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THIS DOCUMENT WAS PREPARED BY:

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200 W. Madison Street, Suite 3900
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Attn: Jeremy T. Bunnaw

**MORTGAGE, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

This Mortgage, dated as of September 5, 2012, is given by PERA Lee Branch, Inc., a Colorado nonprofit corporation, as mortgagor ("Mortgagor"), to Bank of America, N.A., a national banking association, as mortgagee ("Mortgagee").

1. GRANT.

1.1 The Property. For the purpose of securing payment and performance of the Secured Obligations defined in Section 2 below, Mortgagor hereby irrevocably and unconditionally grants, conveys, transfers and assigns to Mortgagee, upon the statutory mortgage condition for breach of which this Mortgage is subject to foreclosure as provided by law, with mortgage covenants and right of entry and possession, all estate, right, title and interest which Mortgagor now has or may later acquire in the following property (all or any part of such property, or any interest in all or any part of it, together with the Personalty (as hereinafter defined) being hereinafter collectively referred to as the "Property"):

(a) The real property located in the County of Shelby, State of Alabama, as described in Exhibit A hereto (the "Land");

(b) All buildings, structures, improvements, fixtures and appurtenances now or hereafter placed on the Land, and all apparatus and equipment now or hereafter attached in any manner to the Land or any building on the Land, including all pumping plants, engines, pipes, ditches and flumes, and also all gas, electric, cooking, heating, cooling, air conditioning, lighting, refrigeration and plumbing fixtures and equipment (collectively, the "Improvements");

(c) All easements and rights of way appurtenant to the Land; all crops growing or to be grown on the Land (including all such crops following severance from the Land); all standing timber upon the Land (including all such timber following severance from the Land); all development rights or credits and air rights; all water and water rights (whether riparian, appropriative, or otherwise, and whether or not appurtenant to the Land) and shares of stock pertaining to such water or water rights, ownership of which

affect the Land; all minerals, oil, gas, and other hydrocarbon substances and rights thereto in, on, under, or upon the Land;

(d) All existing and future leases, subleases, subtenancies, licenses, occupancy agreements and concessions relating to the use and enjoyment of all or any part of the Land or the Improvements, and any and all guaranties and other agreements relating to or made in connection with any of the foregoing;

(e) All proceeds, including all claims to and demands for them, of the voluntary or involuntary conversion of any of the Land, Improvements, or the other property described above into cash or liquidated claims, including proceeds of all present and future fire, hazard or casualty insurance policies, whether or not such policies are required by Mortgagee, and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any breach of warranty, misrepresentation, damage or injury to, or defect in, the Land, Improvements, or the other property described above or any part of them; and

(f) All proceeds of, additions and accretions to, substitutions and replacements for, and changes in any of the property described above.

1.2 Fixture Filing. As to those items of Property described in this Mortgage that are, or are to become, fixtures related to the real estate mortgaged herein, and all products and proceeds thereof, it is intended as to those items that THIS MORTGAGE SHALL BE EFFECTIVE AS A FINANCING STATEMENT FILED AS A FIXTURE FILING, pursuant to Ala. Code Section 7-9a-502(c), as amended, from the date of its filing in the real estate records in the County where the Land is situated, with the Mortgagor as debtor and the Mortgagee as secured party. Mortgagor is the debtor, and Mortgagee is the secured party. The names of the debtor (Mortgagor) and the secured party (Mortgagee) are given in the first paragraph of this Mortgage. The mailing address of Mortgagee set out in Paragraph 7.14 is an address of the secured party from which information concerning the security interest may be obtained. The mailing address of Mortgagor set out in Paragraph 7.14 is a mailing address for the debtor. A statement indicating the types, or describing the items, of fixtures and other collateral is set forth in Paragraph 1.1 and in Paragraph 4.1. The real estate to which the goods are or are to be affixed is described in Exhibit A. Mortgagor is a record owner of the real estate.

2. THE SECURED OBLIGATIONS.

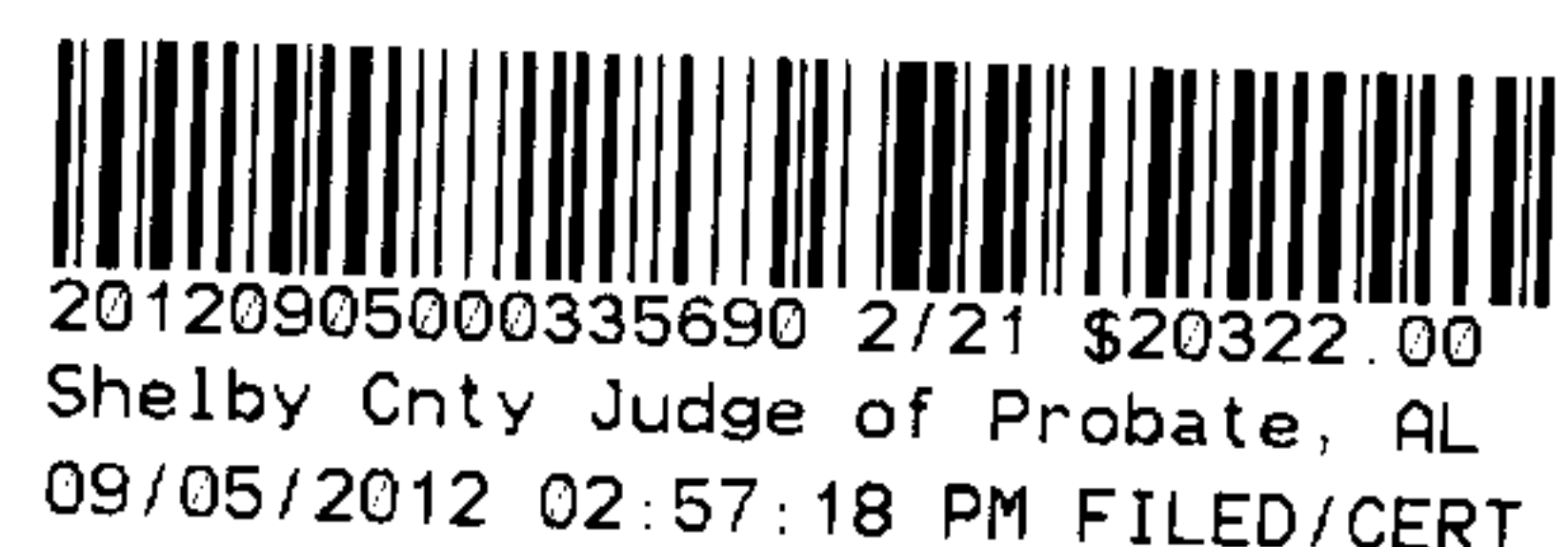
2.1 Purpose of Securing. Mortgagor makes the grant, conveyance, transfer and assignment set forth in Section 1, makes the irrevocable and absolute assignment set forth in Section 3, and grants the security interest set forth in Section 4, all for the purpose of securing the following obligations (the "Secured Obligations") in any order of priority that Mortgagee may choose:

(a) Payment and performance of all obligations of Mortgagor to Mortgagee arising under the following instrument(s) or agreement(s) (collectively, the "Debt Instrument"):

(i) A Promissory Note dated as of even date herewith, payable by Mortgagor as maker in the stated principal amount of Thirteen Million Five Hundred Thousand Dollars (\$13,500,000.00) to the order of Mortgagee (the "Note"), plus accrued and unpaid interest, fees, costs and expenses and any costs or expenses of Mortgagee resulting from an Event of Default (as hereinafter defined).

(ii) A certain Term Loan Agreement dated as of even date herewith, between Mortgagor and Mortgagee which provides for extensions of credit in a principal amount of Thirteen Million Five Hundred Thousand Dollars (\$13,500,000.00) (the "Loan Agreement").

This Mortgage also secures payment of all obligations of Mortgagor under the Debt Instrument which arise after the Debt Instrument is extended, renewed, modified or amended pursuant to any written agreement



between Mortgagor and Mortgagee, and all obligations of Mortgagor under any successor agreement or instrument which restates and supersedes the Debt Instrument in its entirety;

(b) Payment and performance of all obligations of Mortgagor under this Mortgage or any other Loan Document (as defined in the Loan Agreement);

(c) Payment and performance of all obligations of Mortgagor under any Swap Contract with respect to which there is a writing evidencing the parties' agreement that said Swap Contract shall be secured by this Mortgage. "Swap Contract" means any document, instrument or agreement with Mortgagee, now existing or entered into in the future, relating to an interest rate swap transaction, forward rate transaction, interest rate cap, floor or collar transaction, any similar transaction, any option to enter into any of the foregoing, and any combination of the foregoing, which agreement may be oral or in writing, including, without limitation, any master agreement relating to or governing any or all of the foregoing and any related schedule or confirmation, each as amended from time to time; and

(d) Payment and performance of all future advances and other obligations that Mortgagor (or any successor in interest to Mortgagor) may agree to pay and/or perform (whether as principal, surety or guarantor) to or for the benefit of Mortgagee, when a writing signed by Mortgagor (or any successor in interest to Mortgagor) evidences said parties' agreement that such advance or obligation be secured by this Mortgage.

This Mortgage does not secure any obligation which expressly states that it is unsecured, whether contained in the foregoing Debt Instrument or in any other document, agreement or instrument.

2.2 Terms of Secured Obligations. All persons who may have or acquire an interest in all or any part of the Property will be considered to have notice of, and will be bound by, the terms of the Debt Instrument described in Paragraph 2.1(a) and each other agreement or instrument made or entered into in connection with each of the Secured Obligations. These terms include any provisions in the Debt Instrument which permit borrowing, repayment and reborrowing, or which provide that the interest rate on one or more of the Secured Obligations may vary from time to time.

2.3 Maturity Date. Payment of the obligations secured by this Mortgage shall be due on or before September 5, 2014, subject to extension to September 5, 2015.

3. ASSIGNMENT OF RENTS.

3.1 Assignment. Mortgagor hereby irrevocably, absolutely, presently and unconditionally assigns to Mortgagee (i) all rents, royalties, issues, profits, revenue, income and proceeds of the Property, whether now due, past due or to become due, including all prepaid rents and security deposits (collectively, the "Rents"), and confers upon Mortgagee the right to collect such Rents with or without taking possession of the Property and (ii) all of Mortgagor's right, title and interest in, to and under any and all leases, licenses and other agreements of any kind relating to the use or occupancy of all or any portion of the Property, whether now in effect or entered into in the future (collectively, the "Leases," individually, a "Lease"), including (a) all guarantees of and security for lessees' performance under any and all Leases, and (b) all amendments, extensions, renewals or modifications to any Leases. In the event that anyone establishes and exercises any right to develop, bore for or mine for any water, gas, oil or mineral on or under the surface of the Property, any sums that may become due and payable to Mortgagor as bonus or royalty payments, and any damages or other compensation payable to Mortgagor in connection with the exercise of any such rights, shall also be considered Rents assigned under this Paragraph. THIS IS AN ABSOLUTE ASSIGNMENT, NOT AN ASSIGNMENT FOR SECURITY ONLY.

3.2 Grant of License. Notwithstanding the provisions of Paragraph 3.1, Mortgagee hereby confers upon Mortgagor a license ("License") to collect and retain the Rents as they become due and payable, so long as no Event of Default, as defined in Paragraph 6.2, shall exist and be continuing. If an Event of Default has occurred and is continuing, Mortgagee shall have the right, which it may choose to exercise in its sole discretion, to

terminate this License without notice to or demand upon Mortgagor, and without regard to the adequacy of the security for the Secured Obligations.

3.3 Collection and Application of Rents. Subject to the License granted to Mortgagor hereunder, Mortgagee has the right, power and authority to collect any and all Rents. Mortgagor hereby appoints Mortgagee its attorney-in-fact to perform any and all of the following acts, if and at the times when Mortgagee in its sole discretion may so choose:

- (a) demand, receive and enforce payment of any and all Rents; or
- (b) give receipts, releases and satisfactions for any and all Rents; or
- (c) sue either in the name of Mortgagor or in the name of Mortgagee for any and all Rents.

Mortgagee's right to the Rents does not depend on whether or not Mortgagee takes possession of the Property as permitted hereunder. In Mortgagee's sole discretion, it may choose to collect Rents either with or without taking possession of the Property. If an Event of Default occurs while Mortgagee is in possession of all or part of the Property and is collecting and applying Rents as permitted under this Mortgage, Mortgagee and any receiver shall nevertheless be entitled to exercise and invoke every right and remedy afforded any of them under this Mortgage and at law or in equity, including the right to exercise the power of sale granted under this Mortgage.

3.4 Notice. All lessees under any and all Leases are hereby irrevocably authorized and notified by Mortgagor to rely upon and to comply with (and are fully protected in so doing) any notice or demand by Mortgagee for the payment to Mortgagee of any rental or other sums which may at any time become due under the Leases, or for the performance of any of lessees' undertakings under the Leases, and lessees shall have no right or duty to inquire as to whether any Event of Default has actually occurred or is then existing hereunder.

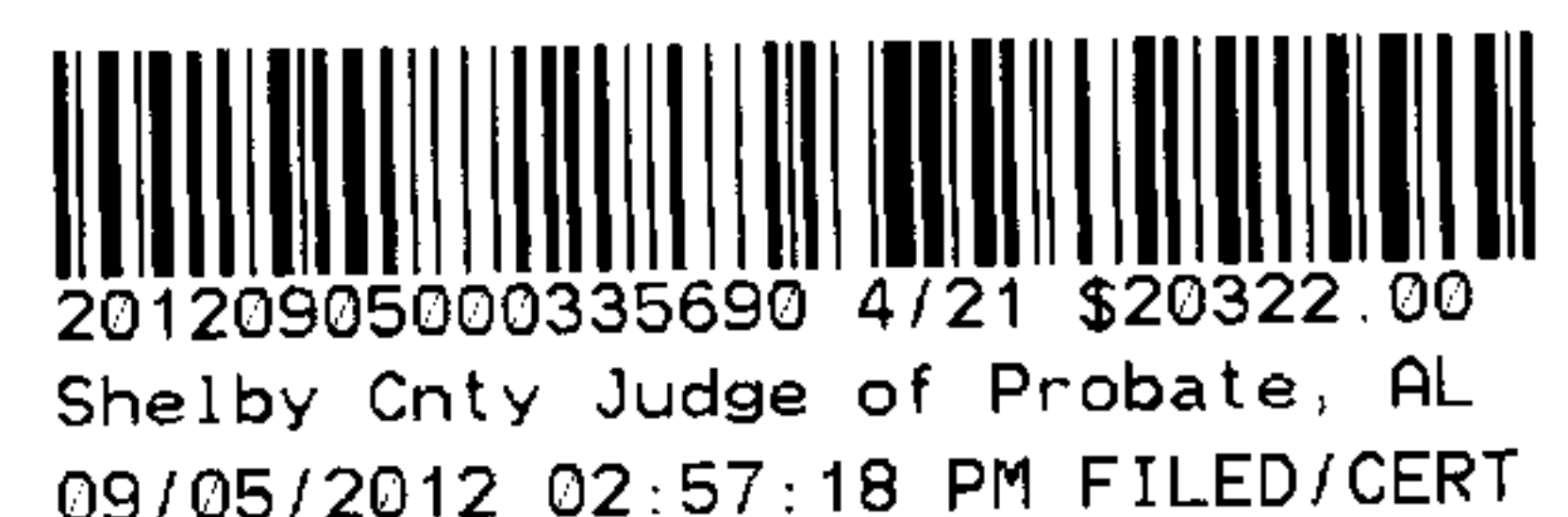
3.5 Mortgagee Not Responsible. Regardless of whether or not Mortgagee, in person or by agent, takes actual possession of the Land and Improvements, Mortgagee is not and will not be deemed to be:

- (a) a "mortgagee in possession" for any purpose; or
 - (b) responsible for performing any of the obligations of Mortgagor under any lease;
- or
- (c) responsible for any waste committed by lessees or any other parties, any dangerous or defective condition of the Property, or any negligence in the management, upkeep, repair or control of the Property; or
 - (d) liable in any manner for the Property or the use, occupancy, enjoyment or operation of all or any part of it.

3.6 Leasing. Mortgagor shall not accept any prepayment of Rents for any rental period exceeding one (1) month without Mortgagee's express prior written consent. Mortgagor shall not lease the Property or any part of it except strictly in accordance with the Loan Agreement. Mortgagor shall apply all Rents in the manner required by the Loan Agreement.

4. GRANT OF SECURITY INTEREST.

4.1 Grant of Security Interest. Mortgagor grants to Mortgagee a security interest in, and pledges and assigns to Mortgagee, all of Mortgagor's right, title and interest now or hereafter acquired in and to all of the following described personal property (collectively, the "Personalty"):



(a) All tangible personal property of every kind and description, whether stored on the Land or elsewhere, including, without limitation, all goods, materials, supplies, tools, books, records, chattels, furniture, fixtures, equipment, and machinery, and which in all cases is (i) used or useful or acquired in connection with any construction undertaken on the Land or the maintenance of the Land and the Improvements, or (ii) affixed or installed, or to be affixed or installed, in any manner on the Land or the Improvements;

(b) All crops growing or to be grown on the Land (including all such crops following severance from the Land); all standing timber upon the Land (including all such timber following severance from the Land); all water and water rights (whether riparian, appropriative, or otherwise, and whether or not appurtenant to the Land) and shares of stock pertaining to such water or water rights, ownership of which affect the Land; and all architectural and engineering plans, specifications and drawings, and as-built drawings which arise from or relate to the Land or the Improvements;

(c) All general intangibles and rights relating to the Property, including, without limitation, all permits, licenses and claims to or demands for the voluntary or involuntary conversion of any of the Land, Improvements, or other Property into cash or liquidated claims, proceeds of all present and future fire, hazard or casualty insurance policies, whether or not such policies are required by Mortgagee, and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any breach of warranty, misrepresentation, damage or injury to, or defect in, the Land, Improvements, or other Property or any part of them;


(d) All deposit accounts from which Mortgagor may from time to time authorize Mortgagee to debit payments due on the Secured Obligations (including, without limitation the Sweep Account (as defined in the Loan Agreement)); all rights and interests under all Swap Contracts, including all rights to the payment of money from Mortgagee under any such Swap Contracts; and all accounts, deposit accounts, and general intangibles, including payment intangibles, described in any such Swap Contracts;

(e) All substitutions, replacements, additions, accessions and proceeds for or to any of the foregoing, and all books, records and files relating to any of the foregoing, including, without limitation, computer readable memory and data and any computer software or hardware reasonably necessary to access and process such memory and data.

4.2 Financing Statements. Mortgagor authorizes Mortgagee to file one or more financing statements and such other documents as Mortgagee may from time to time reasonably require to perfect or continue the perfection of Mortgagee's security interest in any Personalty. Mortgagor must pay all reasonable fees and costs that Mortgagee actually incurs in filing such documents in public offices and in obtaining such record searches as Mortgagee may reasonably require. If any financing statement or other document is filed in the records normally pertaining to personal property, that filing shall not be construed as in any way derogating from or impairing this Mortgage or the rights or obligations of the parties under it.

4.3 Possession and Use of Collateral. Except as otherwise provided in the Loan Documents, so long as no Event of Default exists hereunder, Mortgagor may possess, use, transfer and dispose of any of the Personalty in the ordinary course of Mortgagor's business.

4.4 Security Agreement. This Mortgage constitutes a security agreement under the Uniform Commercial Code covering all Personalty. The parties acknowledge that some of the Property and some of the Rents and Leases may be determined under applicable law to be personal property or fixtures. To the extent that any Property, Rents, or Leases may be or be determined to be personal property, Mortgagor, as debtor, hereby grants to Mortgagee, as secured party, a security interest in all such Property, Rents, and Leases, to secure payment and performance of the Secured Obligations. This Mortgage constitutes a security agreement under the Uniform Commercial Code, as amended or recodified from time to time, covering all such Property, Rents, and Leases. To the extent such Property, Rents, or Leases are not real property encumbered by the lien granted above, and are not absolutely assigned by the assignment set forth above, it is the intention of the parties that such Property, Rents,


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and/or Leases shall constitute "proceeds, products, offspring, rents, or profits" (as defined in and for the purposes of Section 552(b) of the United States Bankruptcy Code, as such section may be modified or supplemented) of the Land and Improvements.

5. RIGHTS AND DUTIES OF THE PARTIES.

5.1 Representations and Warranties. Mortgagor represents and warrants to Mortgagee that (a) Mortgagor lawfully possesses and holds fee simple title to all of the Land and the Improvements; (b) Mortgagor has or will have good title to all Property other than the Land and Improvements; (c) Mortgagor has the full and unlimited power, right and authority to encumber the Property; (d) this Mortgage creates a first and prior lien on the Property; (e) the Property includes all property and rights which may be reasonably necessary or desirable to enable Mortgagor to use, enjoy and operate the Land and the Improvements for the present uses thereof; (f) Mortgagor owns any Property which is personal property free and clear of any security agreements, reservations of title or conditional sales contracts, and there is and will be no effective financing statement affecting such personal property on file in any public office (other than for the benefit of Mortgagee); and (g) Mortgagor's place of business, or its chief executive office, if it has more than one place of business, is located at the address specified below.

5.2 Taxes, Assessments, Liens and Encumbrances. Mortgagor shall pay prior to delinquency all taxes, levies, charges and assessments, including assessments on appurtenant water stock, imposed by any public or quasi-public authority or utility company which are (or if not paid, may become) a lien on all or part of the Property or any interest in it, or which may cause any decrease in the value of the Property or any part of it. Subject to the terms of the Loan Agreement regarding permitted contests of certain liens, Mortgagor shall promptly discharge any lien on the Property which Mortgagee has not consented to in writing, and shall also pay when due each obligation secured by or reducible to a lien, charge or encumbrance which now or hereafter encumbers or appears to encumber all or part of the Property, whether the lien, charge or encumbrance is or would be senior or subordinate to this Mortgage.

5.3 Damages and Insurance and Condemnation Proceeds. Mortgagor hereby absolutely and irrevocably assigns to Mortgagee the following claims, causes of action, awards, payments and rights to payment, and authorizes the payor to pay to Mortgagee the following awards and payments: (i) all Condemnation Awards (hereinafter defined); (ii) all Insurance Proceeds (hereinafter defined); (iii) all other claims and causes of action, arising out of any breach of warranty affecting all or any part of the Property, or for damage or injury to, or defect in, or decrease in value of all or part of the Property or any interest in it ("Damage Claims"); (iv) all award relating to or arising out of Damage Claims ("Damage Proceeds"); and (v) all interest which may accrue on any of the foregoing. Without limitation on the terms and conditions of the Loan Agreement, any and all proceeds arising out of or relating to the foregoing claims and causes of action, including, without limitation, any Condemnation Awards, Insurance Proceeds and Damage Awards, shall be paid to Mortgagee and shall be utilized either for payment of the Obligations (as defined in the Loan Agreement) or for the restoration of the Property, all pursuant to and in accordance with the terms and conditions of the Loan Agreement. Further, (a) Mortgagor shall give prompt notice to Mortgagee of any Damage Claims, threatened Damage Claims or the occurrence of any event that may give rise to any Damage Claim (any such event, a "Damage Event") and (b) the rights and obligations of Mortgagor and Mortgagee pursuant to the Loan Agreement regarding any Casualty or Condemnation (and the claims relating thereto) and Condemnation Awards or Insurance Proceeds shall apply with respect to any Damage Event (and the Damage Claims relating thereto) and Damage Proceeds, as applicable. The following terms shall have the following meaning for purposes of this paragraph 5.3: (A) "Condemnation" means any taking of title to, use of, or any other interest in the Property under the exercise of the power of condemnation or eminent domain, whether temporarily or permanently, by any Governmental Authority or by any other individual, a corporation, a partnership, a joint venture, a limited liability company, a trust, an unincorporated association, any governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, service, district or other instrumentality of any governmental entity or any other entity acting under or for the benefit of a governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, service, district or other instrumentality of any governmental entity; (B) "Condemnation Awards" means any and all judgments, awards of damages (including severance and consequential damages), payments, proceeds, settlements, amounts paid for a taking in lieu of Condemnation, or other compensation heretofore or hereafter made, including interest thereon, and the right to receive the same, as a result of, or in connection with, any Condemnation or


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threatened Condemnation; and (C) "Insurance Proceeds" means the insurance claims under and the proceeds of any and all policies of insurance covering the Property or any part thereof, including all returned and unearned premiums with respect to any insurance relating to such Property, in each case whether now or hereafter existing or arising.

5.4 Insurance. Mortgagor shall provide and maintain in force at all times any and all insurance as required pursuant to the terms and conditions of the Loan Agreement.

5.5 Maintenance and Preservation of Property.

(a) Mortgagor shall keep the Property in good condition and repair and shall not commit or allow waste of the Property. Mortgagor shall not remove or demolish the Property or any material part of it, or alter, restore or add to the Property, or initiate or allow any change in any zoning or other land use classification which has a material adverse effect on the Property or any part of it, except with Mortgagee's express prior written consent in each instance, which consent shall not be unreasonably withheld, conditioned or delayed.

(b) If all or part of the Property becomes damaged or destroyed, Mortgagor shall promptly and completely repair and/or restore the Property in a good and workmanlike manner in accordance with sound building practices, provided Mortgagee makes available, in accordance with the terms and conditions of Paragraph 5.3, any Insurance Proceeds paid to Lender by the payor as a result of such damage or destruction, but without regard as to whether such Insurance Proceeds are sufficient to pay the costs of such repair and/or restoration.

(c) Mortgagor shall not commit, shall not allow any party affiliated with Mortgagor or under Mortgagor's control to commit, and shall use commercially reasonable efforts not to allow any third party unaffiliated Mortgagor or under Mortgagor's control to commit any act upon or use of the Property which would violate any applicable law or order of any governmental authority, whether now existing or later to be enacted and whether foreseen or unforeseen, or any public or private covenant, condition, restriction or equitable servitude affecting the Property and, to the extent of any such act or use by any such third party, Mortgagor shall, immediately upon obtaining notice thereof, cause such act or use to be ceased. Mortgagor shall not bring or keep any article on the Property or cause, shall not allow any party affiliated with Mortgagor or under Mortgagor's control to cause, and shall use commercially reasonable efforts not to allow any third party unaffiliated Mortgagor or under Mortgagor's control to cause any condition to exist on it, if that could invalidate or would be prohibited by any insurance coverage required to be maintained by Mortgagor on the Property or any part of it under this Mortgage and, to the extent of any such condition caused by any such third party, Mortgagor shall, immediately upon obtaining notice thereof, cause such condition to be removed.

(d) Mortgagor shall perform all other acts which from the character or use of the Property may be reasonably necessary to maintain and preserve its value.

5.6 Releases, Extensions, Modifications and Additional Security. Without affecting the personal liability of any person, including Mortgagor, for the payment of the Secured Obligations or the lien of this Mortgage on the remainder of the Property for the unpaid amount of the Secured Obligations, Mortgagee may from time to time and without notice:

- (a) release any person liable for payment of any Secured Obligation;
- (b) extend the time for payment, or otherwise alter the terms of payment, of any Secured Obligation;
- (c) accept additional real or personal property of any kind as security for any Secured Obligation, whether evidenced by deeds of trust, mortgages, security agreements or any other instruments of security;
- (d) alter, substitute or release any property securing the Secured Obligations;

- (e) consent to the making of any plat or map of the Property or any part of it;
 - (f) join in granting any easement or creating any restriction affecting the Property;
 - (g) join in any subordination or other agreement affecting this Mortgage or the lien of it;
- or
- (h) release the Property or any part of it from the lien of this Mortgage.

5.7 Release; Defeasance. When all of the Secured Obligations have been paid in full and no further commitment to extend credit continues, Mortgagee shall release the Property, or so much of it as is then held under this Mortgage, from the lien of this Mortgage.

5.8 Compensation and Reimbursement of Costs and Expenses.

(a) Mortgagor agrees to pay fees in the maximum amounts legally permitted, or reasonable fees as may be charged by Mortgagee when the law provides no maximum limit, for any services that Mortgagee may render in connection with this Mortgage, including Mortgagee's providing a statement of the Secured Obligations. Mortgagor shall also pay or reimburse all of Mortgagee's costs and expenses which may be incurred in rendering any such services.

(b) Mortgagor further agrees to pay or reimburse Mortgagee for all costs, expenses and other advances which may be incurred or made by Mortgagee to protect or preserve the Property or to enforce any terms of this Mortgage, including the exercise of any rights or remedies afforded to Mortgagee under Paragraph 6.3, whether any lawsuit is filed or not, or in defending any action or proceeding arising under or relating to this Mortgage, including attorneys' fees and other legal costs, costs of any sale of the Property and any cost of evidence of title.

(c) Mortgagor shall pay all obligations arising under this Paragraph immediately upon demand by Mortgagee. Each such obligation shall be added to, and considered to be part of, the principal of the Secured Obligations, and shall bear interest from the date the obligation arises at the rate provided in any instrument or agreement evidencing the Secured Obligations. If more than one rate of interest is applicable to the Secured Obligations, the highest rate shall be used for purposes hereof.

5.9 Exculpation and Indemnification.

(a) Mortgagee shall not be directly or indirectly liable to Mortgagor or any other person as a consequence of any of the following:

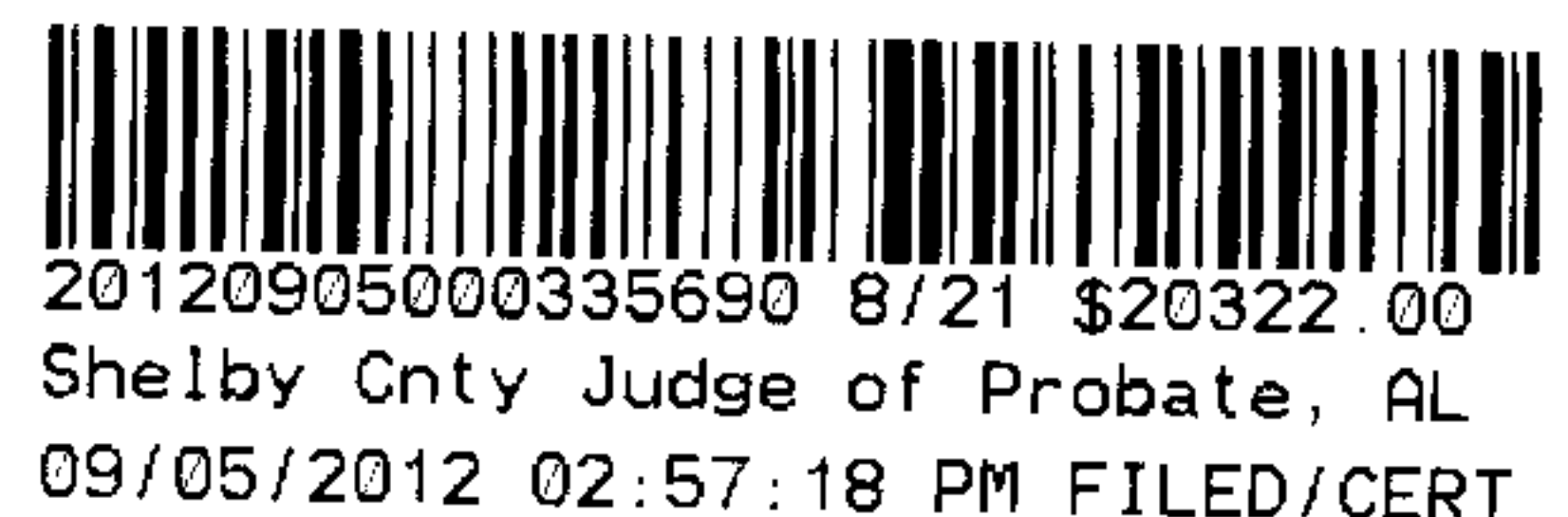
(i) Mortgagee's exercise of or failure to exercise any rights, remedies or powers granted to it in this Mortgage;

(ii) Mortgagee's failure or refusal to perform or discharge any obligation or liability of Mortgagor under any agreement related to the Property or under this Mortgage;

(iii) Mortgagee's failure to produce Rents from the Property or to perform any of the obligations of the lessor under any lease covering the Property;

(iv) any waste committed by lessees of the Property or any other parties, or any dangerous or defective condition of the Property; or

(v) any loss sustained by Mortgagor or any third party resulting from any act or omission of Mortgagee in operating or managing the Property upon exercise of the rights or remedies afforded Mortgagee under Paragraph 6.3, unless the loss is caused by the gross negligence, willful misconduct or bad faith of Mortgagee.



Mortgagor hereby expressly waives and releases all liability of the types described above, and agrees that no such liability shall be asserted against or imposed upon Mortgagee with respect to such matters.

(b) Except to the extent caused by the gross negligence or willful misconduct of Mortgagee, Mortgagor agrees to indemnify Mortgagee against and hold Mortgagee harmless from all losses, damages, liabilities, claims, causes of action, judgments, court costs, attorneys' fees and other legal expenses, cost of evidence of title, cost of evidence of value, and other costs and expenses which Mortgagee may suffer or incur in performing any act required or permitted by this Mortgage or by law or because of any failure of Mortgagor to perform any of its obligations. This agreement by Mortgagor to indemnify Mortgagee shall survive the release and cancellation of any or all of the Secured Obligations and the full or partial release of this Mortgage.

5.10 Defense and Notice of Claims and Actions. At Mortgagor's sole expense, Mortgagor shall protect, preserve and defend the Property and title to and right of possession of the Property, and the security of this Mortgage and the rights and powers of Mortgagee created under it, against all adverse claims. Mortgagor shall give Mortgagee prompt notice in writing if any claim is asserted which does or could affect any of these matters, or if any action or proceeding is commenced which alleges or relates to any such claim.

5.11 Representation and Warranty Regarding Hazardous Substances. Before signing this Mortgage, Mortgagor secured third-party reports regarding the previous uses and ownership of the Property. Based on that due diligence, Mortgagor represents and warrants that to the best of its knowledge, no hazardous substance has been disposed of or released or otherwise exists in, on, under or onto the Property, except (i) as disclosed in any environmental site assessment or report disclosed to Mortgagee or which Mortgagor has disclosed to Mortgagee in writing and (ii) such substances that may have been released or exist that are of a type and in a quantity commonly used in connection with the operation of the Property and provided such substances were used in full compliance with Environmental Law and any such release or existence is not likely to create an unsafe or hazardous condition. Mortgagor further represents and warrants that Mortgagor has complied, and will comply and shall use commercially reasonable efforts to cause all occupants of the Property to comply, with all current and future laws, regulations and ordinances or other requirements of any governmental authority relating to or imposing liability or standards of conduct concerning protection of health or the environment or hazardous substances ("Environmental Laws"). Mortgagor shall promptly, at Mortgagor's sole cost and expense, take all reasonable actions with respect to any hazardous substances or other environmental condition at, on, or under the Property necessary to (i) comply with all applicable Environmental Laws; (ii) allow continued use, occupation or operation of the Property; or (iii) maintain the fair market value of the Property. Mortgagor acknowledges that the release of any hazardous substances (other than such substances that are of a type and in a quantity commonly used in connection with the operation of the Property and provided such substances are used in full compliance with Environmental Law and any release of such substances is not likely to create an unsafe or hazardous condition) may permanently and materially impair the value and use of the Property. "Hazardous substance" means any substance, material or waste that is or becomes designated or regulated as "toxic," "hazardous," "pollutant," or "contaminant" or a similar designation or regulation under any current or future federal, state or local law (whether under common law, statute, regulation or otherwise) or judicial or administrative interpretation of such, including without limitation petroleum or natural gas.

5.12 Site Visits, Observation and Testing. Mortgagee and its agents and representatives shall have the right at any reasonable time, after giving reasonable notice to Mortgagor, to enter and visit the Property for the purposes of performing appraisals, observing the Property, taking and removing environmental samples, and conducting tests on any part of the Property. Mortgagee shall permit a representative of Mortgagor to be present during any such entry by Mortgagee and Mortgagor shall have the right to secure portions of any environmental samples in order to conduct independent testing or analysis, provided that, in each case, Mortgagor makes such representative available at the time of such entry. Mortgagor shall reimburse Mortgagee on demand for the costs of any such environmental investigation and testing. Mortgagee will make reasonable efforts during any site visit, observation or testing conducted pursuant this Paragraph to avoid interfering with Mortgagor's use of the Property and the rights of tenants under leases. Mortgagee is under no duty, however, to visit or observe the Property or to conduct tests, and any such acts by Mortgagee will be solely for the purposes of protecting Mortgagee's security and preserving Mortgagee's rights under this Mortgage. No site visit, observation or testing or any report or findings

made as a result thereof ("Environmental Report") (i) will result in a waiver of any default of Mortgagor; (ii) impose any liability on Mortgagee (except to the extent caused by the gross negligence or willful misconduct of Mortgagee; or (iii) be a representation or warranty of any kind regarding the Property (including its condition or value or compliance with any laws) or the Environmental Report (including its accuracy or completeness). In the event Mortgagee has a duty or obligation under applicable laws, regulations or other requirements to disclose an Environmental Report to Mortgagor or any other party, Mortgagor authorizes Mortgagee to make such a disclosure. Mortgagee may also disclose an Environmental Report to any regulatory authority, and to any other parties as necessary or appropriate in Mortgagee's judgment. Mortgagor further understands and agrees that any Environmental Report or other information regarding a site visit, observation or testing that is disclosed to Mortgagor by Mortgagee or its agents and representatives is to be evaluated (including any reporting or other disclosure obligations of Mortgagor) by Mortgagor without advice or assistance from Mortgagee.

5.13 Additional Provisions Relating to Condominiums. If the Property is or becomes subject to a condominium declaration of conditions, covenants and restrictions recorded in the official records of the county in which the Property is located (the "Declaration"), the following provisions shall apply.

(a) The provisions contained in this Mortgage are obligations of Mortgagor in addition to Mortgagor's obligations under the Declaration with respect to similar matters, and shall not restrict or limit Mortgagor's duties and obligations to keep and perform promptly all of its obligations as unit owner under the Declaration.

(b) Mortgagor shall at all times fully perform and comply with all the agreements, covenants, terms and conditions imposed upon unit owners under the Declaration, and if Mortgagor fails to do so, Mortgagee may (but shall not be obligated to) take any action Mortgagee deems necessary or desirable to prevent or cure any default thereunder. Mortgagee may also take such action as it deems necessary or desirable to cure a default under the Declaration by Mortgagor or any other party occupying the unit(s) (a "Unit Occupant") encumbered by this Mortgage, upon receipt by Mortgagee from the condominium association under the Declaration (the "Association") of written notice of such default, even though the existence of such default or the nature thereof may be questioned or denied by Mortgagor or by any party on behalf of Mortgagor. Mortgagee may pay and expend such sums of money as Mortgagee in its sole discretion deems necessary to prevent or cure any default by Mortgagor or a Unit Occupant, and Mortgagor hereby agrees to pay to Mortgagee, immediately and without demand, all such sums so paid and expended by Mortgagee, together with interest thereon from the date of each such payment at the Default Rate. All sums so paid and expended by Mortgagee, and the interest thereon, shall be added to and be secured by the lien of this Mortgage.

(c) At Mortgagee's request, Mortgagor will submit satisfactory evidence of payment of all of its monetary obligations under the Declaration (including but not limited to rents, taxes, assessments, insurance premiums and operating expenses).

(d) Mortgagor shall advise Mortgagee in writing of the giving of any notice to Mortgagor by the Association under the Declaration of any default by Mortgagor as unit owner or by a Unit Occupant thereunder in the performance or observance of any of the terms, conditions and covenants to be performed or observed by Mortgagor or such Unit Occupant thereunder, and Mortgagor shall deliver to Mortgagee a true copy of each such notice.

(e) If any action, proceeding, motion or notice shall be commenced or filed in respect of the Association in connection with any case (including a case commenced or filed under the Bankruptcy Code), Mortgagee shall have the option, to the exclusion of Mortgagor, exercisable upon notice from Mortgagee to Mortgagor, to conduct and control any such litigation with counsel of Mortgagee's choice. Mortgagee may proceed in its own name or in the name of Mortgagor in connection with any such litigation, and Mortgagor agrees to execute any and all powers, authorizations, consents or other documents required by Mortgagee in connection therewith. Mortgagor shall, upon demand, pay to Mortgagee all costs and expenses (including attorneys' fees) paid or incurred by Mortgagee in connection with the prosecution or conduct of any such proceedings. Any such costs or expenses not paid by Mortgagor as aforesaid shall be secured by the lien of this Mortgage and shall be added to the principal amount of the indebtedness

secured hereby. Mortgagor shall not commence any action, suit, proceeding or case, or file any application or make any motion, in respect of the Declaration in any such case without the prior written consent of Mortgagee.

(f) Mortgagor will use its best efforts to obtain and deliver to Mortgagee within twenty (20) days after written request by Mortgagee, an estoppel certificate from the Association setting forth (i) the name of the unit owner, (ii) that the Declaration has not been modified or, if it has been modified, the date of each modification (together with copies of each such modification), (iii) the amount of common expenses and other assessments payable by Mortgagor as unit owner under the Declaration, (iv) the date to which all common expenses and other assessments have been paid by Mortgagor as unit owner under the Declaration, (v) whether there are any alleged defaults by Mortgagor or a Unit Occupant under the Declaration and, if so, setting forth the nature thereof in reasonable detail, and (vi) as to such other matters as Mortgagee may reasonably request.

(g) Mortgagor represents and warrants to Mortgagee that as of the date hereof, no default under the Declaration has occurred and is continuing.

(h) Mortgagor shall take such actions as may be reasonable to insure that the Association maintains a public liability insurance policy acceptable in form, amount, and extent of coverage to Mortgagee.

(i) Mortgagor shall not, except after notice to Mortgagee and with Mortgagee's prior written consent, either partition or subdivide the Property or consent to:

(i) the abandonment or termination of the condominium(s) encumbered by this Mortgage, except for abandonment or termination required by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;

(ii) any amendment to any provision of the Declaration, the Association's bylaws or articles or any rules and regulations promulgated by the Association;

(iii) termination of professional management and assumption of self-management of the Association; or

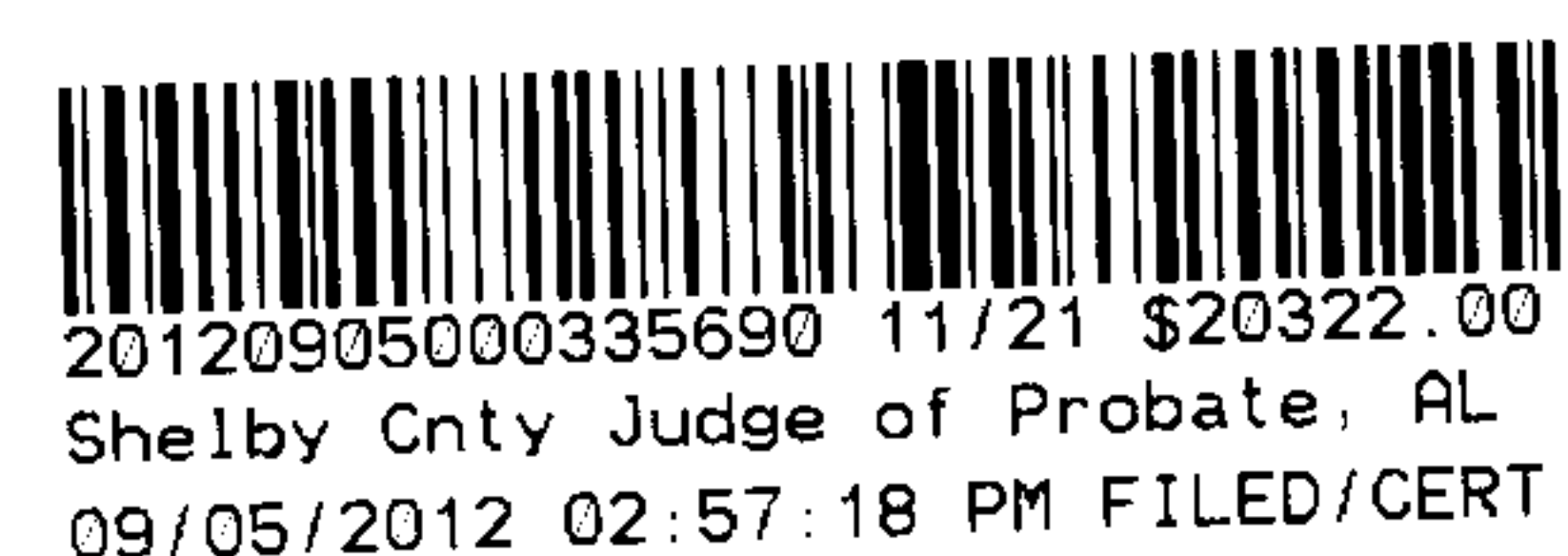
(iv) any action which would have the effect of rendering the public liability insurance coverage maintained by the Association unacceptable to Mortgagee.

5.14. Business Loan. Mortgagor represents and warrants to Mortgagee that the loan evidenced by the Debt Instrument or other document relating to the Secured Obligations is a business loan transacted solely for the purpose of carrying on a business.

6. ACCELERATING TRANSFERS, DEFAULT AND REMEDIES.

6.1 Accelerating Transfers

(a) "Accelerating Transfer" means any sale, contract to sell, conveyance, encumbrance, or other transfer, whether voluntary, involuntary, by operation of law or otherwise, of all or any material part of the Property or any interest in it, including any transfer or exercise of any right to drill for or to extract any water (other than for Mortgagor's own use), oil, gas or other hydrocarbon substances or any mineral of any kind on or under the surface of the Property. If Mortgagor is a corporation, "Accelerating Transfer" also means any transfer or transfers of shares possessing, in the aggregate, more than fifty percent (50%) of the voting power. If Mortgagor is a partnership, "Accelerating Transfer" also means withdrawal or removal of any general partner, dissolution of the partnership under applicable law, or any transfer or transfers of, in the aggregate, more than fifty percent (50%) of the partnership interests. If Mortgagor is a limited liability company, "Accelerating Transfer" also means withdrawal or removal of any managing member, termination of the limited liability company or any transfer or transfers of, in the



aggregate, more than fifty percent (50%) of the voting power or in the aggregate more than fifty percent of the ownership of the economic interest in the Mortgagor.

(b) Mortgagor agrees that Mortgagor shall not make any Accelerating Transfer, unless the transfer is preceded by Mortgagee's express written consent to the particular transaction and transferee. Mortgagee may withhold such consent in its sole discretion. If any Accelerating Transfer occurs, Mortgagee in its sole discretion may declare all of the Secured Obligations to be immediately due and payable, and Mortgagee may invoke any rights and remedies provided by Paragraph 6.3 of this Mortgage.

6.2 Events of Default. The occurrence of any one or more of the following events, at the option of Mortgagee, shall constitute an event of default ("Event of Default") under this Mortgage:

(a) An Event of Default occurs under (and as defined in) the Note, the Loan Agreement or any other Loan Document;

(b) Mortgagor fails to make any payment or perform any obligation which arises under this Mortgage;

(c) An Accelerating Transfer occurs in violation of Paragraph 6.1;

(d) Any representation or warranty made in connection with this Mortgage or the Secured Obligations proves to have been false or misleading in any material respect when made;

(e) Any default occurs under any other mortgage on all or any part of the Property, or under any obligation secured by such mortgage, whether such mortgage is prior to or subordinate to this Mortgage; or

(f) An event occurs which gives Mortgagee the right or option to terminate any Swap Contract secured by this Mortgage.

6.3 Remedies. At any time after the occurrence of an Event of Default, Mortgagee shall be entitled to invoke any and all of the rights and remedies described below, as well as any other rights and remedies authorized by law. All of such rights and remedies shall be cumulative and concurrent, and the exercise of any one or more of them shall not constitute an election of remedies.

(a) Mortgagee may declare any or all of the Secured Obligations to be due and payable immediately, and may terminate any Swap Contract secured by this Mortgage in accordance with its terms, all of the foregoing without notice of default, notice of acceleration, presentment or demand for payment, protest, notice of protest, notice of nonpayment or dishonor, or notices or demands of any kind or character, all of which are expressly waived by Mortgagor.


(b) Mortgagee may apply to any court of competent jurisdiction to have a receiver appointed to enter upon and take possession of the Property, collect the Rents therefrom and apply the same as the court may direct, such receiver to have all of the rights and powers permitted under the laws of the State of Alabama which are necessary or usual in such cases for the protection, possession, control, management and operation of the Property. The right of the appointment of such receiver shall be a matter of strict right without regard to the value or the occupancy of the Mortgaged Property or the solvency or insolvency of Mortgagor. Mortgagor further expressly acknowledges and agrees that such a receiver is acting in the best interest of all parties, including Mortgagor. The expenses, including receiver's fees, attorneys' fees, costs and agent's commission incurred pursuant to the powers herein contained, together with interest thereon at the Default Rate (as defined in the Loan Agreement), shall be secured hereby and shall be due and payable by Mortgagor immediately without notice or demand. Notwithstanding the appointment of any receiver or other custodian, Mortgagee shall be entitled as pledgee to the possession and control of any cash or deposits at the time held by, payable, or deliverable under the terms of this Mortgage to the Mortgagee, and the Mortgagee shall have the right to offset the unpaid Obligations against

any such case or deposits in such order as Mortgagee may elect in the manner set forth in the Loan Agreement. The right of the appointment of such receiver shall be a matter of strict right without regard to the value or the occupancy of the Property or the solvency or insolvency of Mortgagor. The expenses, including receiver's fees, attorneys' fees, costs and agent's commission incurred pursuant to the powers herein contained, together with interest thereon at the default rate under the Note, shall be secured hereby and shall be due and payable by Mortgagor immediately without notice or demand. Notwithstanding the appointment of any receiver or other custodian, Mortgagee shall be entitled as pledgee to the possession and control of any cash or deposits at the time held by, payable, or deliverable under the terms of this Mortgage to the Mortgagee, and the Mortgagee shall have the right to offset the unpaid Obligations against any such cash or deposits in such order as Mortgagee may elect in the manner set forth in the Loan Agreement.

(c) Mortgagee, in person, by agent or by court-appointed receiver, whether before or after the institution of legal proceedings to foreclose the lien hereof or before or after sale thereunder or during any period of redemption, without regard to waste, adequacy of the security or solvency of the Mortgagor may revoke the privilege granted Mortgagor hereunder to collect the Rents and profits, may enter, without notice, with or without taking possession of or entering the Property, with or without any action or proceeding, manage and operate all or any part of the Property, and in its own name or in the name of Mortgagor sue for or otherwise collect any and all Rents, including those that are past due, and give or require Mortgagor to give notice to any or all tenants under any lease authorizing and directing the tenant to pay such Rents and profits to Mortgagee, and may also do any and all other things in connection with those actions that Mortgagee may in its sole discretion consider necessary and appropriate to protect the security of this Mortgage. Such other things may include: entering into, enforcing, modifying, or canceling leases on such terms and conditions as Mortgagee may reasonably consider proper; obtaining and evicting tenants; fixing or modifying Rents; completing any unfinished construction; contracting for and making repairs and alterations; performing such acts of cultivation or irrigation as necessary to conserve the value of the Property; and preparing for harvest, harvesting and selling any crops that may be growing on the property. Mortgagor hereby irrevocably constitutes and appoints Mortgagee as its attorney-in-fact to perform such acts and execute such documents as Mortgagee in its sole discretion may consider to be appropriate in connection with taking these measures, including endorsement of Mortgagor's name on any instruments. Mortgagor agrees to deliver to Mortgagee all books and records pertaining to the Property, including computer-readable memory and any computer hardware or software necessary to access or process such memory, as may reasonably be requested by Mortgagee in order to enable Mortgagee to exercise its rights under this Paragraph.

(d) Mortgagee may cure any breach or default of Mortgagor, and if it chooses to do so in connection with any such cure, Mortgagee may also enter the Property and/or do any and all other things which it may in its sole discretion consider necessary and appropriate to protect the security of this Mortgage. Such other things may include: appearing in and/or defending any action or proceeding which purports to affect the security of, or the rights or powers of Mortgagee under, this Mortgage; paying, purchasing, contesting or compromising any encumbrance, charge, lien or claim of lien which in Mortgagee's sole judgment is or may be senior in priority to this Mortgage, such judgment of Mortgagee to be conclusive as among the parties to this Mortgage; obtaining insurance and/or paying any premiums or charges for insurance required to be carried under this Mortgage; otherwise caring for and protecting any and all of the Property; and/or employing counsel, accountants, contractors and other appropriate persons to assist Mortgagee. Mortgagee may take any of the actions permitted hereunder either with or without giving notice to any person.

(e) Mortgagee may institute proceedings for the partial or complete foreclosure of this Mortgage and Mortgagee may sell, pursuant to power of sale or otherwise, the Property (or such part or parts thereof or leasehold, subleasehold or other interest therein encumbered hereby as the Mortgagee may from time to time elect to sell) at public outcry to the highest bidder for cash in front of the main entrance of the county courthouse of the county where said Property is located, either in person or by auctioneer, after having first given "Conforming Notice" (as hereinafter defined), and, upon receipt of the consideration bid at said sale, Mortgagee or any person conducting the sale for Mortgagee is authorized to execute to the


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purchaser at said sale a deed to the Property so purchased. Mortgagee may bid at said sale in the form of cash, cash equivalents and/or cancellation of all or any part of the Obligations, or any combination thereof, and purchase said Property, or any part or parcel thereof, if the highest bidder therefor. At any sale, including any sale pursuant to power of sale, any part or parcels or all of the Property, real, personal or mixed, may be offered for sale in whole or in part for one total price, the proceeds of any such sale to be accounted for in one account without distinction between the items included therein or without assigning to them any proportion of such proceeds, the Mortgagor hereby waiving the application of any doctrine of marshaling or like proceeding. The purchaser at any such sale or sales shall be under no obligation to see to the proper application of the purchase money. If the Mortgagee, in the exercise of the power of sale herein given, elects to sell the Property in parts or parcels, sales thereof may be held from time to time, and the power of sale granted herein shall not be fully exercised until all of the Property not previously sold shall have been sold or all the obligations secured by this Mortgage shall have been paid in full. As used herein, "Conforming Notice" shall mean notice of the time, place and terms of sale by publication once a week for three (3) successive weeks prior to said sale in a newspaper published in said county; provided, however, that (i) if the Property is located in more than one county, publication is to be made in all counties in which such Property is located and (ii) if no newspaper is published in a county where the Property is located, notice shall be in a newspaper in an adjoining county. In case of a foreclosure sale of all or any part of the Property, the proceeds of sale shall be applied in accordance with Paragraph 6.4 hereof, and the Mortgagee shall be entitled to seek a deficiency judgment against the Mortgagor to enforce payment of any and all Obligations then remaining due and unpaid, together with interest thereon, and to recover a judgment against the Mortgagor therefor, which judgment shall bear interest at the maximum rate permitted by Alabama law. The Mortgagee is authorized to foreclose this Mortgage subject to the rights of any tenants of the Property, or Mortgagee may elect which tenants Mortgagee desires to name as parties defendant in such foreclosure and failure to make any such tenants parties defendant to any such foreclosure proceedings and to foreclose their rights will not be, nor be asserted by the Mortgagor to be, a defense to any proceedings instituted by the Mortgagee to collect the unpaid Obligations or to collect any deficiency remaining unpaid after the foreclosure sale of the Property.

(f) Mortgagee may exercise the remedies contained in the Debt Instrument or in any other instrument or agreement evidencing any of the Secured Obligations.

(g) Mortgagee may proceed under the Uniform Commercial Code as to all or any part of the Personalty, and in conjunction therewith may exercise all of the rights, remedies and powers of a secured creditor under the Uniform Commercial Code. When all time periods then legally mandated have expired, and after such notice of sale as may then be legally required has been given, Mortgagee may sell the Personalty at a public sale to be held at the time and place specified in the notice of sale. It shall be deemed commercially reasonable for the Mortgagee to dispose of the Personalty without giving any warranties as to the Personalty and specifically disclaiming all disposition warranties.

(h) If any installment or part of any Obligation shall fail to be paid when due, Mortgagee shall be entitled to sue for and to recover judgment against the Mortgagor for the amount so due and unpaid together with all costs and expenses (including, without limitation, costs of arbitration, reasonable attorneys' fees and expenses) incurred by Mortgagee in connection with such proceeding, together with interest thereon at the default rate under the Note from the date incurred by Mortgagee. Any such judgment against the Mortgagor shall bear interest at the maximum rate permitted by applicable law. All such costs and expenses shall be secured by this Mortgage and shall be due and payable by Mortgagor immediately.

(i) If Mortgagor shall fail to pay upon the Mortgagee's demand, after acceleration as provided herein, all of the unpaid Obligations, together with all accrued interest thereon, Mortgagee shall be entitled to sue for and to recover judgment against the Mortgagor for the entire amount so due and unpaid together with all costs and expenses (including, without limitation, costs of arbitration, reasonable attorneys' fees and expenses) incurred by Mortgagee in connection with such proceeding, together with interest thereon at the default rate under the Note from the date incurred by Mortgagee. Any such judgment against the Mortgagor shall bear interest at the Default Rate. All such costs and expenses shall be secured


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by this Mortgage and shall be payable by Mortgagor immediately. Mortgagee's right under this subsection may be exercised by Mortgagee either before, after or during the pendency of any proceedings for the enforcement of this Mortgage, including appellate proceedings. No recovery of any judgment as provided in subsections (h) and (i) above and no attachment or levy of any execution upon any of the Property or any other property shall in any way affect the lien of this Mortgage upon the Property or any part thereof, or any lien, rights, powers, or remedies of Mortgagee hereunder, but such lien, rights, powers and remedies shall continue unimpaired as before.

(j) Mortgagee may bring an action in any court of competent jurisdiction to judicially foreclose this instrument or to obtain specific enforcement of any covenants or agreements of this Mortgage.

6.4 Application of Sale Proceeds and Rents.

(a) Mortgagee shall apply the proceeds of any sale of the Property in the following manner: first, to pay the portion of the Secured Obligations attributable to the costs, fees and expenses of the sale, including costs of evidence of title in connection with the sale; and, second, to pay all other Secured Obligations in any order and proportions as Mortgagee in its sole discretion may choose. The remainder, if any, shall be remitted to the person or persons entitled thereto.

(b) Mortgagee shall apply any and all Rents collected by it, and any and all sums other than proceeds of any sale of the Property which Mortgagee may receive or collect under Paragraph 6.3, in the following order: (i) to pay the portion of the Secured Obligations attributable to the costs and expenses of operation and collection that may be incurred by Mortgagee or any receiver; and (ii) to pay all other Secured Obligations in any order and proportions as Mortgagee in its sole discretion may choose. The remainder, if any, shall be remitted to the person or persons entitled thereto. Mortgagee shall have no liability for any funds which it does not actually receive.

7. MISCELLANEOUS PROVISIONS

7.1 No Waiver or Cure.


(a) Each waiver by Mortgagee must be in writing, and no waiver shall be construed as a continuing waiver. No waiver shall be implied from any delay or failure by Mortgagee to take action on account of any default of Mortgagor. Consent by Mortgagee to any act or omission by Mortgagor shall not be construed as a consent to any other or subsequent act or omission or to waive the requirement for Mortgagee's consent to be obtained in any future or other instance.

(b) If any of the events described below occurs, that event alone shall not cure or waive any breach, Event of Default or notice of default under this Mortgage or invalidate any act performed pursuant to any such default or notice; or nullify the effect of any notice of default or sale (unless all Secured Obligations then due have been paid and performed); or impair the security of this Mortgage; or prejudice Mortgagee or any receiver in the exercise of any right or remedy afforded any of them under this Mortgage; or be construed as an affirmation by Mortgagee of any tenancy, lease or option, or a subordination of the lien of this Mortgage:

(i) Mortgagee, its agent or a receiver takes possession of all or any part of the Property;

(ii) Mortgagee collects and applies Rents, either with or without taking possession of all or any part of the Property;

(iii) Mortgagee receives and applies to any Secured Obligation proceeds of any Property, including any proceeds of insurance policies, condemnation awards, or other claims, property or rights assigned to Mortgagee under this Mortgage;


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(iv) Mortgagee makes a site visit, observes the Property and/or conducts tests thereon;

(v) Mortgagee receives any sums under this Mortgage or any proceeds of any collateral held for any of the Secured Obligations, and applies them to one or more Secured Obligations;

(vi) Mortgagee or any receiver performs any act which it is empowered or authorized to perform under this Mortgage or invokes any right or remedy provided under this Mortgage.

7.2 Powers of Mortgagee. Mortgagee may take any of the actions permitted under Paragraphs 6.3 regardless of the adequacy of the security for the Secured Obligations, or whether any or all of the Secured Obligations have been declared to be immediately due and payable, or whether notice of default and election to sell has been given under this Mortgage.

7.3 Intentionally Omitted.

7.4 Merger. No merger shall occur as a result of Mortgagee's acquiring any other estate in or any other lien on the Property unless Mortgagee consents to a merger in writing.

7.5 Joint and Several Liability. If Mortgagor consists of more than one person, each shall be jointly and severally liable for the faithful performance of all of Mortgagor's obligations under this Mortgage.

7.6 Applicable Law. This Mortgage shall be governed by the laws of the State of Alabama.

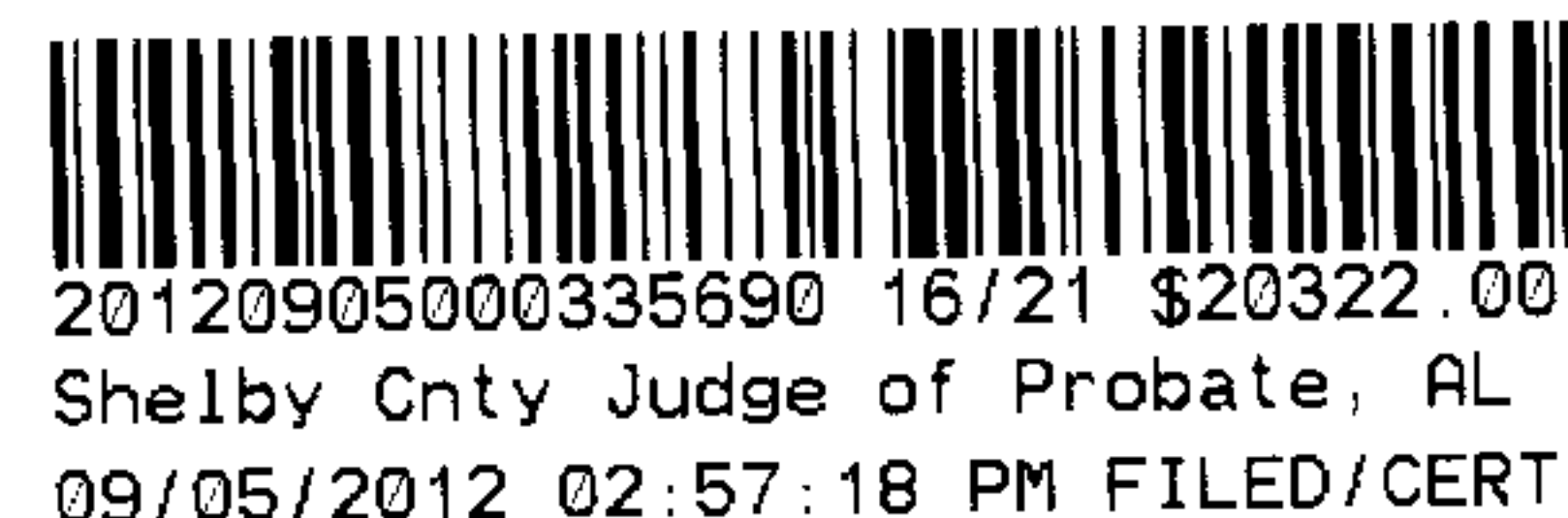
7.7 Successors in Interest. The terms, covenants and conditions of this Mortgage shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties. However, this Paragraph does not waive the provisions of Paragraph 6.1.

7.8 Dispute Resolution Provision. This paragraph, including the subparagraphs below, is referred to as the "Dispute Resolution Provision." This Dispute Resolution Provision is a material inducement for the parties entering into this agreement.

(a) This Dispute Resolution Provision concerns the resolution of any controversies or claims between the parties, whether arising in contract, tort or by statute, including but not limited to controversies or claims that arise out of or relate to: (i) this agreement (including any renewals, extensions or modifications); or (ii) any document related to this agreement (collectively a "Claim"). For the purposes of this Dispute Resolution Provision only, the term "parties" shall include any parent corporation, subsidiary or affiliate of Mortgagee involved in the servicing, management or administration of any obligation described or evidenced by this agreement.

(b) At the request of any party to this agreement, any Claim shall be resolved by binding arbitration in accordance with the Federal Arbitration Act (Title 9, U.S. Code) (the "Act"). The Act will apply even though this agreement provides that it is governed by the law of a specified state.

(c) Arbitration proceedings will be determined in accordance with the Act, the then-current rules and procedures for the arbitration of financial services disputes of the American Arbitration Association or any successor thereof ("AAA"), and the terms of this Dispute Resolution Provision. In the event of any inconsistency, the terms of this Dispute Resolution Provision shall control. If AAA is unwilling or unable to (i) serve as the provider of arbitration or (ii) enforce any provision of this arbitration clause, Mortgagee may designate another arbitration organization with similar procedures to serve as the provider of arbitration.



(d) The arbitration shall be administered by AAA and conducted, unless otherwise required by law, in any U.S. state where real or tangible personal property collateral for this credit is located or if there is no such collateral, in the state specified in the governing law section of this agreement. All Claims shall be determined by one arbitrator; however, if Claims exceed Five Million Dollars (\$5,000,000), upon the request of any party, the Claims shall be decided by three arbitrators. All arbitration hearings shall commence within ninety (90) days of the demand for arbitration and close within ninety (90) days of commencement and the award of the arbitrator(s) shall be issued within thirty (30) days of the close of the hearing. However, the arbitrator(s), upon a showing of good cause, may extend the commencement of the hearing for up to an additional sixty (60) days. The arbitrator(s) shall provide a concise written statement of reasons for the award. The arbitration award may be submitted to any court having jurisdiction to be confirmed and have judgment entered and enforced.

(e) The arbitrator(s) will give effect to statutes of limitation in determining any Claim and shall dismiss the arbitration if the Claim is barred under the applicable statutes of limitation. For purposes of the application of any statutes of limitation, the service on AAA under applicable AAA rules of a notice of Claim is the equivalent of the filing of a lawsuit. Any dispute concerning this arbitration provision or whether a Claim is arbitrable shall be determined by the arbitrator(s), except as set forth at subparagraph (h) of this Dispute Resolution Provision. The arbitrator(s) shall have the power to award legal fees pursuant to the terms of this agreement.


(f) This paragraph does not limit the right of any party to: (i) exercise self-help remedies, such as but not limited to, setoff; (ii) initiate judicial or non-judicial foreclosure against any real or personal property collateral; (iii) exercise any judicial or power of sale rights, or (iv) act in a court of law to obtain an interim remedy, such as but not limited to, injunctive relief, writ of possession or appointment of a receiver, or additional or supplementary remedies.

(g) The filing of a court action is not intended to constitute a waiver of the right of any party, including the suing party, thereafter to require submittal of the Claim to arbitration.

(h) Any arbitration or court trial (whether before a judge or jury) of any Claim will take place on an individual basis without resort to any form of class or representative action (the "Class Action Waiver"). The Class Action Waiver precludes any party from participating in or being represented in any class or representative action regarding a Claim. Regardless of anything else in this Dispute Resolution Provision, the validity and effect of the Class Action Waiver may be determined only by a court and not by an arbitrator. The parties to this agreement acknowledge that the Class Action Waiver is material and essential to the arbitration of any disputes between the parties and is nonseverable from the agreement to arbitrate Claims. If the Class Action Waiver is limited, voided or found unenforceable, then the parties' agreement to arbitrate shall be null and void with respect to such proceeding, subject to the right to appeal the limitation or invalidation of the Class Action Waiver. The Parties acknowledge and agree that under no circumstances will a class action be arbitrated.

(i) **By agreeing to binding arbitration, the parties irrevocably and voluntarily waive any right they may have to a trial by jury in respect of any Claim. Furthermore, without intending in any way to limit this agreement to arbitrate, to the extent any Claim is not arbitrated, the parties irrevocably and voluntarily waive any right they may have to a trial by jury in respect of such Claim. This waiver of jury trial shall remain in effect even if the Class Action Waiver is limited, voided or found unenforceable. WHETHER THE CLAIM IS DECIDED BY ARBITRATION OR BY TRIAL BY A JUDGE, THE PARTIES AGREE AND UNDERSTAND THAT THE EFFECT OF THIS AGREEMENT IS THAT THEY ARE GIVING UP THE RIGHT TO TRIAL BY JURY TO THE EXTENT PERMITTED BY LAW.**

7.9 Interpretation. Whenever the context requires, all words used in the singular will be construed to have been used in the plural, and vice versa, and each gender will include any other gender. The captions of the sections of this Mortgage are for convenience only and do not define or limit any terms or provisions. The word "include(s)" means "include(s), without limitation," and the word "including" means "including, but not limited to." The word "obligations" is used in its broadest and most comprehensive sense, and


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includes all primary, secondary, direct, indirect, fixed and contingent obligations. It further includes all principal, interest, prepayment charges, late charges, loan fees and any other fees and charges accruing or assessed at any time, as well as all obligations to perform acts or satisfy conditions. No listing of specific instances, items or matters in any way limits the scope or generality of any language of this Mortgage. The Exhibits to this Mortgage are hereby incorporated in this Mortgage.

7.10 In-House Counsel Fees. Whenever Mortgagor is obligated to pay or reimburse Mortgagee for any attorneys' fees, those fees shall include the allocated reasonable costs for services of in-house counsel to the extent permitted by applicable law.

7.11 Waiver of Marshaling. Mortgagor waives all rights, legal and equitable, it may now or hereafter have to require marshaling of assets or to direct the order in which any of the Property will be sold in the event of any sale under this Mortgage. Each successor and assign of Mortgagor, including any holder of a lien subordinate to this Mortgage, by acceptance of its interest or lien agrees that it shall be bound by the above waiver, as if it had given the waiver itself.

7.12 Waiver of Homestead. Mortgagor hereby abandons and waives all claims of homestead on the Property and does hereby forever release and discharge the Property from any and all claims of homestead.

7.13 Severability. If any provision of this Mortgage should be held unenforceable or void, that provision shall be deemed severable from the remaining provisions and in no way affect the validity of this Mortgage except that if such provision relates to the payment of any monetary sum, then Mortgagee may, at its option, declare all Secured Obligations immediately due and payable.

7.14 Notices. Mortgagor hereby requests that a copy of notice of default and notice of sale be mailed to it at the address set forth below. That address is also the mailing address of Mortgagor as debtor under the Uniform Commercial Code. Mortgagee's address given below is the address for Mortgagee as secured party under the Uniform Commercial Code.

Addresses for Notices to Mortgagor:

PERA Lee Branch, Inc.,
c/o LaSalle Investment Management
3344 Peachtree Road NE, Suite 1200
Atlanta, GA 30326
Attn: Mr. Stephen Inglis


Address for Notices to Mortgagee:

Bank of America, N.A.
135 South LaSalle Street, Suite 630
Chicago, IL 60603
Attn: Sarah Hudson

With a copy to:

Barack Ferrazzano Kirschbaum & Nagelberg LLP
200 West Madison Street, Suite 3900
Chicago, IL 60606
Attn: Jeremy Bunnow

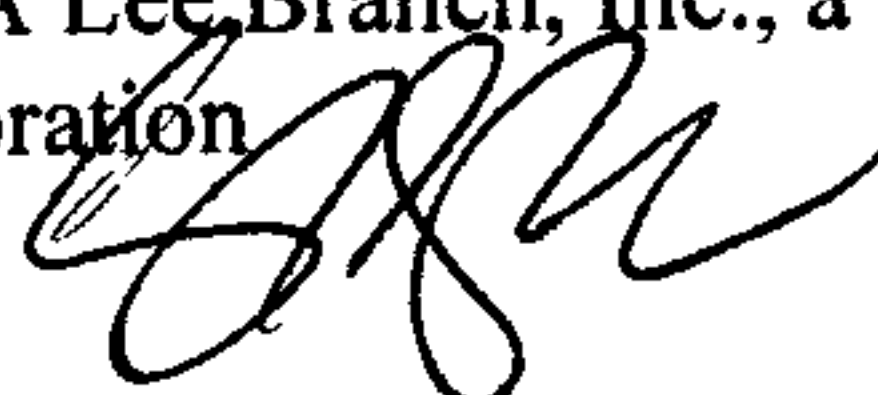
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IN WITNESS WHEREOF, Mortgagor has executed this Mortgage as of the date first above written.

MORTGAGOR:

PERA Lee Branch, Inc., a Colorado nonprofit corporation

By 

Name STEPHEN R. INOUÉ

Title VICE PRESIDENT



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ACKNOWLEDGMENT

STATE OF Georgia)

COUNTY OF DeKalb)

I, the undersigned, a Notary Public in and for said county in said State, hereby certify that Stephen R. Inglis, whose name as Vice President of Pera Lee Branch, Inc 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 foregoing instrument as such officer and with full authority, executed the same voluntarily for and as the act of said non-profit corporation.

Given under my hand and official seal this 4th day of September, 2012.

Shona M. Thornton
Notary Public

AFFIX SEAL

My commission expires: _____

SHONA M. THORNTON
NOTARY PUBLIC
DeKalb County
State of Georgia
My Comm. Expires Jan. 13, 2013



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EXHIBIT A TO MORTGAGE

Exhibit A to MORTGAGE dated as of September 5, 2012, given by PERA Lee Branch, Inc., a Colorado nonprofit corporation as "Mortgagor" to Bank of America, N.A., a national banking association, as "Mortgagee."

Description of Property

PARCEL I:

Lot 1C - 2, according to the resurvey of Lot 1C of a resubdivision of The Village at Lee Branch, as recorded in Map Book 39, Page 85, in the Probate Office of Shelby County, Alabama.

Together with all rights and beneficial interests as set forth in that certain Temporary Construction and Slope Easement as recorded in Instrument # 20021108000557110.

ALSO

Together with all rights and beneficial interests as set forth in that certain Reciprocal Easement Agreement as recorded in Instrument # 20030701000412990 and amended in Instrument # 20030827000569970.

ALSO

Together with all rights and beneficial interests that constitute an interest in real property as set out in that certain Settlement Decree in case CV-02-687 as recorded in Instrument No. 20030210000079290 and consented to in Instrument No. 20030904000589000.

ALSO

Together with all rights and beneficial interests as set forth in that certain Declaration of Covenants, Conditions and Restrictions and Declaration of Easements as recorded in Instrument No. 20061025000527560.

ALSO

Together with all rights and beneficial interests that constitute an interest in real property as set out in that certain Declaration of Limited Use Restrictions as recorded in Instrument #20070702000309430.

PARCEL II:

Lot 1C - 1, according to the resurvey of Lot 1C of a resubdivision of The Village at Lee Branch, as recorded in Map Book 39, Page 85, in the Probate Office of Shelby County, Alabama.

Together with all rights and beneficial interests as set forth in that certain Temporary Construction and Slope Easement as recorded in Instrument # 20021108000557110.

ALSO

Together with all rights and beneficial interests as set forth in that certain Reciprocal Easement Agreement as recorded in Instrument # 20030701000412990 and amended in Instrument # 20030827000569970.

ALSO

Together with all rights and beneficial interests that constitute an interest in real property as set out in that certain Settlement Decree in case CV-02-687 as recorded in Instrument No. 20030210000079290 and consented to in Instrument No. 20030904000589000.

ALSO

Together with all rights and beneficial interests as set forth in that certain Declaration of Covenants, Conditions and Restrictions and Declaration of Easements as recorded in Instrument No. 20061025000527560.

ALSO

Together with all rights and beneficial interests that constitute an interest in real property as set out in that certain Declaration of Limited Use Restrictions as recorded in Instrument #20070702000309430.

