Property.

(c)      In the event of the passage of any state, federal, municipal or other governmental law, order, rule or regulation, subsequent to the date thereof, or 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, then Mortgagor immediately shall pay any increased taxes if allowed by law, and if Mortgagor fails to pay such additional taxes, or if Mortgagor is prohibited from paying such taxes, or if Lender in any way is adversely affected by such law, order, rule or regulation, then in any of such events, all indebtedness secured by this Mortgage and all interest accrued thereon shall without notice become due and payable forthwith at the option of the Lender.

(d)      If required or requested by Lender at any time prior to the payment in full of the indebtedness secured hereby, Mortgagor shall pay on the first day of each month one-twelfth (1/12) of the yearly taxes on the Mortgaged Property, as estimated by Lender, in addition to each regular installment of principal and interest. Such sums shall not draw interest and shall not be, nor be deemed to be, trust funds, but may be commingled with the general funds of Lender. Mortgagor agrees to pay Lender the amount of any deficiency necessary to enable Lender to pay such taxes when due. Such sums may be applied by Lender to the reduction of the indebtedness secured hereby in any manner selected by Lender if an Event of Default shall occur under this Mortgage or under the Note, any of the Loan Documents, or any of the Other Indebtedness Instruments, but, unless otherwise agreed by the Lender in writing, no application of tax deposits to the Note, to Other Indebtedness, or to other obligations secured hereby, shall delay, reduce, alter or otherwise affect any regularly scheduled payment with respect to the Note, the Other Indebtedness, or any such other obligations.

#### **Section 1.6      Insurance.**

(a)      The Mortgagor will procure for, deliver to, and maintain for the benefit of the Lender during the life of this Mortgage insurance policies in such amounts as the Lender shall require, insuring the Mortgaged Property against fire, extended coverage, and such other insurable hazards, casualties and contingencies as the Lender may require. The form of such policies and the companies issuing them shall be acceptable to the Lender. All policies shall contain a New York standard, non-contributory mortgagee endorsement (or equivalent) making



losses payable to the Lender. At least fifteen (15) days prior to the expiration date of all such policies, renewals thereof satisfactory to the Lender shall be delivered to the Lender. The Mortgagor shall deliver to the Lender receipts evidencing the payment of all such insurance policies and renewals. In the event of the foreclosure of this Mortgage or any transfer of title to the Mortgaged Property in partial or full extinguishment of the indebtedness secured hereby, all right, title and interest of the Mortgagor in and to all insurance policies then in force shall pass to the purchaser or grantee.

(b) The Lender is hereby authorized and empowered, at its option, to adjust or compromise any loss under any insurance policies on the Mortgaged Property, and to collect and receive the proceeds from any such policy or policies. Each insurance company is hereby authorized and directed to make payment for all such losses directly to the Lender instead of to the Mortgagor and Lender jointly. After deducting from said insurance proceeds any expenses incurred by Lender in the collection or handling of said fund, the Lender may apply the net proceeds, at its option, either toward restoring the improvements on the Mortgaged Property, or as a credit on any portion of the Mortgagor's indebtedness selected by Lender, whether then matured or to mature in the future, or at the option of the Lender, such sums either wholly or in part may be paid over to the Mortgagor to be used to repair such improvements, or to build new improvements in their place or for any other purpose satisfactory to the Lender, all without affecting the lien of this Mortgage for the full amount secured hereby before such payment took place. Lender shall not be held responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure.

(c) If required or requested by the Lender at any time prior to the satisfaction of the indebtedness secured hereby, the Mortgagor shall pay on the first day of each month, in addition to any regular installment of principal and interest and other charges with respect to indebtedness secured hereby, and the monthly tax deposit provided for in Paragraph 1.5 hereof, one-twelfth (1/12) of the yearly premiums for insurance maintained pursuant to the provisions of this Paragraph 1.6. Such amount shall be used by Lender to pay such 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 Lender, and no interest shall be payable in respect thereof. Upon demand of the Lender, the Mortgagor agrees to deliver to the Lender such additional moneys as are necessary to make up any deficiencies in the amounts deposited by Mortgagor with Lender pursuant to this Paragraph 1.6 to enable the Lender to pay such insurance premiums when due. In the event of an Event of Default hereunder or of a default by Mortgagor under the Note, any other Loan Documents, or any Other Indebtedness Instruments, the Lender may apply such sums to the reduction of the indebtedness secured hereby in any manner selected by Lender, but, unless otherwise agreed by the Lender in writing, no application of insurance proceeds to the Note, to Other Indebtedness, or to other obligations secured hereby, shall delay, reduce, alter or otherwise affect any regularly scheduled payment with respect to the Note, the Other Indebtedness, or any such other obligations.

(d) Mortgagor agrees to furnish to Lender a flood insurance policy acceptable to Lender if the land described in Exhibit A attached hereto, or any portion thereof, is now or hereafter located in flood zone A or B or any other area where flood insurance is now or hereafter required by any applicable law, rule or regulation. If the Loan is made in connection with the construction of improvements upon the land described in Exhibit A, Mortgagor agrees to furnish to Lender an as-built survey of the Mortgaged Property within thirty (30) days after completion of the construction of the improvements to verify that no improvements are located within flood zone A or B and that flood insurance is not required.

**Section 1.7** **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 or private authority, and any transfer by private sale in lieu thereof), either temporarily or permanently (other than an insubstantial taking of unimproved portions of the Mortgaged Property which does not in Lender's judgment materially affect access to or use of the Mortgaged Property), the entire indebtedness secured hereby shall at the option of the Lender become immediately due and payable. The Lender shall be entitled to all compensation, awards, and other payments or relief therefor and is hereby authorized, at its option, to commence, appear in and prosecute, in its own or the Mortgagor's name, any action or proceeding relating to any condemnation, and to settle or compromise any claim in connection therewith. All such compensation, awards, damages, claims, rights of action and proceeds and the right thereto are hereby assigned by the Mortgagor to the Lender, which after deducting therefrom all its expenses, including attorney's fees may release any moneys so received by it without affecting the lien of this Mortgage or may apply the same in such manner as the Lender shall determine to the reduction of the



indebtedness secured hereby, and any balance of such moneys then remaining shall be paid to the Mortgagor. The Mortgagor agrees to execute such further assignments of any compensations, awards, damages, claims, rights of action and proceeds as the Lender may require.

**Section 1.8      Care of the Property.**

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

(b)      Except as otherwise provided herein, no buildings, fixtures, personal property, or other part of the Mortgaged Property shall be removed, demolished or substantially altered without the prior written consent of the Lender. The Mortgagor may sell or otherwise dispose of, free from the lien of this Mortgage, furniture, furnishings, equipment, tools, appliances, machinery, fixtures or appurtenance subject to the lien hereof which may become worn out, undesirable, obsolete, disused or unnecessary for use in or operation of the Mortgaged Property, upon replacing the same by, or substituting for the same, free and clear of all liens and security interest except those created by the Loan Documents or Other Indebtedness Instruments, other furniture, furnishings, equipment, tools, appliances, machinery, fixtures, or appurtenances not necessarily of the same character, but of at least equal value 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 provisions of this Mortgage.

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

(d)      The Lender is hereby authorized to enter upon and inspect the Mortgaged Property at any time during normal business hours.

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

(f)      If all or any part of the Mortgaged Property shall be damaged by fire or other casualty, the Mortgagor will promptly restore the Mortgaged Property to the equivalent of its original condition, regardless of whether or not there shall be any insurance proceeds therefore; provided, however, that if there are insurance proceeds, the Mortgagor shall not be required to restore the Mortgaged Property as aforesaid unless the Lender shall apply any net proceeds from the casualty in question and held by Lender, as allowed under Paragraph 1.6, toward restoring the damaged improvements. If a part of the Mortgaged Property shall be physically damaged through condemnation, the Mortgagor will promptly restore, repair or alter the remaining property in a manner satisfactory to the Lender; provided, however, that if there are condemnation proceeds or awards, the Mortgagor shall not be required to restore the Mortgaged Property as aforesaid unless the Lender shall apply any net proceeds or awards from the condemnation and held by Lender, as provided in Paragraph 1.7 toward restoring the damaged improvements.

**Section 1.9      Further Assurances; After Acquired Property.**      At any time, and from time to time upon request by the Lender, the Mortgagor will make, execute and deliver or cause to be made, executed and delivered to the Lender and, where appropriate, to cause to be recorded and/or filed and from time to time thereafter to be re-recorded and/or refiled at such time and in such offices and places as shall be deemed desirable by the Lender any and all such other and further mortgages, instruments of further assurance, certificates and other documents as may, in the opinion of the Lender, be necessary or desirable in order to effectuate, complete, or perfect, or to continue and preserve the obligation of the Mortgagor under the Note and this Mortgage, and the priority of this Mortgage as a first and prior lien upon all of the Mortgaged Property, whether now owned or hereafter acquired by the Mortgagor. Upon any failure by the Mortgagor so to do, the Lender may make, execute, and record any and all such mortgages, instruments, certificates, and documents for and in the name of the Mortgagor and the Mortgagor hereby irrevocably appoints the Lender the agent and attorney-in-fact of the Mortgagor so to do. The lien and rights hereunder automatically will attach, without further act, to all after-acquired property (except consumer goods, other than accessions, not acquired within ten (10) days after the Lender has given value under the Note) attached to and/or used in the operation of the Mortgaged Property or any part thereof.



**Section 1.10 Additional Security.** The Lender shall also have and is hereby granted a security interest in all other property of the Mortgagor, now or hereafter assigned, or coming into the possession, control, or custody of the Lender by or for the account of the Mortgagor (including indebtedness due from the Lender to the Mortgagor) whether expressly as collateral security or for any other purpose, including any dividends declared, or interest accruing thereon, and proceeds thereof. The Lender may, but shall not be obligated to, apply to the payment of the Note or other indebtedness secured hereby on or after an Event of Default, any funds or credit held by the Lender on deposit, in trust or otherwise, for the account of the Mortgagor.

**Section 1.11 Leases Affecting Mortgaged Property.** The Mortgagor will comply with and observe its obligations as landlord or tenant under all leases affecting the Mortgaged Property or any part thereof. If requested by Lender, Mortgagor will furnish Lender with executed copies of all leases now or hereafter created on the Mortgaged Property; and all leases now or hereafter entered into will be in form and substance subject to the approval of Lender. Mortgagor will not accept payment of rent more than one (1) month in advance without the express written consent of Lender. If requested by the Lender, the Mortgagor will execute and deliver to Lender, as additional security such other documents as may be requested by Lender to further evidence the assignment to Lender hereunder and to assign any and all such leases whether now existing or hereafter created, including, without limitation, all rents, royalties, issues and profits of the Mortgaged Property from time to time accruing, and will not cancel, surrender or modify any lease so assigned without the written consent of the Lender. Mortgagor shall furnish Lender with a subordination, attornment and non-disturbance agreement in form and substance acceptable to Lender from such existing and future lessees as Lender may require.

**Section 1.12 Expenses.** The Mortgagor will pay or reimburse the Lender for all reasonable attorney's fees, costs and expenses incurred by the Lender in connection with the collection of the indebtedness secured hereby or the enforcement of any rights or remedies provided for in this Mortgage, in any of the Loan Documents or the Other Indebtedness Instruments, or as may otherwise be provided by law, or incurred by Lender in any proceeding involving the estate of a decedent or an insolvent, or in any action, proceeding or dispute of any kind in which the Lender is made a party, or appears as party plaintiff or defendant, affecting this Mortgage, the Note, the Loan Documents, the Other Indebtedness Instruments, Mortgagor or the Mortgaged Property, including but not limited to the foreclosure of this Mortgage, any condemnation action involving the Mortgaged Property, or any action to protect the security hereof; and any such amounts paid by the Lender shall be added to the indebtedness secured hereby and shall be further secured by this Mortgage.

**Section 1.13 Performance by Lender of Defaults by Mortgagor.** If the Mortgagor shall default in the payment of any tax, lien, assessment or charge levied or assessed against the Mortgaged Property; in the payment of any utility charge, whether public or private; in the payment of insurance premiums; in the procurement of insurance coverage and the delivery of the insurance policies required hereunder; or in the performance or observance of any other covenant, condition or term of this Mortgage, of the Note, of the other Loan Documents, or of the Other Indebtedness Instruments, then the Lender, at its option, may perform or observe the same; and all payments made for costs or expenses incurred by the Lender in connection therewith shall be secured hereby and shall be without demand, immediately repaid by the Mortgagor to the Lender with interest thereon at the greater of the rate of twelve percent (12%) per annum or the rate set forth in the Note. The Lender shall be the sole judge of the legality, validity and priority of any such tax, lien, assessment, charge, claims and premium, of the necessity for any such actions and of the amount necessary to be paid in satisfaction thereof. The Lender 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 the Mortgagor or any person in possession holding under the Mortgagor for trespass or otherwise.

**Section 1.14 Books and Records/Financial Reporting.** The Mortgagor shall keep and maintain 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 and will exhibit the same to Lender upon request. The Mortgagor will also furnish to the Lender:

(a) Within sixty (60) days after the end of each calendar year, annual financial statements of Jack Rabbit, FDK, 280 Station, AJK and JWK, including, without limitation, a balance sheet and a statement of income and expenses, both in reasonable detail and form satisfactory to Lender;





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(b) Within sixty (60) days after the end of each calendar year, complete personal financial statements of Mr. Kidd and any individual guarantor of the Loan, in such form and containing such information as may be requested by Lender;

(c) Within one hundred twenty (120) days after the end of each calendar year, the annual federal income tax returns of Jack Rabbit, FDK, 280 Station, AJK and JWK;

(d) Within one hundred eighty (180) days after the end of each calendar year, the annual federal income tax returns of Mr. Kidd and any other individual guarantor of the Loan;

(e) Within sixty (60) days after each January 1 and July 1, a certified rent roll for the Mortgaged Property; and

(f) Within ten (10) days after the date of any request by Lender, such other information (financial or otherwise, including without limitation income tax returns) concerning the Mortgagor, any guarantor of the indebtedness secured hereby, and/or the Mortgaged Property as the Lender may request at any time or from time to time.

The requirements in this Section 1.14 are in addition to any reporting requirements contained in any of the other Loan Documents.

**Section 1.15 Estoppel Affidavits.** The Mortgagor within ten (10) days after written request from the Lender shall furnish a written statement, duly acknowledged, setting forth the unpaid principal of and interest on the Note and Other Indebtedness and whether or not any offsets or defenses exist against any principal and interest.

**Section 1.16 Transfers of Interests in Mortgaged Property or Mortgagor.** The Mortgagor shall not sell, assign, mortgage, encumber, or otherwise convey the Mortgaged Property, or any interest therein, without obtaining the express written consent of the Lender prior to such conveyance. If Mortgagor should sell, assign, mortgage, encumber or convey all, or any part of, the Mortgaged Property, or any interest therein, without such consent by Lender, then, in such event, the entire balance of the indebtedness (including the Loan and all Other Indebtedness) secured by this Mortgage and all interest accrued thereon (or such parts as Lender may elect) shall without notice become due and payable forthwith at the option of the Lender. Mortgagor shall not permit or allow to occur any sale, assignment, transfer, pledge, encumbrance or other conveyance of any stock, partnership, membership or any other ownership, equity or beneficial interest in Mortgagor or any entity that directly or indirectly owns an equity interest in Mortgagor without obtaining the prior written consent of Lender. On sale, assignment, transfer, pledge, encumbrance, or conveyance of any stock, partnership, membership or any other ownership, equity or beneficial interests in Mortgagor or any entity that directly or indirectly owns an equity interest in Mortgagor (if Mortgagor or any entity that directly or indirectly owns an equity interest in Mortgagor is not a natural person or persons but is a corporation, partnership, limited liability company, trust or other legal entity), without the prior written consent of Lender, Lender may, in Lender's sole discretion, declare the entire balance of the indebtedness (including the Loan and all Other Indebtedness) secured by this Mortgage and all accrued interest thereon (or such parts as Lender may elect) to be immediately due and payable.

Lender shall have such right and option to withhold its consent in its sole discretion, absolutely, irrespective of any facts or circumstances, including, but not limited to, the following: whether or not any such transfer would or might (i) diminish the value of any security for the Loan, (ii) increase the risk of default under this instrument or any of the other Loan Documents, (iii) increase the likelihood of Lender's having to resort to any security for the Loan after default, or (iv) add or remove the liability of any person or entity for payment or performance of the Loan or any covenant or obligation under this Mortgage. If Lender's consent to a proposed transfer is requested, Lender shall have the right (in addition to its absolute right to refuse to consent to any such transfer) to condition its consent upon satisfaction of any conditions or requirements as Lender may determine including, but not limited to, any one or more of the following requirements: (i) that the interest rate on the Note be increased to a rate acceptable to Lender; (ii) that a reasonable transfer fee, in an amount determined by Lender be paid; (iii) that a principal amount deemed appropriate by Lender be paid against the Note; or (iv) that Mortgagor and each proposed transferee execute such assumption agreement and other instruments as Lender shall require.



**Section 1.17     Offset.** The Lender may, but shall not be obligated to, apply to the payment of the Note or other indebtedness secured hereby on or after an Event of Default, any funds or credit held by the Lender on deposit, in trust or otherwise, for the account of the Mortgagor.

**Section 1.18     Performance of Lease.** The Mortgagor shall (a) at all times observe and perform all of its obligations, covenants and conditions under the Lease and shall conform to and comply with all of the terms and conditions of the Lease, (b) not do or permit anything to be done, the doing of which, or refrain from doing anything, the omission of which, could impair or tend to impair the security of this Mortgage or would be grounds for declaring forfeiture or termination of the Lease; (c) at least six months prior to the last day upon which the Mortgagor, as lessee, may validly exercise any option to renew or extend the term of the Lease, (1) exercise such option in such manner as will cause the term of the Lease to be effectively renewed or extended for the period provided by such option, and (2) give immediate written notice thereof to Lender; it being expressly agreed that, if the Mortgagor fails to do, the Lender shall have the irrevocable right to exercise any such option either in its own name and behalf or in the name and behalf of a designee or nominee of the Lender or in the name and behalf of the Mortgagor, as the Lender shall in its sole discretion determine; provided, however, that if Mortgagor shall prepay in full the obligations secured hereby at least six months prior to the last day upon which the Mortgagor, as such Lessee, may validly exercise any option to renew or extend the term of the Lease, the Mortgagor will not be obligated to exercise any such option of renewal or extension, nor will the Lender have any right to exercise any such option.

**Section 1.19     No Modification, etc. of Lease.** Without the prior written consent of the Lender, the Mortgagor shall not modify, extend or in any way alter the terms of the Lease or cancel or surrender the Lease, or waive, excuse, condone or in any way release or discharge the lessor(s) under the Lease of or from the obligations, covenants, conditions and agreements by said lessor(s) to be done and performed; and the Mortgagor does hereby expressly release, relinquish and surrender unto Lender all its right, power and authority to cancel, surrender, terminate, release, amend, modify or alter in any way the terms and provisions of the Lease and any attempt on the part of the Mortgagor to exercise any such right without the express prior written consent of the Lender shall constitute an Event of Default.

**Section 1.20     Notice of Default in the Lease.** The Mortgagor shall (a) give immediate notice to the Lender of any default under the Lease; (b) furnish to the Lender promptly any information requested by the Lender concerning the performance by the Mortgagor of the covenants of the Lease; (c) permit the Lender or its representatives at all reasonable times to make investigation or examination concerning the performance by the Mortgagor of the covenants of the Lease or of this Mortgage; and (d) promptly deposit with the Lender an original executed copy of the Lease and each amendment thereto and any documentary evidence requested by the Lender showing compliance by the Mortgagor with the provisions of the Lease and an exact copy of any notice or other instrument or document received or given by it relating to or affecting the Lease or the estate of the lessor(s) or lessee in or under the Lease or in the Leased Property.

**Section 1.21     Right of Lender to Cure Lease, etc.** Upon the occurrence of any default or event of default under the Lease (or any event which, upon the giving of notice or the lapse of time, or both, would constitute such a default or event of default), the Lender shall have the right, but shall be under no obligation, to pay any amount, to perform any other act or to take such action as may be appropriate to cure or prevent such default or event of default under the Lease, to the end that the Mortgagor's rights in, to and under the Lease shall be kept unimpaired and free from default. Subject to the rights of any tenants, the Lender and any person designated by the Lender shall have, and is hereby granted the right to enter upon the Leased Property at any time and from time to time for the purpose of paying any such amount, performing any such act or taking any such action, and all moneys expended by the Lender in connection therewith (including reasonable attorneys' fees and disbursements), together with interest thereon at the rate provided in the Note shall be payable by the Mortgagor to the Lender forthwith upon demand by the Lender, and shall constitute part of the obligations secured hereby. In the event of any failure by the Mortgagor to pay, observe or perform any covenant on the part of the Mortgagor to be paid, observed and performed under the Lease, the payment or performance by the Lender in behalf of the Mortgagor of said covenant shall not remove or waive, as between the Mortgagor and the Lender, the corresponding default under the terms hereof, and any such failure aforesaid shall be subject to all of its rights and remedies of the Lender hereunder when any Event of Default exits.



## ARTICLE II

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

(a)      Failure by the Mortgagor to pay as and when due and payable or within five (5) days thereafter (i) any installment of principal, interest or escrow deposit, or other charge payable under the Note, this Mortgage or under any other Loan Document or (ii) any installment of principal, interest or escrow deposit, or other charge payable under any of the Other Indebtedness Instruments; or

(b)      Failure by the Mortgagor to maintain insurance as required by Section 1.6; or

(c)      Violation of any of the transfer provisions of section 1.16; or

(d)      Failure by the Mortgagor to duly observe any other covenant, condition or agreement of this Mortgage and the continuance of such failure for fifteen (15) days or more after Lender sends written notice to Mortgagor at the address for Mortgagor in Section 3.8 (or any other address of Mortgagor appearing in the business records of Lender); or

(e)      Failure by any guarantor to duly observe any covenant, condition or agreement of any guaranty agreement or other instrument covering or in any way relating to the Note or the Loan or any Other Indebtedness secured hereby or any Other Indebtedness Instruments; or

(f)      If any representation or warranty made herein or in any of the other Loan Documents shall prove to be false or misleading in any material respect or if any report, certificate, financial statement or other instrument heretofore or hereafter furnished in connection with this Mortgage or any other Loan Document or any advance of the proceeds of the Loan shall prove to be false or misleading in any material respect; or

(g)      The filing by the Mortgagor or any guarantor of any indebtedness secured hereby of a voluntary petition in bankruptcy or the Mortgagor's or any guarantor's adjudication as a bankrupt or insolvent, or the filing by the Mortgagor or any guarantor of any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, or the Mortgagor's or any guarantor's seeking or consenting to or acquiescence in the appointment of any trustee, receiver or liquidator of the Mortgagor or any guarantor or of all or any substantial part of the Mortgaged Property or of any or all of the rents, revenues, issues, earnings, profits, or income thereof, or the making of any general assignment for the benefit of creditors or the admission in writing of its inability to pay its debts generally as they become due; or

(h)      The entry by a court of competent jurisdiction of any order, judgment, or decree approving a petition filed against the Mortgagor or any guarantor of any of the indebtedness secured hereby seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, which order, judgment or decree remains unvacated and unstayed for an aggregate of thirty (30) days (whether or not consecutive) from the date of entry thereof, or the appointment of any trustee, receiver or liquidator of the Mortgagor or any guarantor or of all or any substantial part of the Mortgaged Property or of any or all of the rents, revenues, issues, earnings, profits or income thereof without the consent or acquiescence of the Mortgagor which appointment shall remain unvacated and unstayed for an aggregate of thirty (30) days (whether or not consecutive); or

(i)      The enforcement of any prior or junior lien or encumbrance on the Mortgaged Property or any part thereof or the failure to pay when due any amount owed under any note or other instrument secured by any prior or junior lien on the Mortgaged Property or any part thereof; or

(j)      The death, dissolution or incompetence of the Mortgagor or any guarantor of the Note or any Other Indebtedness secured hereby; or



(k) Any other event of default set forth in any of the other Loan Documents or any of the Other Indebtedness Instruments.

**Section 2.2** **Acceleration of Maturity.** If an Event of Default shall have occurred, then the entire balance of the indebtedness (including but not limited to the Loan and the Other Indebtedness) secured hereby with interest accrued thereon (or such parts as Lender may elect) shall, at the option of the Lender, become due and payable without notice or demand, time being of the essence; and any omission on the part of the Lender to exercise such option when entitled to do so shall not be considered as a waiver of such right.

**Section 2.3** **Right of Lender to Enter and Take Possession.**

(a) If an Event of Default shall have occurred and be continuing, the Mortgagor, upon demand of the Lender, shall forthwith surrender to the Lender the actual possession of the Mortgaged Property, and if and to the extent permitted by law, the Lender may enter and take possession of all the Mortgaged Property, and may exclude the Mortgagor and its agents and employees wholly therefrom.

(b) Upon every such entering upon or taking of possession, the Lender may hold, store, use, operate, manage and control the Mortgaged Property and conduct the business thereof, and from time to time (i) make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon and purchase or otherwise acquire additional fixtures, personalty and other property; (ii) insure or keep the Mortgaged Property insured; (iii) manage and operate the Mortgaged Property and exercise all the rights and powers of the Mortgagor in its name or otherwise, with respect to the same; (iv) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted the Lender, all as the Lender from time to time may determine to be to its best advantage; and the Lender may collect and receive all the income, revenues, rents, issues and profits of the Mortgaged Property, including those past due as well as those accruing thereafter, and after deducting (aa) all expenses of taking, holding, managing, and operating the Mortgaged Property (including compensation for the services of all persons employed for such purposes); (bb) the cost of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements and purchases and acquisitions; (cc) the cost of such insurance; (dd) such taxes, assessments and other charges prior to this Mortgage as the Lender may determine to pay; (ee) other proper charges upon the Mortgaged Property or any part thereof; and (ff) the reasonable compensation, expenses and disbursements of the attorneys and agents of the Lender; shall apply the remainder of the moneys so received by the Lender, first to the payment of accrued interest under the Note; second to the payment of tax deposits; third to the payment of any other sums required to be paid by Mortgagor under this Mortgage or under the other Loan Documents; fourth to the payment of overdue installments of principal; fifth to the payment of any sums due under Other Indebtedness Instruments, whether principal, interest or otherwise; and the balance, if any to the Mortgagor, or the party appearing of record to be the owner of the Mortgaged Property, or as otherwise required by law.

(c) Whenever all such Events of Default have been cured and satisfied, the Lender may, at its option, surrender possession of the Mortgaged Property to the Mortgagor, or Mortgagor's heirs, successors or assigns. The same right of taking possession, however, shall exist if any subsequent Event of Default shall occur and be continuing.

**Section 2.4** **Receiver.**

(a) If and to the extent permitted by applicable law, if an Event of Default shall have occurred and be continuing, the Lender, upon application to a court of competent jurisdiction, shall be entitled, without notice and without regard to the adequacy of any security for the indebtedness hereby secured or the solvency of any party bound for its payment, to the appointment of a receiver to take possession of and to operate the Mortgaged Property and to collect the rents, profits, issues, and revenues thereof.

(b) The Mortgagor will pay to the Lender upon demand all expenses, including receiver's fees, attorneys' fees, cost and agent's compensation, incurred pursuant to the provisions contained in this Paragraph 2.4; and all such expenses shall be secured by this Mortgage.



**Section 2.5 Lender's Power of Enforcement.** If an Event of Default shall have occurred the Lender may, either with or without entry or taking possession as hereinabove provided or otherwise, proceed by suit or suits at law or in equity or any other appropriate proceeding or remedy to do any one or more of the following (simultaneously or in any order): (a) to enforce payment of the Note; (b) to foreclose this Mortgage; (c) to enforce or exercise any right under any Loan Documents or Other Indebtedness Instrument; and (d) to pursue any other remedy available to Lender, all as the Lender may elect.

**Section 2.6 Power of Sale.** If an Event of Default shall have occurred Lender may sell the Mortgaged Property to the highest bidder at public auction in front of the courthouse door in the county or counties, as may be required, where the Mortgaged Property is located, either in person or by auctioneer, after having first given notice of the time, place and terms of sale, together with a description of the property to be sold, by publication once a week for three (3) successive weeks prior to said sale in some newspaper published in said county or counties, as may be required, and, upon payment of the purchase money Lender or any person conducting the sale for Lender is authorized to execute to the purchaser at said sale a deed to the Mortgaged Property so purchased. Lender may bid at said sale and purchase the Mortgaged Property, or any part thereof, if the highest bidder therefor. At the foreclosure sale the Mortgaged Property may be offered for sale and sold as a whole without first offering it in any other manner or may be offered for sale and sold in any other manner as Lender may elect. The provisions of Paragraph 3.5 of this Mortgage shall apply with respect to Lender's enforcement of rights or interests in personal property which constitutes Mortgaged Property hereunder.

**Section 2.7 Application of Foreclosure Proceeds.** Unless otherwise required by applicable law, the proceeds of any foreclosure sale pursuant to Paragraph 2.6 of Article II shall be applied as follows:

(a) First, to the expenses of making the sale, including, a reasonable attorney's fee for such services as may be necessary in the collection of the indebtedness secured by this Mortgage or the foreclosure of this Mortgage;

(b) Second, to the repayment of any money, with interest thereon, which Lender may have paid, or become liable to pay, or which it may then be necessary to pay for taxes, insurance, assessments or other charges, liens, or debts as hereinabove provided, and as may be provided in the Loan Documents;

(c) Third, to the payment and satisfaction of the indebtedness (including but not limited to the Loan, and the Other Indebtedness) secured hereby with interest to date of sale, whether or not all of such indebtedness be then due;

(d) Fourth, the balance, if any, shall be paid to the party or parties appearing of record to be the owner of the Mortgaged Property at the time of sale, after deducting any expense of ascertaining who is such owner, or as may otherwise be provided by law.

**Section 2.8 Lender's Option on Foreclosure.** At the option of the Lender, this Mortgage may be foreclosed as provided by law or in equity, in which event a reasonable attorneys' fee shall, among other costs and expenses, be allowed and paid out of the proceeds of the sale. In the event Lender exercises its option to foreclose this Mortgage in equity, Lender may, at its option, foreclose this Mortgage subject to the rights of any tenants of the Mortgaged Property, and the failure to make any such tenants parties defendants to any such foreclosure proceeding and to foreclose their rights will not be, nor be asserted to be by the Mortgagor, a defense to any proceedings instituted by the Lender to collect the sums secured hereby, or to collect any deficiency remaining unpaid after the foreclosure sale of the Mortgaged Property.

**Section 2.9 Waiver of Exemption.** Mortgagor waives all rights of exemption pertaining to real or personal property as to any indebtedness secured by or that may be secured by this Mortgage, and Mortgagor waives the benefit of any statute regulating or limiting the obtaining of a deficiency judgment or requiring that the value of the Mortgaged Property be set off against any part of the indebtedness secured hereby.

**Section 2.10 Suits to Protect the Mortgaged Property.** The Lender 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 in 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 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 the Lender.

**Section 2.11 Mortgagor to Pay the Note on any Default in Payment; Application of Moneys by Lender.** If default shall be made in the payment of any amount due under this Mortgage, the Note, the Loan Documents or the Other Indebtedness Instruments, then, at the option of Lender, the Mortgagor will pay to the Lender the whole amount due and payable under the Note and under all Other Indebtedness Instruments; and in case the Mortgagor shall fail to pay the same forthwith the Lender 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 the Lender's agents and attorney.

**Section 2.12 Delay or Omission No Waiver.** No delay or omission of the Lender or 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 the Note, this Mortgage, the Loan Documents, or by the Other Indebtedness Instruments to the Lender may be exercised from time to time and as often as may be deemed expedient by the Lender.

**Section 2.13 No Waiver of One Default to Affect Another.** No waiver of any default hereunder, under the Loan Documents, or under the Other Indebtedness Instruments 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 the Lender (a) grants forbearance or an extension of time for the payment of any indebtedness secured hereby; (b) takes other or additional security for the payment thereof; (c) waives or does not exercise any right granted herein, in the Note, in the Loan Documents, or in the Other Indebtedness Instruments; (d) releases any part of the Mortgaged Property from this Mortgage or otherwise changes any of the terms of this Mortgage, the Note, the Loan Documents or the Other Indebtedness Instruments; (e) consents to the filing of any map, plat, or replat of or consents to the granting of any easement on, all or any part of the Mortgaged Property; or (f) makes or consents to any agreement subordinating the priority of this Mortgage, any such act or omission shall not release, discharge, modify, change, or affect the original liability under this Mortgage, the Note, the Loan Documents, or the Other Indebtedness Instruments of the 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 the Lender 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 the Lender shall the provisions of this Mortgage be altered thereby. In the event of the sale or transfer by the operation of law or otherwise of all or any part of the Mortgaged Property, the Lender without notice to any person, corporation or other entity (except notice shall be given to Mortgagor so long as Mortgagor remains liable under the Note, this Mortgage and the Loan Documents) 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, or of the Loan Documents, 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.

**Section 2.14 Discontinuance of Proceedings--Positions of Parties, Restored.** In case Lender 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 the Lender, then and in every such case the Mortgagor and the Lender shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of the Lender shall continue as if no such proceeding had been taken.

**Section 2.15 Remedies Cumulative.** No right, power, or remedy conferred upon or reserved to the Lender 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 under the Note, the Loan Documents, the Other Indebtedness Instruments or now or hereafter existing at law or in equity or by statute.



ARTICLE III

**Section 3.1** **Heirs, Successors and Assigns Included in Parties.** Wherever in this Mortgage one of the parties hereto is named or referred to, the heirs, administrators, executors, successors and assigns of such party shall be included, and all covenants and agreements contained in this Mortgage by or on behalf of the Mortgagor or by or on behalf of Lender shall bind and inure to the benefit of their respective heirs, administrators, executors, successors and assigns, whether so expressed or not.

**Section 3.2** **Headings.** The headings of the articles, sections, paragraphs and subdivisions of this Mortgage are for convenience of reference only, are not to be considered a part hereof, and shall not limit otherwise affect any of the terms hereof.

**Section 3.3** **Gender.** Whenever the contest so requires, the masculine includes the feminine and neuter, and the singular includes the plural, and vice versa.

**Section 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, in the Note, in the Loan Documents, or in the Other Indebtedness Instruments 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, the Loan Documents and the Other Indebtedness Instruments shall be in no way affected, prejudiced or disturbed thereby.

**Section 3.5** **Grant of Security Interest.**

(a) Mortgagor (the "debtor" for purposes of the Uniform Commercial Code), in consideration of the Lender's (the "secured party" for purposes of the Uniform Commercial Code) making the Loan as aforesaid and for other good and valuable consideration, and to secure the prompt payment of same, with interest thereon, and any extensions, renewals, modifications, and refinancings of same, and any charges herein incurred by Lender on account of Mortgagor, including, but not limited to attorneys' fees, and any and all Other Indebtedness, and further to secure the performance of the covenants, conditions, and agreements herein set forth and in the Note and the other Loan Documents, and the Other Indebtedness Instruments, does hereby grant to Lender title to and a security interest in such portions of the Mortgaged Property the security interest in and disposition of which is governed by the Uniform Commercial Code (the "Collateral"), including, without limitation, the property described in the Financing Statements executed, approved, or authorized in connection herewith which are incorporated herein by reference as if set forth fully and at length.

(b) **Definitions.** All terms used herein which are defined in the Alabama Uniform Commercial Code (the "Uniform Commercial Code") shall have the same meaning herein as in the Uniform Commercial Code unless otherwise indicated herein.

(c) **Financing Statements.** Mortgagor warrants to Lender that no financing statement covering any Collateral or any proceeds thereof is on file in any public office, except for financing statements specifically set forth on an addendum attached hereto, if any, and except for the financing statements executed, authorized or approved by Mortgagor in favor of Lender. The Mortgagor hereby specifically authorizes the Lender to prepare and to file financing statements covering the Collateral in form satisfactory to the Lender, and will pay the cost of filing the same, in all public offices wherever filing is deemed by the Lender to be necessary or desirable. The Mortgagor promises to pay to the Lender the fees incurred in filing the financing statements, including but not limited to mortgage recording taxes payable in connection with filings on fixtures, which fees shall become part of the indebtedness secured hereby.

(d) **Rights of a Secured Party.** Upon the occurrence of an Event of Default, the Lender, in addition to any and all remedies it may have or exercise under this Mortgage, the Note, the Loan Documents, the Other Indebtedness Instruments or under applicable law, may immediately and without demand, exercise any and all of the rights of a secured party upon default under the Uniform Commercial Code or other applicable law, all of which shall be cumulative. Such rights shall include, without limitation:



(i) The right to take possession of the Collateral without judicial process and to enter upon any premises where the Collateral may be located for the purposes of taking possession of, securing, removing, and/or disposing of the Collateral without interference from Mortgagor and without any liability for rent, storage, utilities or other sums;

(ii) The right to sell, lease, or otherwise dispose of any or all of the Collateral, whether in its then condition or after further processing or preparation, at public or private sale; and unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Lender shall give to Mortgagor at least ten (10) days' prior notice of the time and place of any public sale of the Collateral or of the time after which any private sale or other intended disposition of the Collateral is to be made, all of which Mortgagor agrees shall be reasonable notice of any sale or disposition of the Collateral;

(iii) The right to require Mortgagor, upon request of Lender, to assemble and make the Collateral available to Lender at a place reasonably convenient to Mortgagor and Lender; and

(iv) The right to notify account debtors, and demand and receive payment therefrom.

To effectuate the rights and remedies of Lender upon default, Mortgagor does hereby irrevocably appoint Lender attorney-in-fact for Mortgagor, with full power of substitution to sign, execute, and deliver any and all instruments and documents and do all acts and things to the same extent as Mortgagor could do, and to sell, assign, and transfer any Collateral to Lender or any other party.

**Section 3.6 Conflict in Loan Documents.** In the event of conflict in the terms of any provision in this Mortgage, the Note, the Loan Documents, or the Other Indebtedness Instruments, the terms of the provision most favorable to the Lender shall apply.

**Section 3.7 Instrument Under Seal.** This Mortgage is given under the seal of all parties hereto, and it is intended that this Mortgage is and shall constitute and have the effect of a sealed instrument according to law.

**Section 3.8 Addresses and Other Information.** The following information is provided in order that this Mortgage shall comply with the requirements of the Uniform Commercial Code, as enacted in the State of Alabama, for instruments to be filed as financing statements.

- |     |  |  |
|-----|--|--|
| (a) | Names and Addresses of Mortgagor (Debtor):                 | <b>Jack W. Kidd<br/>Faye D. Kidd<br/>Jack Rabbit, LLC<br/>Eastwood Mini Storage Company<br/>FDK, L.L.C.<br/>280 Station, LLC<br/>AJK, LLC<br/>JWK, LLC<br/>6600 Walt Drive<br/>Birmingham, Alabama 35242</b> |
| (b) | Name of Lender (Secured Party)<br><br>Address of Lender:   | <b>First Commercial, a division of Synovus Bank<br/>800 Shades Creek Parkway<br/>Birmingham, Alabama 35209<br/>Attn: Mr. Whit Bird</b>   |
| (c) | Record Owner of Real Estate described in Exhibit A hereto: | <b>Mortgagor</b>   |

**Section 3.9 No Homestead.** Each Mortgagor represents and warrants that the Mortgaged Property does not constitute the homestead of the Mortgagor or the Mortgagor's spouse.



**Section 3.10 Adjustable Rate of Interest.** Mortgagor understands and agrees that the interest rate on the indebtedness secured hereby may fluctuate or change as provided in the Note.

**Section 3.11 Wavier of Jury Trial.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, MORTGAGOR HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SETOFF, DEMAND, ACTION OR CAUSE OF ACTION (A) ARISING OUT OF OR IN ANY WAY PERTAINING OR RELATING TO THE LOAN DOCUMENTS OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION WITH THE NOTE OR (B) IN ANY WAY CONNECTED WITH OR PERTAINING OR RELATED TO OR INCIDENTAL TO ANY DEALINGS OF THE PARTIES HERETO WITH RESPECT TO THE LOAN DOCUMENTS, OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith OR IN CONNECTION WITH THE TRANSACTIONS RELATED THERETO OR CONTEMPLATED THEREBY OR THE EXERCISE OF EITHER PARTY'S RIGHTS AND REMEDIES THEREUNDER, IN ALL OF THE FOREGOING CASES WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. MORTGAGOR AGREES THAT LENDER MAY FILE A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE, KNOWING, VOLUNTARY AND BARGAINED AGREEMENT OF MORTGAGOR TO WAIVE RIGHT TO TRIAL BY JURY, AND THAT ANY DISPUTE OR CONTROVERSY WHATSOEVER BETWEEN MORTGAGOR AND LENDER SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

**Section 3.12 Cross Collateralization and Cross Default.** Each Mortgagor expressly acknowledges and agrees that each Note and each Loan is fully and completely cross-collateralized and cross-defaulted.

**Section 3.13 Partial Release.**

(a) In the event that Mortgagor desires to sell any parcel of the property described on Exhibit A (each, a "Release Parcel"), Mortgagor shall provide written notice to Lender at least thirty (30) days prior to any proposed sale, and Lender will agree to release the Release Parcel only upon payment of the greater of: (i) 100% of the sales proceeds from the sale of the Release Parcel, or (ii) 80% of the appraised value of the Release Parcel as reflected in Lender's most recent appraisal of the Release Parcel. Notwithstanding the foregoing, Mortgagor shall not be entitled to request and Lender shall have no obligation to release any Release Parcel if: (A) an Event of Default, or any occurrence which, with the passage of time or giving of notice or both would constitute an Event of Default, under this Mortgage, the Note, or any of the Loan Documents, has occurred and is continuing, or (B) the loan-to-value ratio (i.e., the ratio of the unpaid balance of the Loan to the appraised value of the Mortgaged Property not including any proposed Release Parcel) is or would be greater than 75%.

(b) In the event that Mortgagor desires to obtain a release of Parcels 19-38 (the "Farm Parcels") for the purpose of future development by Mortgagor (i.e., not in connection with the sale of such Farm Parcels pursuant to Section (a) above), Mortgagor shall provide written notice to Lender at least forty five (45) days prior to such proposed release date, and Lender, in its sole and complete discretion, will consider releasing the Farm Parcels upon terms and conditions satisfactory to Lender. Notwithstanding the foregoing, Mortgagor shall not be entitled to request and Lender shall have no obligation to consider the release of the Farm Parcels if an Event of Default, or any occurrence which, with the passage of time or giving of notice or both would constitute an Event of Default, under this Mortgage, the Note, or any of the Loan Documents, has occurred and is continuing.

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IN WITNESS WHEREOF, Mortgagor has caused this instrument to be executed and effective as of the day and year first above written.

CAUTION: IT IS IMPORTANT THAT YOU THOROUGHLY READ THE CONTRACT BEFORE YOU SIGN IT.

MORTGAGOR (Mortgagor, Debtor):

Jack W. Kidd  
Jack W. Kidd  
Faye D. Kidd  
Faye D. Kidd

Jack Rabbit, LLC

By: Jack W. Kidd  
Name: Jack W. Kidd  
Title: Member

By: Alan D. Kidd  
Name: Alan D. Kidd  
Title: Manager and Member

Eastwood Mini Storage Company

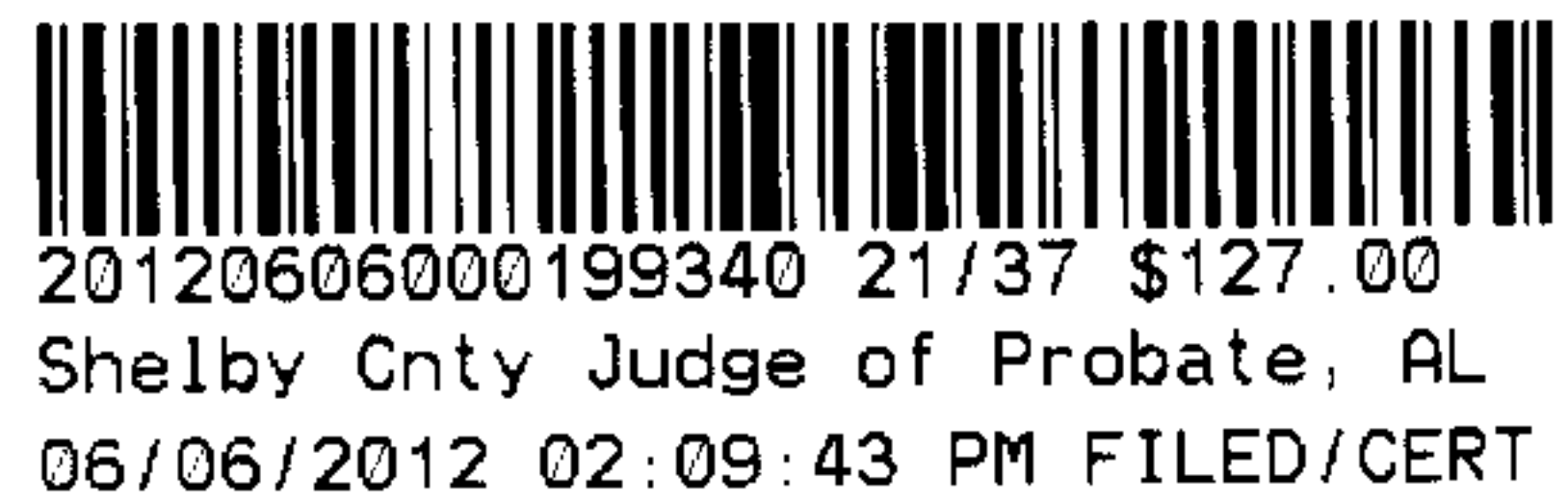
By: Jack W. Kidd  
Name: Jack W. Kidd  
Title: Partner

By: Faye D. Kidd  
Name: Faye D. Kidd  
Title: Partner

FDK, L.L.C.

By: Jack W. Kidd  
Name: Jack W. Kidd  
Title: Member






280 Station, LLC

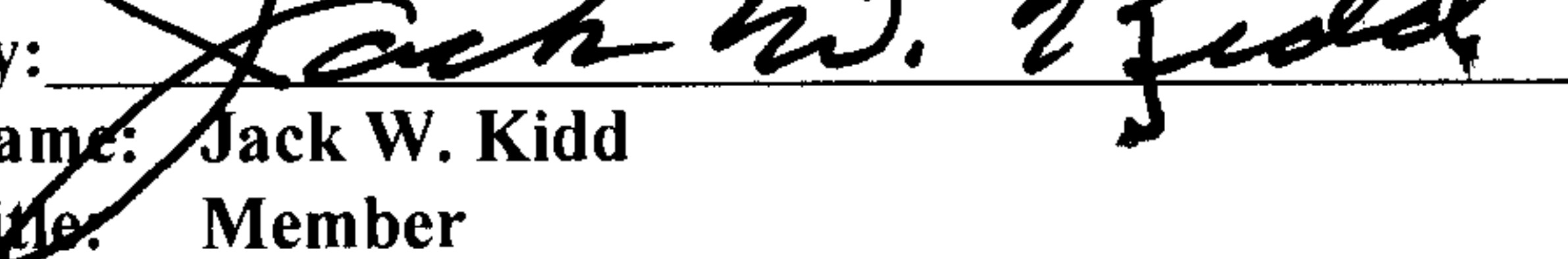
By:   
Name: Jack W. Kidd  
Title: Member

By:   
Name: Alan D. Kidd  
Title: Manager and Member

AJK, LLC

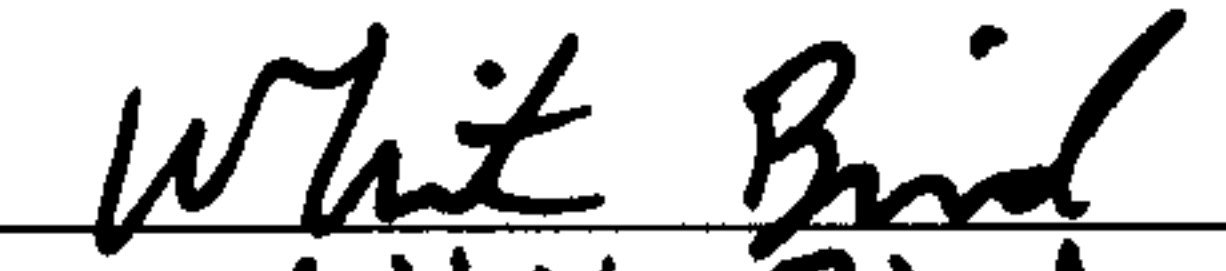
By:   
Name: Alan D. Kidd  
Title: Member

JWK, LLC

By:   
Name: Jack W. Kidd  
Title: Member

LENDER (Mortgagee, Secured Party):

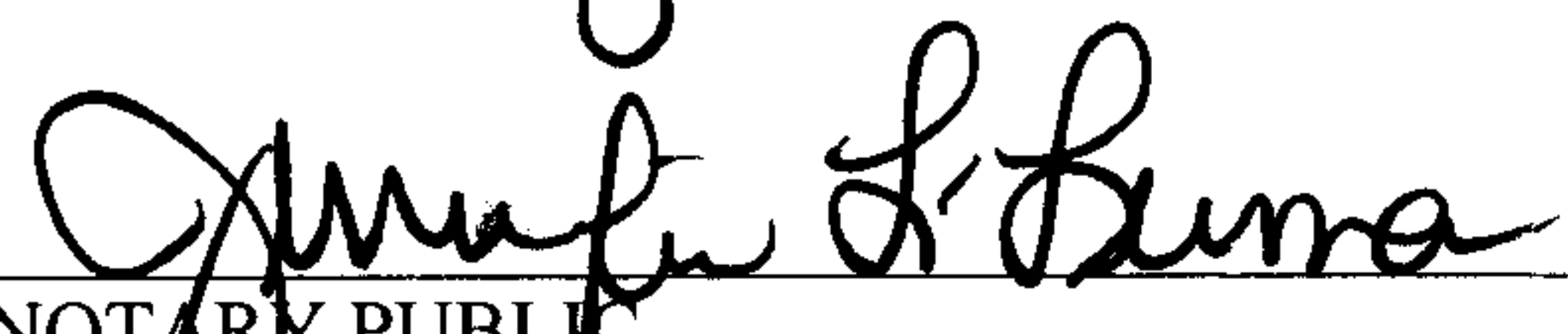
First Commercial, a division of Synovus Bank

By:   
Name: Whit Bird  
Title: Vice President

STATE OF ALABAMA )  
COUNTY OF JEFFERSON )

I, the undersigned, a Notary Public in and for said County and State, hereby certify that **Jack W. Kidd**, whose name is signed to the foregoing and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he voluntarily executed the same on the day the same bears date.

Given under my hand and seal this the 25<sup>th</sup> day of May, 2012.

  
NOTARY PUBLIC  
My Commission Expires: MY COMMISSION EXPIRES OCTOBER 2, 2012



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Shelby Cnty Judge of Probate, AL  
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STATE OF ALABAMA )  
COUNTY OF Shelby )

I, the undersigned, a Notary Public in and for said County and State, hereby certify that **Faye D. Kidd**, whose name is signed to the foregoing and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, she voluntarily executed the same on the day the same bears date.

Given under my hand and seal this the 25<sup>th</sup> day of May, 2012.

*[Signature]*  
NOTARY PUBLIC  
My Commission Expires: 9.20.2015

STATE OF ALABAMA )  
COUNTY OF JEFFERSON )

I, the undersigned, a Notary Public in and for said County and State, hereby certify that **Jack W. Kidd**, whose name as a member of **Jack Rabbit, LLC**, is signed to the foregoing and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such member and with full authority executed the same voluntarily for and as the act of said company.

Given under my hand and seal this the 25<sup>th</sup> day of May, 2012.

*[Signature]*  
NOTARY PUBLIC  
My Commission Expires: MY COMMISSION EXPIRES OCTOBER 2, 2012

STATE OF ALABAMA )  
COUNTY OF JEFFERSON )

I, the undersigned, a Notary Public in and for said County and State, hereby certify that **Alan D. Kidd**, whose name as manager and member of **Jack Rabbit, LLC**, is signed to the foregoing and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such manager and member and with full authority executed the same voluntarily for and as the act of said company.

Given under my hand and seal this the 25<sup>th</sup> day of May, 2012.

*[Signature]*  
NOTARY PUBLIC  
My Commission Expires: MY COMMISSION EXPIRES OCTOBER 2, 2012



STATE OF ALABAMA )  
COUNTY OF JEFFERSON )

I, the undersigned, a Notary Public in and for said County and State, hereby certify that **Jack W. Kidd**, whose name as a partner of **Eastwood Mini Storage Company**, is signed to the foregoing and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such partner and with full authority executed the same voluntarily for and as the act of said partnership.

Given under my hand and seal this the 25 day of May, 2012.

*Jennifer L. Burns*  
NOTARY PUBLIC  
My Commission Expires: MY COMMISSION EXPIRES OCTOBER 2, 2012

STATE OF ALABAMA )  
COUNTY OF Shelby )

I, the undersigned, a Notary Public in and for said County and State, hereby certify that **Faye D. Kidd**, whose name as a partner of **Eastwood Mini Storage Company**, is signed to the foregoing and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, she, as such partner and with full authority executed the same voluntarily for and as the act of said partnership.

Given under my hand and seal this the 25<sup>th</sup> day of May, 2012.

*JL Burns*  
NOTARY PUBLIC  
My Commission Expires: 9-20-2015

STATE OF ALABAMA )  
COUNTY OF JEFFERSON )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that **Jack W. Kidd** whose name as member of **FDK, L.L.C.**, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and seal this the 25<sup>th</sup> day of May, 2012.

*Jennifer L. Burns*  
NOTARY PUBLIC  
My Commission Expires: MY COMMISSION EXPIRES OCTOBER 2, 2012



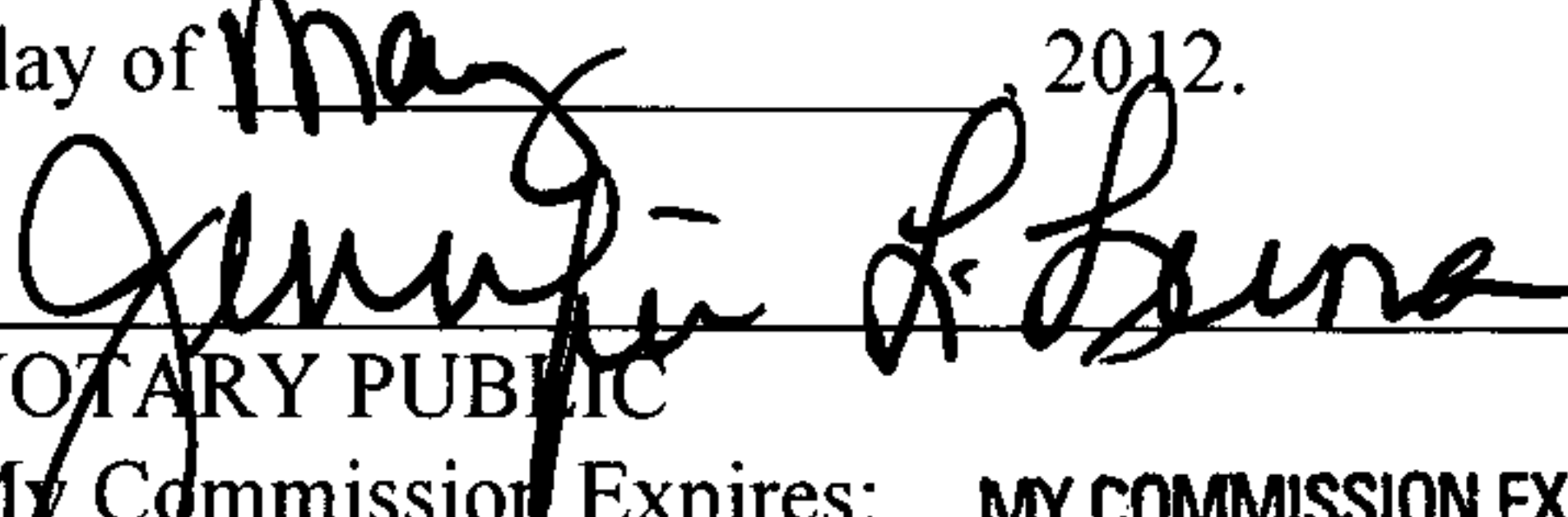


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STATE OF ALABAMA                    )  
COUNTY OF JEFFERSON            )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that **Alan D. Kidd** whose name as manager and member of **280 Station, LLC**, an Alabama limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such manager and member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and seal this the 25<sup>th</sup> day of May, 2012.

  
\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: MY COMMISSION EXPIRES OCTOBER 2, 2012

STATE OF ALABAMA                    )  
COUNTY OF JEFFERSON            )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that **Jack W. Kidd** whose name as member of **280 Station, LLC**, an Alabama limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

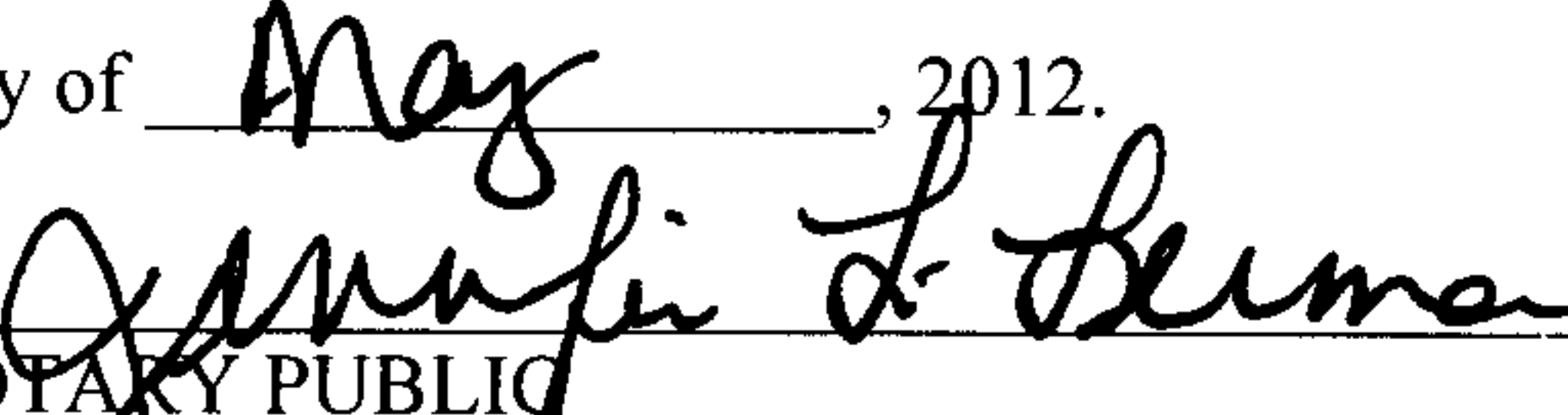
Given under my hand and seal this the 25<sup>th</sup> day of May, 2012.

  
\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: MY COMMISSION EXPIRES OCTOBER 2, 2012

STATE OF ALABAMA                    )  
COUNTY OF JEFFERSON            )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that **Alan D. Kidd** whose name as member of **AJK, LLC**, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such member and with full authority, executed the same voluntarily for and as the act of said limited liability company.


Given under my hand and seal this the 25<sup>th</sup> day of May, 2012.

  
\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: MY COMMISSION EXPIRES OCTOBER 2, 2012



STATE OF ALABAMA )  
COUNTY OF JEFFERSON )

I, the undersigned, a Notary Public in and for said County and State, hereby certify that **Jack W. Kidd**, whose name as the member of **JWK, LLC**, an Alabama limited liability company, is signed to the foregoing and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such member and with full authority executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and seal this the 29<sup>th</sup> day of May, 2012  
  
NOTARY PUBLIC  
My Commission Expires: **MY COMMISSION EXPIRES OCTOBER 2, 2012**

STATE OF ALABAMA )  
COUNTY OF JEFFERSON )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Whit Bird whose name as the VP of **First Commercial**, a division of **Synovus Bank**, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said bank.

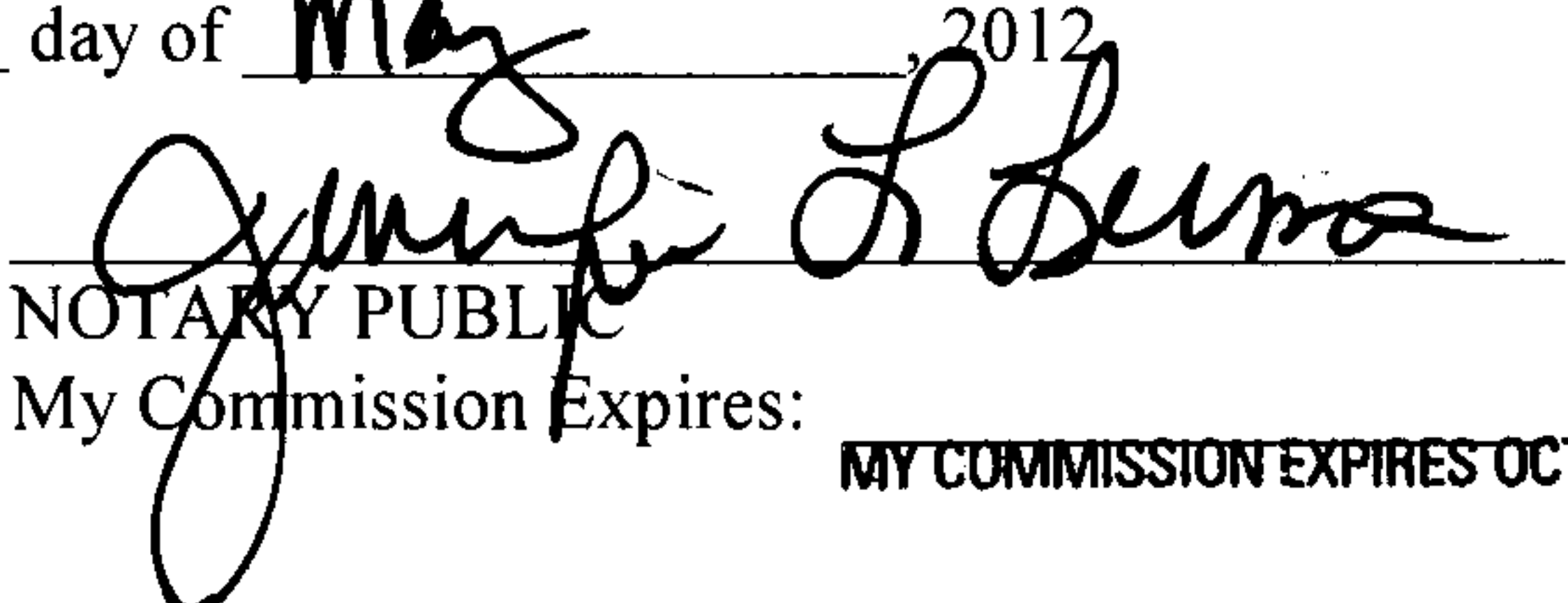
Given under my hand and seal this the 25<sup>th</sup> day of May, 2012  
  
NOTARY PUBLIC  
My Commission Expires: **MY COMMISSION EXPIRES OCTOBER 2, 2012**



EXHIBIT A

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Shelby Cnty Judge of Probate, AL  
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PARCEL 1: (Intentionally Deleted)

PARCEL 2: (Commons Drive)

Lot 2-D, of a resurvey of Lot 2-C, of a resurvey of Lot 2, Lakeshore Commons, as recorded in Map Book 186, Page 17, in the Probate Office of Jefferson County, Alabama, and being more particularly described as follows:

Begin at the Southeast corner of Lot 2-B, of a resurvey of Lot 2, of Lakeshore Commons, as recorded in Map Book 185, Page 79, in the Office of the Probate Judge of Jefferson County, Alabama; thence run on an assumed bearing North 51 degrees 30 minutes 00 seconds East for 175.16 feet along the Northerly right of way line of Commons Drive; thence 87 degrees 32 minutes 45 seconds left and run on an assumed bearing of North 36 degrees 02 minutes 45 seconds West for 302.51 feet to a point on the Southerly right of way line of Lakeshore Parkway, said point being on a curve to the right, said curve having a radius of 3,969.72 feet and subtending a central angle of 02 degrees 31 minutes 54 seconds and an assumed chord bearing of South 57 degrees 49 minutes 29 seconds West; thence 87 degrees 23 minutes 43 seconds left to become tangent to said curve and run along the arc of said curve for 175.41 feet to the Northeast corner of said aforementioned Lot 2-B; thence from tangent to said curve 95 degrees 08 minutes 11 seconds left and run along the Easterly line of said Lot 2-B on an assumed bearing of South 36 degrees 02 minutes 45 seconds East for 321.85 feet to the point of beginning.

PARCEL 3: (West Park Drive)

Lot 20, according to the Survey of West Park at Oxmoor, as recorded in Map Book 169, Page 25, in the Probate Office of Jefferson County, Alabama.

PARCEL 4: (West Park Drive)

Lot 21, according to Baughan Resurvey at West Park, as recorded in Map Book 187, Page 41, in the Probate Office of Jefferson County, Alabama.

PARCEL 5: (Brookhurst)

Lot B, according to the Map and Survey of Roebuck Crest Addition to Brookhurst, as recorded in Map Book 114, Page 2, in the Probate Office of Jefferson County, Alabama.

PARCEL 6: (Jack Rabbit)

Lot 5A, Block 3, according to a Resurvey of Lots 5 and 6, Block 3, of Rosedale Park, as recorded in Map Book 151, Page 57, in the Probate Office of Jefferson County, Alabama.

PARCEL 7: (Auto Pride Car Wash)

Lot 36A, Block 2, according to the First Amendment to a Resurvey of Lots 36, 37 and 38, Block 2, of Rosedale Park, as recorded in Map Book 156, Page 21, in the Probate Office of Jefferson County, Alabama.

PARCEL 8: (HWY 280/Office/Warehouse)

Commence at the Northwest corner of the Northwest quarter of the Northeast quarter of Section 5, Township 19 South, Range 1 West, thence run North 86 degrees 43 minutes 38 seconds East for a distance of 333.88 feet to the Point of Beginning; thence run South 71 degrees 31 minutes 13 seconds East for a distance of 100.20 feet; thence run South 23 degrees 59 minutes 16 seconds West for a distance of 275.63 feet; thence run North 67 degrees 10 minutes 15 seconds West for a distance of 104.08 feet; thence run North 12 degrees 30 minutes 00 seconds West for a distance of 37.00 feet; thence run North 30 degrees 17 minutes 51 seconds East for a distance of 239.82 feet to the point of beginning.

Situated in Shelby County, Alabama

ALSO: An easement described as follows:

Commence at the northwest corner of the Northwest one-quarter of the Northeast one-quarter of Section 5, Township 19 South, Range 1 West; thence run North 86 degrees 43 minutes 38 seconds East along the North line of said quarter-quarter for a distance of 333.88 feet; thence run South 71 degrees 31 minutes 13 seconds East for a distance of 100.20 feet; thence run South 23 degrees 59 minutes 16 seconds West for a distance of 260.63 feet to the



POINT OF BEGINNING; thence run South 71 degrees 19 minutes 30 seconds East for a distance of 29.78 feet to the point of intersection with a curve to the left, said curve having a central angle of 18 degrees 42 minutes 34 seconds, a radius of 183.00, a chord of 59.49 and a chord bearing of South 26 degrees 50 minutes 01 seconds West; thence run along the arc of said curve for a distance of 59.76 feet to the end of said curve; thence run South 17 degrees 28 minutes 44 seconds West for a distance of 153.42 feet to the point of commencement of a curve to the right, said curve having a central angle of 50 degrees 45 minutes, a radius of 146.77 feet, a chord of 125.79 and a chord bearing of South 42 degrees 51 minutes 14 seconds; thence run along the arc of said curve for a distance of 130.00 feet to the end of said curve; thence run South 68 degrees 13 minutes 44 seconds West for a distance of 30.04 feet to a point on the northeasterly right of way line of U. S. 280, said right of way being situated on a curve to the left and having a central angle of 0 degrees 35 minutes 01 seconds, a radius 2944.79 feet, a chord of 30.00 feet and a chord bearing of North 21 degrees 46 minutes 15 seconds West; thence run along the arc of said curve and the Northeasterly right of way line of U. S. Highway No. 280 for a distance of 30.00 feet; thence run North 68 degrees 13 minutes 44 seconds East for a distance of 30.04 feet to the point of commencement of a curve to the left, said curve having a central angle of 50 degrees 45 minutes, a radius of 116.77 feet, a chord of 100.08 feet and a chord bearing of North 42 degrees, 51 minutes 14 seconds East; thence run along the arc of said curve for a distance of 103.43 feet to the end of said curve; thence run North 17 degrees 28 minutes 44 seconds East for a distance of 153.42 feet to the point of commencement of a curve to the right, said curve, having a central angle of 16 degrees 10 minutes 47 seconds, a radius of 213.00 feet, a chord of 59.95 feet and a chord bearing of North 25 degrees 34 minutes 08 seconds East; thence run along the arc of said curve for a distance of 60.15 feet to the end of said curve; thence run South 71 degrees, 19 minutes 30 seconds East for a distance of 1.46 feet to the POINT OF BEGINNING.

PARCEL 9: (Linden)

Lot 1, Block D, according to the Survey of Shades Heights, as recorded in Map Book 6, Page 97, in the Probate Office of Jefferson County, Alabama.

PARCEL 10: (Pears)

Lot 15, Block C, according to the Survey of Shades Heights, as recorded in Map Book 6, Page 97, in the Probate Office of Jefferson County, Alabama.

PARCEL 11: (Adams)

Sub-Parcel I:

A parcel of land located in the SE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 25, Township 19 South, Range 3 West, Shelby County, Alabama, more particularly described as follows:

Commence at the NW corner of said  $\frac{1}{4}$  -  $\frac{1}{4}$  Section; thence in an Easterly direction along the North line of said  $\frac{1}{4}$  -  $\frac{1}{4}$  section; a distance of 470.20 feet to the point of beginning; thence continue along last described course, a measured distance of 31.33 (31.24 feet deed); thence 42 degrees 06 minutes 46 seconds right, in a Southeasterly direction a distance of 244.75 feet to a point on a curve having a radius of 50 feet last described course being radial to said curve; thence in a Southwesterly direction along the arc of said curve to the left a distance of 23.90 feet; thence 39 degrees 19 minutes 16 seconds right from line tangent to said curve in a Southwesterly direction a distance of 197.05 feet; thence 104 degrees 30 minutes right; in a Northwesterly direction a measured distance of 271.44 (271.40 feet deed); thence 71 degrees 40 minutes 30 seconds right, in a Northeasterly direction a distance of 74.50 feet to the point of beginning.

Sub-Parcel II:

A parcel of land located in the SE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 25, Township 19 South, Range 3 West, more particularly described as follows: Commence at the NW corner of said  $\frac{1}{4}$  -  $\frac{1}{4}$  Section and run thence in an Easterly direction along the Northerly line of said  $\frac{1}{4}$  -  $\frac{1}{4}$  Section a distance of 501.44 feet to point of beginning; thence continue along last described course a distance of 396.00 feet; thence 89 degrees 19 minutes 08 seconds right in a Southerly direction a distance of 82.27 feet; thence 54 degrees 43 minutes 51 seconds right in a Southwesterly direction a distance of 163.39 feet to a point of a curve having a radius of 50 feet; thence 103 degrees 01 minutes 59 seconds right to tangent to said curve and in a Northwesterly direction along the arc of said curve to the left a distance of 100.33 feet; thence in a Northwesterly direction along a line radial to said curve a distance of 244.75 feet to the point of beginning. Situated in Shelby County, Alabama.



Less and Except the following:

A portion of Sub-Parcel II, described as a parcel of land located in the Southeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section 25, Township 19 South, Range 3 West, more particularly described as follows:

Commence at the Northwest corner of the Southeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section 25 and run South 89 degrees 55 minutes 20 seconds East along the North line of said  $\frac{1}{4}$  -  $\frac{1}{4}$  section for a distance of 761.20 feet to the point of beginning; from the point of beginning thus obtained continue along the last described course for a distance of 135.60 feet; thence turn an angle of 89 degrees 17 minutes 37 seconds to the right and run in a Southerly direction for a distance of 82.24 feet; thence turn an angle of 54 degrees 43 minutes 54 seconds to the right and run in a Southwesterly direction for a distance of 163.14 feet; thence turn an angle of 124 degrees 30 minutes 03 seconds to the right and run in a Northerly direction for a distance of 178.13 feet to the point of beginning.

PARCEL 12: (Rainbow Paint Center)

Lot 1, Carnaggio's Survey, as recorded in Map Book 121, Page 23, in the Probate Office of Jefferson County, Alabama.

PARCEL 13: (Rainbow Paint Center)

Lot 2-C, according to a resurvey of Lot 2-A, Meeks 1<sup>st</sup> Addition to Shady Springs and part of Lot D-1, being a part of a resurvey of Lot D, Meeks 1<sup>st</sup> Addition to Shady springs, as recorded in Map Book 123, Page 59, in the Probate Office of Jefferson County, Alabama.

PARCEL 14: (Rainbow Paint Center)

A parcel of land being part of Lot 3, according to the Survey of Meeks 1<sup>st</sup> Addition to Shady Springs as recorded in Map Book 15, Page 31, and being bounded on the Southeasterly side by the Northwesterly line of Lot 1, Carnaggio's Survey Map Book 121, Page 23; on the Southwesterly side by the Northeasterly line of Lot 2C, a Resurvey of Lot 2-A Meeks 1<sup>st</sup> Addition to Shady Springs and part of Lot D-1, being a part of a Resurvey of Lot D, Meeks 1<sup>st</sup> Addition to Shady Springs as recorded in Map Book 123, Page 59, and by one of the Northeasterly lines of the Cabana Condominium Survey, Map Book 103, Page 55A, on the Northwesterly side by one of the Southeasterly lines of the same Cabana Condominium Survey, and on the Northeasterly side by one of the Southwesterly sides of the same Cabana Condominium Survey, and by the Southwesterly boundary of Lot 3A according to a Resurvey of part of Lots 3 & 4, Meeks 1<sup>st</sup> Addition to Shady Springs, as recorded in Map Book 76, Page 64, and on the Southeasterly side by the Northwesterly right of way of U. S. Highway No. 31.

PARCEL 15: (Vacant Homewood Land and Xpress Lube)

All of Lots 32, 33, 34 and 35, in Block 2, according to the Survey of Rosedale park, as recorded in the Office of the Judge of Probate, Jefferson County, Alabama, in Map Book 3, Page 26, less and except any portion lying in road right of way and being more particularly described as follows:

Beginning at the NW corner of said Lot 35, run in an Easterly direction along the North line of said Lot 35, for a measured distance of 150.03 feet to an existing iron pin being the Northeast corner of said Lot 35 and being on the West right of way of 18<sup>th</sup> Place South; thence turn an angle to the right of 89 degrees 47 minutes and run in a Southerly direction along the East line of said Lot 35 for a distance of 50.0 feet to an existing iron rebar being on the North right of way line of 29<sup>th</sup> Avenue, South; thence turn an angle to the right of 90 degrees 13 minutes and run in a Westerly direction along the North right of way line of 29<sup>th</sup> Avenue, South, for a distance of 222.43 feet to an existing iron pin being on the East right of way line of 18<sup>th</sup> Street; thence turn an angle to the right of 90 degrees 09 minutes 14 seconds and run in a Northerly direction along the East right of way line of 18 the Street for a distance of 102.26 feet, more or less, to an existing concrete right of way monument; thence turn an angle to the right of 43 degrees 37 minutes 28 seconds and run in a Northeasterly direction for a distance of 66.11 feet to an existing iron pin being on the North line of said Lot 32; thence turn an angle to the right of 46 degrees 13 minutes 18 seconds and run in an Easterly direction along the North line of said Lot 32, for a distance of 25.05 feet, more or less, to an existing iron pin, being the Northeast corner of said Lot 32; thence turn an angle to the right of 88 degrees 56 minutes 18 seconds and run in a Southerly direction along the East line of said Lot 32, for a distance of 50.0 feet to an existing PK nail, being the Southeast corner of said Lot 32; thence turn a measured angle to the right of 0 degrees 48 minutes 42 seconds and run in a Southerly direction for a distance of 50.0 feet, more or less; to the point of beginning.



Situated in Jefferson County, Alabama. A portion of said property now known as Lot 1, according to Kidd's Rosedale Park Resurvey, as recorded in Map Book 220, Page 43, in the Probate Office of Jefferson County, Alabama.

PARCEL 16: (Hardee's – Trussville)

Lot 3-A, according to the Resurvey of Lot 3, Cahaba Plaza, as recorded in Map Book 135, Page 52, in the Probate Office of Jefferson County, Alabama.

PARCEL 17: (Highlander)

Lots 3 and 4, in Block 4, according to the Survey of Highland Office Park, as recorded in Map Book 55, Page 91, in the Probate Office of Jefferson County, Alabama.

PARCEL 18: (FDK, L.L.C.)

Commence at the Northwest corner of the Northwest one-quarter of the Northeast one-quarter of Section 5, Township 19 South, Range 1 West; thence run North 86 degrees, 43 minutes, 38 seconds East along the North line of said Quarter-Quarter Section line for a distance of 333.88 feet; thence run South 71 degrees, 31 minutes, 13 seconds East for a distance of 100.20 feet; thence run South 23 degrees, 59 minutes, 16 seconds West for a distance of 260.63 feet; thence run South 71 degrees, 19 minutes, 30 seconds East for a distance of 261.47 feet; thence run South 23 degrees, 55 minutes, 20 seconds West for a distance of 14.31 feet; thence run South 71 degrees, 24 minutes, 36 seconds East for a distance of 261.73 feet; thence run South 24 degrees, 50 minutes, 46 seconds West for a distance of 130.00 feet to the point of beginning; thence run South 24 degrees, 50 minutes 46 seconds West for a distance of 97.62 feet; thence run South 26 degrees, 37 minutes, 46 seconds West for a distance of 226.72 feet to the centerline of a creek as shown on USW subdivision and is recorded in Map Book 14, Page 80 in the Office of the Judge of Probate of Shelby County, Alabama; thence run along said centerline by the following described courses; thence North 35 degrees, 50 minutes, 17 seconds West for a distance of 64.67 feet; thence North 10 degrees, 27 minutes, 52 seconds West for a distance of 13.24 feet; thence run North 64 degrees, 39 minutes, 20 seconds East for a distance of 10.39 feet; thence run North 63 degrees, 17 minutes, 11 seconds West for a distance of 10.75 feet; thence run South 63 degrees, 19 minutes, 10 seconds West for a distance of 10.92 feet; thence run North 73 degrees, 35 minutes, 54 seconds West for a distance of 12.11 feet; thence run North 17 degrees, 02 minutes West for a distance of 7.18 feet; thence run North 37 degrees, 45 minutes, 27 seconds West for a distance of 17.71 feet; thence run North 59 degrees, 12 minutes, 44 seconds West for a distance of 20.62 feet; thence run North 45 degrees, 12 minutes, 51 seconds West for a distance of 28.09 feet; thence run North 87 degrees, 59 minutes, 52 seconds West for a distance of 20.59 feet; thence run North 51 degrees, 43 minutes, 04 seconds West for a distance of 26.76 feet; thence run North 24 degrees, 40 minutes, 36 seconds West for a distance of 25.49 feet; thence run North 08 degrees, 02 minutes, 50 seconds East for a distance of 12.43 feet; thence run North 82 degrees, 00 minutes, 57 seconds West for a distance of 26.34 feet; thence run North 32 degrees, 40 minutes, 52 seconds West for a distance of 22.77 feet; thence run North 60 degrees, 33 minutes, 04 seconds West for a distance of 19.70 feet; thence run South 78 degrees, 46 minutes, 47 seconds West for a distance of 12.33 feet; thence run North 44 degrees, 56 minutes, 03 seconds West for a distance of 20.92 feet; thence run North 88 degrees, 15 minutes, 43 seconds West for a distance of 11.94 feet; thence run South 49 degrees, 01 minutes, 10 seconds West for a distance of 23.71 feet; thence run South 41 degrees, 29 minutes, 13 seconds West for a distance of 29.53 feet; thence run North 59 degrees, 21 minutes, 24 seconds West for a distance of 16.97 feet; thence run North 54 degrees, 34 minutes, 47 seconds West for a distance of 30.16 feet; thence run South 85 degrees, 48 minutes, 55 seconds West for a distance of 19.77 feet; thence run North 17 degrees, 06 minutes, 24 seconds East for a distance of 17.89 feet; thence run North 36 degrees, 44 minutes, 37 seconds West for a distance of 42.66 feet; thence run North 40 degrees, 17 minutes, 25 seconds East for a distance of 18.80 feet; thence run North 35 degrees, 26 minutes, 30 seconds West for a distance of 4.99 feet and the end of said creek centerline course; thence run South 87 degrees, 22 minutes, 08 seconds West for a distance of 85.62 feet to a point on the Northeasterly right-of-way line of U.S. Highway No. 280; thence run in a Northwesterly direction along the Northeasterly right-of-way line of said highway for a distance of 17.00 feet; (Said highway right-of-way line being situated on a curve to the left having a central angle of 00 degrees, 19 minutes, 51 seconds, a radius of 2,944.79 feet, a chord of 17.00 feet and a chord bearing of South 21 degrees, 36 minutes, 19 seconds East); thence run North 68 degrees, 13 minutes, 44 seconds East for a distance of 30.00 feet to the point of commencement of a curve to the left, said curve having a central angle of 50 degrees, 45 minutes, 00 seconds and a radius of 131.77 feet; thence run in a Northeasterly direction along the arc of said curve for a distance of 116.72 feet; thence run North 17 degrees, 28 minutes, 44 seconds East along the tangent if extended from said curve for a distance of 153.42 feet to the point of commencement of a curve to the right, said curve having a central angle of 00



degrees, 34 minutes, 43 seconds and a radius of 198.00 feet and a chord bearing of South 17 degrees, 46 minutes, 05 seconds East; thence run in a Northeasterly direction along the arc of said curve for a distance of 2.00 feet; thence run South 61 degrees, 36 minutes, 29 seconds East for a distance of 508.90 feet to the point of beginning.

PARCEL 18A:

EASEMENT FOR INGRESS AND EGRESS OVER PROPERTY MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Commence at the northwest corner of the Northwest one-quarter of the Northeast one-quarter of Section 5, Township 19 South, Range 1 West; thence run North 86 degrees 43 minutes 38 seconds East along the North line of said quarter-quarter for a distance of 333.88 feet; thence run South 71 degrees 31 minutes 13 seconds East for a distance of 100.20 feet; thence run South 23 degrees 59 minutes 16 seconds West for a distance of 260.63 feet to the POINT OF BEGINNING; thence run South 71 degrees 19 minutes 30 seconds East for a distance of 29.78 feet to the point of intersection with a curve to the left, said curve having a central angle of 18 degrees 42 minutes 34 seconds, a radius of 183.00, a chord of 59.49 and a chord bearing of South 26 degrees 50 minutes 01 seconds West; thence run along the arc of said curve for a distance of 59.76 feet to the end of said curve; thence run South 17 degrees 28 minutes 44 seconds West for a distance of 153.42 feet to the point of commencement of a curve to the right, said curve having a central angle of 50 degrees 45 minutes, a radius of 146.77 feet, a chord of 125.79 and a chord bearing of South 42 degrees 51 minutes 14 seconds West; thence run along the arc of said curve for a distance of 130.00 feet to the end of said curve; thence run South 68 degrees 13 minutes 44 seconds West for a distance of 30.04 feet to a point on the northeasterly right of way line of U. S. 280, said right of way being situated on a curve to the left and having a central angle of 0 degrees 35 minutes 01 seconds, a radius 2944.79 feet, a chord of 30.00 feet and a chord bearing of North 21 degrees 46 minutes 15 seconds West; thence run along the arc of said curve and the Northeasterly right of way line of U. S. Highway No. 280 for a distance of 30.00 feet; thence run North 68 degrees 13 minutes 44 seconds East for a distance of 30.04 feet to the point of commencement of a curve to the left, said curve having a central angle of 50 degrees 45 minutes, a radius of 116.77 feet, a chord of 100.08 feet and a chord bearing of North 42 degrees, 51 minutes 14 seconds East; thence run along the arc of said curve for a distance of 103.43 feet to the end of said curve; thence run North 17 degrees 28 minutes 44 seconds East for a distance of 153.42 feet to the point of commencement of a curve to the right, said curve, having a central angle of 16 degrees 10 minutes 47 seconds, a radius of 213.00 feet, a chord of 59.95 feet and a chord bearing of North 25 degrees 34 minutes 08 seconds East; thence run along the arc of said curve for a distance of 60.15 feet to the end of said curve; thence run South 71 degrees, 19 minutes 30 seconds East for a distance of 1.46 feet to the POINT OF BEGINNING.

PARCEL 19:

The East ½ of the Northwest ¼ of Section 4, Township 20 South, Range 2 East, Shelby County, Alabama.

A parcel of Land in the Northeast ¼ of Section 4, Township 20 South, Range 2 East, Shelby County, Alabama, more particularly described as follows: Begin at the Northwest corner of the Northeast ¼ of Section 4, Township 20 South, Range 2 East; thence South 89 degrees, 45 minutes 30 seconds East along the Section Line for a distance of 786.87 feet to the right of way line of Alabama Highway No. 25; thence South 11 degrees, 47 minutes, 15 seconds East along said right of way line for a distance of 386.76 feet to the beginning of a curve to the left with a central angle of 23 degrees, 14 minutes, 15 seconds and a radius of 1,876.86 feet; thence along the arc of said curve for a distance of 761.20 feet; thence South 11 degrees, 27 minutes West for a distance of 1,566.36 feet to the South line of said Northeast ¼ of Section 4, Township 20 South, Range 2 East; thence South 89 degrees, 55 minutes West for a distance of 557.17 feet to the Southwest corner of the Northeast ¼ of said Section; thence North 2,673.90 feet to the point of beginning; being situated in Shelby County, Alabama.

The West ½ of the Northwest ¼ of Section 4, Township 20 South, Range 2 East.

PARCEL 20:

Commence at the Northeast corner of Section 33, Township 19 South, Range 2 East, thence run West along the North line of said Section a distance of 2,637.25 feet to the Northwest corner of the Northwest ¼ of the Northeast ¼ of the said Section; thence turn an angle of 108 degrees, 40 minutes, 15 seconds to the left and run a distance of 287.88 feet to the East right of way line of Alabama State Highway 25; thence turn an angle of 24 degrees, 56 minutes, 22 seconds to the right and run along said right of way a distance of 451.20 feet to the point of beginning; thence continue in the same direction along said right of way a distance of 77.67 feet to the P.C. of a right of way



curve; thence continue along said right of way curve (whose Delta Angle is 9 degrees, 36 minutes, 46 seconds to the left, Radius is 2, 955.16 feet, Tangent is 248.48 feet, Length of Arc is 495.80 feet); thence turn an angle of 91 degrees, 30 minutes, 56 seconds to the left from tangent of said curve, and run a distance of 1,820.56 feet; thence turn an angle of 84 degrees, 22 minutes, 56 seconds to the left and run a distance of 686.66 feet; thence turn an angle of 91 degrees, 01 minutes, 55 seconds to the left and run a distance of 559.31 feet; thence turn an angle of 91 degrees, 28 minutes, 27 seconds to the left and run a distance of 262.85 feet; thence turn an angle of 91 degrees, 36 minutes, 10 seconds to the right and run a distance of 1,250.70 feet to the point of beginning. Situated in the North  $\frac{1}{2}$  of the Northeast  $\frac{1}{4}$  of Section 33, Township 19 South, Range 2 East, Shelby County, Alabama.

PARCEL 21:

Commence at the Southeast Corner of Section 33, Township 19 South, Range 2 East and run West along the South boundary of said Section for a distance of 1808.0 feet to the Easterly right of way line of Alabama No. 25 Highway lending from Harpersville to Wilsonville; thence turn an angel of 77 degrees, 50 minutes to the right and proceed in a Northerly direction along the Easterly right of way line of said Highway for a distance of 2413.8 feet to a point which is the point of beginning; thence turn an angle of 96 degrees, 58 minutes to the right and proceed in an Easterly direction for a distance of 321.3 feet to a point; thence turn an angle of 96 degrees, 58 minutes to the left and proceed in a Northerly direction parallel to the Easterly right of way line of said Highway for a distance of 265 feet to a point on the South boundary of the Southwest  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of said section; thence turn an angle of 102 degrees, 19 minutes to the right and proceed East along the South boundary of the said Southwest  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of said Section for a distance of 529 feet to a point, such point being 198 feet West of the Southeast corner of the aforementioned Southwest  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$ ; thence turn an angle of 90 degrees, 33 minutes to the left and proceed North for a distance of 1,438 feet to a point on the South Property line of the F. Jackson Property; thence turn an angle of 95 degrees, 07 minutes to the left and proceed in a westerly direction along said Southerly property line of the F. Jackson property to its intersection with Easterly line of Alabama Highway No. 25; thence in a Southerly direction along said line of said Highway to point of beginning.

Less and except those tracts shown as Parcel ID # 07-8-33-1-001-019.000 (Harpersville Cemetery) and Parcel ID# 07-8-33-4-000-002.000 (John L. Kidd Cemetery) on Shelby County Tax Plats.

PARCEL 22:

From a  $\frac{1}{2}$  inch rebar at the Northeast corner of the Northeast  $\frac{1}{4}$  -Northwest  $\frac{1}{4}$  of Section 33, Township 19 South, Range 2 East, run thence West along the North boundary of said Northeast  $\frac{1}{4}$  - Northwest  $\frac{1}{4}$  for a distance of 556.13 feet to a  $\frac{1}{2}$  inch rebar; thence turn 96 degrees, 22 minutes, 33 seconds left and run a distance of 53.03 feet to a metal t-post on the South boundary of Shelby County Highway #434 (80 foot Right of Way) being the Point of Beginning of herein described parcel of land, said point being in the center of Tanyard Branch East Fork; thence continue along said course and along the center of said branch for a distance of 299.30 feet to a metal t-post; thence turn 01 degrees, 00 minutes, 41 seconds left and continue along said branch centerline for a distance of 101.12 feet to point; thence turn 30 degrees, 25 minutes, 16 seconds left and run along said branch centerline a distance of 40.44 feet to a point; thence turn 41 degrees, 53 minutes, 21 seconds right and run along said branch centerline for a distance of 38.99 feet to a point; thence turn 04 degrees, 15 minutes, 57 seconds left and run along said branch centerline for a distance of 71.56 feet to a point; thence turn 02 degrees, 15 minutes, 35 seconds left and run along said branch centerline for a distance of 98.05 feet to a point; thence turn 05 degrees, 23 minutes, 27 seconds left and run along said branch centerline for a distance of 49.50 feet to a metal t-post; thence turn 05 degrees, 04 minutes, 51 seconds right and run a distance of 62.14 feet to a 1  $\frac{1}{2}$  inch pipe; thence turn 92 degrees, 42 minutes, 00 seconds right and run a distance of 469.13 feet to a  $\frac{1}{2}$  inch rebar; thence turn 67 degrees, 48 minutes, 51 seconds right and run a distance of 99.46 feet to a  $\frac{1}{2}$  inch rebar; thence turn 25 degrees, 42 minutes, 52 seconds left and run a distance of 42.01 feet to a  $\frac{1}{2}$  inch rebar; thence turn 15 degrees, 07 minutes, 18 seconds left and run a distance of 94.98 feet to a  $\frac{1}{2}$  inch rebar; thence turn 27 degrees, 14 minutes, 40 seconds right and run a distance of 105.69 feet to a  $\frac{1}{2}$  inch rebar; thence turn 20 degrees, 16 minutes, 05 seconds left and run a distance of 118.11 feet to a  $\frac{1}{2}$  inch rebar; thence turn 09 degrees, 18 minutes, 16 seconds left and run a distance of 118.34 feet to a  $\frac{1}{2}$  inch rebar; thence turn 34 degrees, 12 minutes, 56 seconds right and run a distance of 107.74 feet to a  $\frac{1}{2}$  inch rebar; thence turn 11 degrees, 17 minutes, 50 seconds right and run a distance of 73.14 feet to a  $\frac{1}{2}$  inch rebar; thence turn 41 degrees, 21 minutes, 04 seconds left and run a distance of 69.19 feet to a  $\frac{1}{2}$  inch rebar; thence turn 04 degrees, 27 minutes, 47 seconds left and run a distance of 90.97 feet to a  $\frac{1}{2}$  inch rebar; thence turn 07 degrees, 50 minutes, 09 seconds left and run a distance of 76.13 feet to a  $\frac{1}{2}$  inch rebar; thence turn 35 degrees, 00 minutes, 59 seconds right and run a distance of 93.94 feet to a  $\frac{1}{2}$  rebar; thence turn 14 degrees, 37 minutes, 02 seconds right and run a distance of 45.29 feet to a  $\frac{1}{2}$  inch rebar; thence turn



06 degrees, 18 minutes, 38 seconds right and run a distance of 13.76 feet to a ½ inch rebar on the South boundary of aforementioned Highway #434; thence turn 104 degrees, 58 minutes, 02 seconds right and run along said highway boundary for a distance of 135.25 feet to a ½ inch rebar; thence turn 01 degrees, 58 minutes, 31 seconds right and run along said highway boundary for a distance of 360.21 feet to a ½ inch rebar; thence turn 01 degrees, 10 minutes, 24 seconds right and run along said highway boundary for a distance of 690.83 feet to the Point of Beginning of herein described parcel of land situated in the Northwest ¼ - Northwest ¼ and the Northeast ¼ - Northwest ¼ of Section 33, Township 19 South, Range 2 East, Shelby County, Alabama.

PARCEL 23:

Lots 1, 2, 3 & 4 of the property of Charles W. Mobley, as shown on a plat prepared by Norman D. Deloach, and recorded in Map Book 8, Page 124 in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama.

PARCEL 24:

The Southeast ¼ of the Southeast ¼ of Section 32, Township 19 South, Range 2 East and the North ½ of the Northeast ¼, East ½ of the Northeast ¼ of the Northwest ¼ of Section 5, Township 20 South, Range 2 East, and 10 acres off the North side of Southwest ¼ of the Northeast ¼ of Section 5, Township 20 South, Range 2 East, Shelby County, Alabama.

LESS AND EXCEPT:

A part of the Northeast ¼ of the Northwest ¼, Northwest ¼ of the Northeast ¼, Section 5, Township 20 South, Range 2 East, Shelby County, Alabama, more particularly described as follows:

Begin at the Northwest corner of said Northwest ¼ of Northeast ¼, thence West along North section line of said section 641.62 feet; thence left 90 degrees 21 minutes 45 seconds Southerly 891.63 feet; thence left 89 degrees 31 minutes 45 seconds Easterly measured 1556.83 feet (map 1560.21 feet) to the Western Right of Way of a chert road; thence left 108 degrees 15 minutes 30 seconds measured 292.80 feet (map 294.23 feet) to point of curve; thence continue Northerly along arc of curve of said chert road, having a curve radius of 801.15 feet, a delta angle of 29 degrees 35 minutes, an arc distance of 413.69 feet to point of said curve; thence continue along said Right of Way having a curve radius of 929.48 feet, a delta angle of 13 degrees 26 minutes, an arc distance of 217.92 feet to the North section line of said Northwest ¼ of Northeast ¼; thence left 114 degrees 52 minutes from tangent of said curve, Westerly 876.34 feet to the point of beginning; being situated in Shelby County, Alabama.

ALSO LESS AND EXCEPT:

A part of the Northeast ¼ of Northwest ¼, Northwest ¼ of Northeast ¼, Southwest ¼ of Northeast ¼, Section 5, Township 20 South, Range 2 East, Shelby County, Alabama, more particularly described as follows:

Commence at the Northwest corner of said Northwest ¼ of Northeast ¼ and run North 89 degrees 08 minutes West along the North section line of said section 641.62 feet; thence left 90 degrees 21 minutes 45 seconds Southerly 891.63 feet to the point of beginning of said tract; thence continue along the last described course 446.38 feet; thence left 89 degrees 31 minutes 45 seconds Easterly 656.30 feet; thence right 89 degrees 21 minutes 30 seconds Southerly 334.83 feet; thence left 89 degrees 20 minutes Easterly 1143.30 feet to the Westerly Right of Way of a chert road; said road being in a curve to the left having a central angle of 33 degrees 22 minutes and a radius of 457.13 feet; thence left 84 degrees 50 minutes tangent to said curve and continue Northerly along arc of curve 269.67 feet to the point of tangent; thence continue North 27 degrees 12 minutes West 85.48 feet to the point of a curve to the right, having a central angle of 9 degrees 55 minutes and a radius of 595.0 feet; thence continue Northerly along arc of said curve 102.98 feet to the point of tangent; thence continue North 17 degrees 17 minutes West 373.19 feet; thence left 71 degrees 44 minutes 30 seconds Westerly 1556.83 feet to the point of beginning; being situated in Shelby County, Alabama.

PARCEL 25:

East ½ of Southeast ¼ of Southwest ¼ and East 99' of West ½ of Southeast ¼ of Southwest ¼, Section 33, Township 19 South, Range 2 East, West of Highway 25.

Situated in Shelby County, Alabama.



PARCEL 26:

East ½ of Northeast ¼ of Southwest ¼ of Section 33, Township 19 South, Range 2 East.

Situated in Shelby County, Alabama.

PARCEL 27: - Intentionally Deleted

PARCEL 28:

All that part of the North ½ of the Southeast ¼ of Section 33, Township 19 South, Range 2 East lying West of Alabama Highway 25.

Situated in Shelby County, Alabama.

PARCEL 29:

Parcel 12, according to the Map and Survey of Tanyard Branch Estates, Town of Harpersville, Shelby County, Alabama, as recorded in Map Book 30, Page 94, Judge of Probate Shelby County, Alabama.

PARCEL 30:

Parcel 13, according to the Map and Survey of Tanyard Branch Estates, Town of Harpersville, Shelby County, Alabama, as recorded in Map Book 30, Page 94, Judge of Probate Shelby County, Alabama.

PARCEL 31:

Parcel 24, according to the Map and Survey of Tanyard Branch Estates, Town of Harpersville, Shelby County, Alabama, as recorded in Map Book 30, Page 94, Judge of Probate Shelby County, Alabama.

PARCEL 32:

A part of the Northeast ¼ of the Northwest ¼ of Section 9, Township 20 South, Range 2 East, Shelby County, Alabama, described as follows:

For a point of beginning, begin at the Northwest corner of said Northeast ¼ of Northwest ¼ of Section 9, and run South 88 degrees 14 minutes 55 seconds East along the North boundary of said ¼ - ¼ Section for 54.91 feet; thence South 02 degrees 07 minutes 22 seconds West for 190.77 feet; thence North 87 degrees 26 minutes 45 seconds West for 54.91 feet to a point on the West boundary of said ¼ - ¼ Section; thence North 02 degrees 07 minutes 22 seconds West along the West boundary of said ¼ - ¼ for a distance of 190.00 feet back to the point of beginning; being situated in Shelby County, Alabama.

PARCEL 33:

Beginning at the Southwest Corner of Southeast ¼ of the Southwest ¼ of Section 4, Township 20 South, Range 2 East thence run North along the West line of said ¼ - ¼ section a distance of 1282.00 feet; thence turn an angle of 90 degrees 28 minutes 11 seconds to the right and run a distance of 1342.76 feet to a point on the West line of Alabama State Highway No. 25; thence turn an angle 116 degrees 20 minutes 39 seconds to the right and run along said Highway right of way a distance of 1434.00 feet to the South line of said Southeast ¼ of Southwest ¼, Section 4; thence turn an angle of 63 degrees 54 minutes 44 seconds to the right and run along the South line of said ¼ - ¼ section a distance of 695.91 feet to the point of beginning.

Situated in the Southeast ¼ of the Southwest ¼, Section 4, Township 20 South, Range 2 East, Shelby County, Alabama; being situated in Shelby County, Alabama.

LESS AND EXCEPT:

A part of the Southeast ¼ of the Southwest ¼ of Section 4, Township 20 South, Range 2 East, Shelby County, Alabama, described as follows:

Begin at the Southwest corner of said Southeast ¼ of Southwest ¼ of Section 4, and run South 88 degrees 14 minutes 55 seconds East along the South boundary of said ¼ - ¼ section for 484.85 feet to the point of beginning of herein described parcel of land; thence North 59 degrees 22 minutes 03 seconds East 93.02 feet; thence South 67 degrees 38 minutes 29 seconds East 141.55 feet to a point on the South boundary of said ¼ - ¼ section, said point



also being on the West right of way line of Wilsonville-Vincent Highway; thence North 88 degrees 14 minutes 55 seconds West along the South boundary of said  $\frac{1}{4}$  -  $\frac{1}{4}$  section for 211.05 feet to the point of beginning; being situated in Shelby County, Alabama.

PARCEL 34:

That certain lot of land in the Town of Harpersville, Alabama, described as commencing at the Northwest corner of the Northeast  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of Section 33, Township 19 South, Range 2 East, run thence East 49.3 feet to the Westerly right of way line of United States Highway No. 91; run thence South 55 degrees 45 minutes East along the Southwesterly right of way of said Highway for a distance of 619 feet to the point of beginning of the lot herein described and conveyed; continue thence South 55 degrees 45 minutes East along said right of way line of said Highway for a distance of 155 feet to a point; run thence South 86 degrees 55 minutes West a distance of 187 feet; run thence in a Northeasterly direction a distance of 114 feet, more or less, to the point of beginning.

PARCEL 35:

Begin at the Southwest corner of Southwest  $\frac{1}{4}$ , of Northeast  $\frac{1}{4}$  of Section 33, Township 19 South, Range 2 East, thence North 240'; thence Northeast to East right of way boundary Alabama State Highway 25, thence Southeasterly along right of way to South line of said Southwest  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$ , thence West to point of beginning. Section 33, Township 19 South, Range 2 East.

LESS AND EXCEPT:

From a nail at a fence corner accepted as the Southwest corner of the Southwest  $\frac{1}{4}$  of Northeast  $\frac{1}{4}$  of Section 33, Township 19 South, Range 2 East, Shelby County, Alabama. Proceed North 2 degrees 38 minutes 11 seconds West along an old fence and hedge row accepted as the West boundary of the Southwest  $\frac{1}{4}$  of Northeast  $\frac{1}{4}$  of said Section 33 for a distance of 248.01 feet to the point of beginning of herein described parcel of land; thence from said point of beginning continue North 2 degrees 38 minutes 11 seconds West along said fence and hedge row for 111.20 feet to a fence post on the accepted South boundary of Harpersville United Methodist Church Property; thence North 78 degrees 44 minutes 54 seconds East along the accepted South boundary of said church property for 218.81 feet to a point on the Westerly right of way boundary of Alabama Highway No. 25 (right of way = 80 feet); thence South 16 degrees 00 minutes 00 seconds East along said right of way for 110.36 feet; thence South 78 degrees 44 minutes 54 seconds West parallel to the accepted South boundary of the aforementioned church property for 243.44 feet, back to the point of beginning.

The above described parcel of land is located in the Southwest  $\frac{1}{4}$  of Northeast  $\frac{1}{4}$  of Section 33, Township 19 South, Range 2 East, Shelby County, Alabama.

PARCEL 36:

Commence at the Northwest corner of Section 33, Township 19 South, Range 2 East, Shelby County, Alabama; thence proceed South 02 degrees 45 minutes 28 seconds West along the West boundary of said section for a distance of 41.33 feet to a point on the Southerly right of way of Shelby County Highway 434 (Cotton Gin Road); thence continue South 02 degrees 45 minutes 28 seconds West along the West boundary of said section for a distance of 762.38 feet; thence proceed South 87 degrees 58 minutes 29 seconds East for a distance of 1037.23 feet to the point of beginning. From this beginning point continue South 87 degrees 58 minutes 29 seconds East for a distance of 668.77 feet to a point on the bank of the Tanyard Branch West Fork; thence proceed North 20 degrees 09 minutes 38 seconds West along the bank of said branch for a distance of 99.46 feet; thence proceed North 45 degrees 52 minutes 30 seconds West along the bank of said branch for a distance of 42.01 feet; thence proceed North 60 degrees 59 minutes 48 seconds West along the bank of said branch for a distance of 94.98 feet; thence proceed North 33 degrees 45 minutes 08 seconds West along the bank of said branch for a distance of 105.69 feet; thence proceed North 54 degrees 01 minutes 13 seconds West along the bank of said branch for a distance of 118.11 feet; thence proceed North 63 degrees 19 minutes 29 seconds West along the bank of said branch for a distance of 118.34 feet; thence proceed North 29 degrees 06 minutes 33 seconds West along the bank of said branch for a distance of 107.74 feet; thence proceed North 17 degrees 48 minutes 43 seconds West along the bank of said branch for a distance of 73.14 feet; thence proceed North 59 degrees 09 minutes 47 seconds West along the bank of said branch for a distance of 69.19 feet; thence proceed North 63 degrees 37 minutes 34 seconds West along the bank of said branch for a distance of 90.97 feet; thence proceed North 71 degrees 28 minutes 43 seconds West along the bank of said branch for a distance of 76.13 feet; thence proceed North 36 degrees 27 minutes 44 seconds West along the bank of said branch for a distance of 93.94 feet; thence proceed North 21 degrees 50 minutes 42 seconds West along the bank of said branch for a distance of 45.29 feet; thence proceed North 15 degrees 32 minutes 04 seconds West



along the bank of said branch for a distance of 13.76 feet to a point on the Southerly right of way of said highway; thence proceed South 89 degrees 27 minutes 16 seconds West along the Southerly right of way of said highway for a distance of 276.73 feet; thence proceed North 88 degrees 07 minutes 06 seconds West along the Southerly right of way of said highway for a distance of 173.88 feet; thence proceed South 36 degrees 18 minutes 41 seconds East for a distance of 934.41 feet to the point of beginning.

The above described land is located in the Northwest One-Fourth of the Northwest One-Fourth of Section 33, Township 19 South, Range 2 East, Shelby County, Alabama.

PARCEL 37:

Begin at the intersection of the East side of Tanyard Branch and the North line of Morgan Mill Road in Northwest  $\frac{1}{4}$ ; thence North 22 degrees 30 minutes West 990'; thence Easterly to Tanyard Branch, Southeasterly with creek 364.68'; thence Easterly 497.7' to the West line of Alabama Highway No. 25, thence South to the intersection of the North line of Morgan Mill Road thence Southwesterly along said road to point of beginning.

The above described land is located in Section 33, Township 19 South, Range 2 East Shelby County, Alabama.

And as shown as Parcel ID # 07-8-33-2-001-005.000 being all that property in the Northwest  $\frac{1}{4}$  and Northeast  $\frac{1}{4}$  of Section 33, Township 19 South, Range 2 East, lying East of Tanyard Branch Estates as recorded in Map Book 30, Page 94, North of Morgan Mill Road, South of property described herein as Parcels 22 and 37 and South and West of property of Thomas A. Chatham, II as recorded in Instrument # 1992-29336 and Instrument # 20080910000359860, and West of Alabama Highway 25.

PARCEL 38:

Begin at the Southeast corner of Northwest  $\frac{1}{4}$  of Section 33, Township 19 South, Range 2 East; thence run North 230', more or less, to the South line of the Harpersville Methodist Church lot, thence run Southwesterly along the South line of said Harpersville Methodist Church lot to the East line of Tanyard Branch, thence South along said East line of Tanyard Branch to the South line of the Northwest  $\frac{1}{4}$ , thence Easterly along said South line of Northwest  $\frac{1}{4}$  to point of beginning.

PARCEL 39: (AJK, LLC)

Commence at the Northwest corner of the Northwest One-Quarter of the Northeast One-Quarter of Section 5, Township 19 South, Range 1 West; thence run North 86 Degrees 43 minutes 38 seconds East along the North line thereof for a distance of 333.88 feet; thence run South 30 degrees 17 minutes 31 seconds West for a distance of 239.82 feet; thence run South 12 degrees 30 minutes 00 seconds East for a distance of 37.00 feet to the point of beginning of the herein described parcel; from the point of beginning thus obtained; thence continue last described course for a distance of 60.30 feet; thence run South 23 degrees 00 minutes 00 seconds West for a distance of 108.00 feet; thence run South 53 degrees 00 minutes 00 seconds West for a distance of 97.82 feet to a point on the Easterly right of way of U.S. Highway No. 280, said point also being the point of commencement of a curve to the right, said curve having a central angle of 2 degrees 16 minutes 46 seconds, a radius of 2944.79 feet and a chord bearing of South 22 degrees 54 minutes 38 seconds East; thence run Southeasterly along said right of way and the arc of said curve for a distance of 117.15 feet; thence run North 68 degrees 13 minutes 44 seconds East for a distance of 30.00 feet to the point of commencement of a curve to the left, said curve having a central angle of 50 degrees 45 minutes 00 seconds and a radius of 131.77 feet and a chord bearing of North 42 degrees 51 minutes 14 seconds East; thence run Northeasterly and Northerly along said arc for a distance of 116.72 feet; thence run North 17 degrees 28 minutes 44 seconds East for a distance of 153.42 feet to the point of commencement of a curve to the right, said curve having a central angle of 0 degrees 34 minutes 43 seconds, a radius of 198.00 feet and a chord bearing of North 17 degrees 46 minutes 05 seconds East; thence run Northeasterly along the arc of said curve for a distance of 2.00 feet; thence run North 17 degrees 46 minutes 05 seconds East for a distance of 41.76 feet; thence run North 67 degrees 10 minutes 15 seconds West for a distance of 111.15 feet to the point of beginning.

LESS AND EXCEPT:

Commence at the northwest corner of the Northwest one-quarter of the Northeast one-quarter of Section 5, Township 19 South, Range 1 West; thence run North 86 degrees 43 minutes 38 seconds East along the North line of said quarter-quarter for a distance of 333.88 feet; thence run South 71 degrees 31 minutes 13 seconds East for a distance of 100.20 feet; thence run South 23 degrees 59 minutes 16 seconds West for a distance of 260.63 feet to the





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POINT OF BEGINNING; thence run South 71 degrees 19 minutes 30 seconds East for a distance of 29.78 feet to the point of intersection with a curve to the left, said curve having a central angle of 18 degrees 42 minutes 34 seconds, a radius of 183.00, a chord of 59.49 and a chord bearing of South 26 degrees 50 minutes 01 seconds West; thence run along the arc of said curve for a distance of 59.76 feet to the end of said curve; thence run South 17 degrees 28 minutes 44 seconds West for a distance of 153.42 feet to the point of commencement of a curve to the right, said curve having a central angle of 50 degrees 45 minutes, a radius of 146.77 feet, a chord of 125.79 and a chord bearing of South 42 degrees 51 minutes 14 seconds West; thence run along the arc of said curve for a distance of 130.00 feet to the end of said curve; thence run South 68 degrees 13 minutes 44 seconds West for a distance of 30.04 feet to a point on the northeasterly right of way line of U. S. 280, said right of way being situated on a curve to the left and having a central angle of 0 degrees 35 minutes 01 seconds, a radius 2944.79 feet, a chord of 30.00 feet and a chord bearing of North 21 degrees 46 minutes 15 seconds West; thence run along the arc of said curve and the Northeasterly right of way line of U. S. Highway No. 280 for a distance of 30.00 feet; thence run North 68 degrees 13 minutes 44 seconds East for a distance of 30.04 feet to the point of commencement of a curve to the left, said curve having a central angle of 50 degrees 45 minutes, a radius of 116.77 feet, a chord of 100.08 feet and a chord bearing of North 42 degrees, 51 minutes 14 seconds East; thence run along the arc of said curve for a distance of 103.43 feet to the end of said curve; thence run North 17 degrees 28 minutes 44 seconds East for a distance of 153.42 feet to the point of commencement of a curve to the right, said curve, having a central angle of 16 degrees 10 minutes 47 seconds, a radius of 213.00 feet, a chord of 59.95 feet and a chord bearing of North 25 degrees 34 minutes 08 seconds East; thence run along the arc of said curve for a distance of 60.15 feet to the end of said curve; thence run South 71 degrees, 19 minutes 30 seconds East for a distance of 1.46 feet to the POINT OF BEGINNING.

EASEMENT FOR INGRESS AND EGRESS OVER PROPERTY MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Commence at the northwest corner of the Northwest one-quarter of the Northeast one-quarter of Section 5, Township 19 South, Range 1 West; thence run North 86 degrees 43 minutes 38 seconds East along the North line of said quarter-quarter for a distance of 333.88 feet; thence run South 71 degrees 31 minutes 13 seconds East for a distance of 100.20 feet; thence run South 23 degrees 59 minutes 16 seconds West for a distance of 260.63 feet to the POINT OF BEGINNING; thence run South 71 degrees 19 minutes 30 seconds East for a distance of 29.78 feet to the point of intersection with a curve to the left, said curve having a central angle of 18 degrees 42 minutes 34 seconds, a radius of 183.00, a chord of 59.49 and a chord bearing of South 26 degrees 50 minutes 01 seconds West; thence run along the arc of said curve for a distance of 59.76 feet to the end of said curve; thence run South 17 degrees 28 minutes 44 seconds West for a distance of 153.42 feet to the point of commencement of a curve to the right, said curve having a central angle of 50 degrees 45 minutes, a radius of 146.77 feet, a chord of 125.79 and a chord bearing of South 42 degrees 51 minutes 14 seconds West; thence run along the arc of said curve for a distance of 130.00 feet to the end of said curve; thence run South 68 degrees 13 minutes 44 seconds West for a distance of 30.04 feet to a point on the northeasterly right of way line of U. S. 280, said right of way being situated on a curve to the left and having a central angle of 0 degrees 35 minutes 01 seconds, a radius 2944.79 feet, a chord of 30.00 feet and a chord bearing of North 21 degrees 46 minutes 15 seconds West; thence run along the arc of said curve and the Northeasterly right of way line of U. S. Highway No. 280 for a distance of 30.00 feet; thence run North 68 degrees 13 minutes 44 seconds East for a distance of 30.04 feet to the point of commencement of a curve to the left, said curve having a central angle of 50 degrees 45 minutes, a radius of 116.77 feet, a chord of 100.08 feet and a chord bearing of North 42 degrees, 51 minutes 14 seconds East; thence run along the arc of said curve for a distance of 103.43 feet to the end of said curve; thence run North 17 degrees 28 minutes 44 seconds East for a distance of 153.42 feet to the point of commencement of a curve to the right, said curve, having a central angle of 16 degrees 10 minutes 47 seconds, a radius of 213.00 feet, a chord of 59.95 feet and a chord bearing of North 25 degrees 34 minutes 08 seconds East; thence run along the arc of said curve for a distance of 60.15 feet to the end of said curve; thence run South 71 degrees, 19 minutes 30 seconds East for a distance of 1.46 feet to the POINT OF BEGINNING.

Situated in Shelby County, Alabama.

PARCEL 40: (JWK, LLC)

Commence at the Northwest corner of the Northwest Quarter of the Northeast Quarter of Section 5, Township 19 South, Range 1 West; thence run North 86 degrees 43 minutes 38 seconds East for a distance of 333.88 feet; thence run South 71 degrees 31 minutes 13 seconds East for a distance of 100.2 feet; thence run South 23 degrees 59 minutes 08 seconds West for a distance of 260.68 feet to the POINT OF BEGINNING; thence run South 71 degrees 16 minutes 34 seconds East for a distance of 261.39 feet; thence run South 23 degrees 46 minutes 12 seconds West



for a distance of 14.21 feet; thence run South 71 degrees 16 minutes 03 seconds East for a distance of 261.76 feet; thence run South 24 degrees 57 minutes 11 seconds West for a distance of 130.09 feet; thence run North 61 degrees 30 minutes 13 seconds West for a distance of 508.82 feet; thence run North 17 degrees 45 minutes 59 seconds East for a distance of 41.76 feet; thence run North 67 degrees 10 minutes 15 seconds West for a distance of 7.05 feet; thence run North 23 degrees 58 minutes 58 seconds East for a distance of 14.95 feet to the POINT OF BEGINNING.

ALSO an easement for ingress and egress described as follows:

**Parcel A**

Commence at the northwest corner of the Northwest one-quarter of the Northeast one-quarter of Section 5, Township 19 South, Range 1 West; thence run North 86 degrees 43 minutes 38 seconds East along the North line of said quarter-quarter for a distance of 333.88 feet; thence run South 71 degrees 31 minutes 13 seconds East for a distance of 100.20 feet; thence run South 23 degrees 59 minutes 16 seconds West for a distance of 260.63 feet to the POINT OF BEGINNING; thence run South 71 degrees 19 minutes 30 seconds East for a distance of 29.78 feet to the point of intersection with a curve to the left, said curve having a central angle of 18 degrees 42 minutes 34 seconds, a radius of 183.00, a chord of 59.49 and a chord bearing of South 26 degrees 50 minutes 01 seconds West; thence run along the arc of said curve for a distance of 59.76 feet to the end of said curve; thence run South 17 degrees 28 minutes 44 seconds West for a distance of 153.42 feet to the point of commencement of a curve to the right, said curve having a central angle of 50 degrees 45 minutes, a radius of 146.77 feet, a chord of 125.79 and a chord bearing of South 42 degrees 51 minutes 14 seconds; thence run along the arc of said curve for a distance of 130.00 feet to the end of said curve; thence run South 68 degrees 13 minutes 44 seconds West for a distance of 30.04 feet to a point on the northeasterly right of way line of U. S. 280, said right of way being situated on a curve to the left and having a central angle of 0 degrees 35 minutes 01 seconds, a radius 2944.79 feet, a chord of 30.00 feet and a chord bearing of North 21 degrees 46 minutes 15 seconds West; thence run along the arc of said curve and the Northeasterly right of way line of U. S. Highway No. 280 for a distance of 30.00 feet; thence run North 68 degrees 13 minutes 44 seconds East for a distance of 30.04 feet to the point of commencement of a curve to the left, said curve having a central angle of 50 degrees 45 minutes, a radius of 116.77 feet, a chord of 100.08 feet and a chord bearing of North 42 degrees, 51 minutes 14 seconds East; thence run along the arc of said curve for a distance of 103.43 feet to the end of said curve; thence run North 17 degrees 28 minutes 44 seconds East for a distance of 153.42 feet to the point of commencement of a curve to the right, said curve, having a central angle of 16 degrees 10 minutes 47 seconds, a radius of 213.00 feet, a chord of 59.95 feet and a chord bearing of North 25 degrees 34 minutes 08 seconds East; thence run along the arc of said curve for a distance of 60.15 feet to the end of said curve; thence run South 71 degrees, 19 minutes 30 seconds East for a distance of 1.46 feet to the POINT OF BEGINNING.

Situated in Shelby County, Alabama.

**PARCEL 41: (280 Station, LLC)**

Begin at a point on the West line of Southeast  $\frac{1}{4}$  of Section 5, Township 19, Range 1 West, which point is 170 feet South of the Northwest corner of said Southeast  $\frac{1}{4}$ , Section 5; run thence South along such Quarter-Section line 210 feet; thence East at a right angle to the Florida Short Route Highway right-of-way; thence North along such right-of-way to a point which is 170 feet South of the North line of such Southeast  $\frac{1}{4}$ , Section 5; thence West to the point of beginning, situated in Northwest  $\frac{1}{4}$  of Southeast  $\frac{1}{4}$ , Section 5, Township 19, Range 1 West, in Shelby County, Alabama according to the Survey of Laurence D. Weygand, REG. P.E. & L.S. #10373, dated October 18, 1994.

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**Bk: LR201214 Pg: 10623**  
**Jefferson County, Alabama**  
06/05/2012 10:44:29 AM MTG  
Fee - \$124.00  
Mortgage Tax -\$16837.35  
Total of Fees and Taxes-\$16961.35  
SCOTTK