

AFTER RECORDING, RETURN TO:

Susan Gannett, Senior Vice President
Land Title Company of Alabama
600 North 20th Street, Suite 100
Birmingham, Alabama 35203

ATTENTION: OFFICE OF PROBATE JUDGE OF:

JEFFERSON COUNTY, ALABAMA, BIRMINGHAM DIVISION,
MOBILE COUNTY, ALABAMA, AND
SHELBY COUNTY, ALABAMA.

THIS INSTRUMENT COVERS GOODS THAT ARE OR WILL BECOME FIXTURES ON THE DESCRIBED REAL PROPERTY AND SHOULD BE FILED FOR RECORD IN THE REAL PROPERTY RECORDS WHERE MORTGAGES ON REAL ESTATE ARE RECORDED. THIS INSTRUMENT SHOULD ALSO BE INDEXED AS A UNIFORM COMMERCIAL CODE FINANCING STATEMENT COVERING GOODS THAT ARE OR WILL BECOME FIXTURES ON THE DESCRIBED REAL PROPERTY. THE MAILING ADDRESSES, TELEPHONE NUMBERS, AND FAX NUMBERS OF THE SECURED PARTY AND THE DEBTOR ARE WITHIN.

STATEMENT OF ALLOCATION OF MORTGAGE TAX PURSUANT TO ALABAMA CODE SECTION 40-22-2 (10): THE PROPERTY CONVEYED IN THIS INSTRUMENT IS LOCATED IN MORE THAN ONE COUNTY IN ALABAMA. THE INDEBTEDNESS SET FORTH HEREIN IS ALLOCATED BETWEEN SUCH COUNTIES AS FOLLOWS:

JEFFERSON COUNTY: \$969,150.00	65%	(MORTGAGE TAX \$1,453.80)
MOBILE COUNTY: \$298,200.00	20%	(MORTGAGE TAX \$ 447.30)
SHELBY COUNTY: \$223,650.00	15%	(MORTGAGE TAX \$ 335.55)



20130524000214040 1/34 \$112.00
Shelby Cnty Judge of Probate, AL
05/24/2013 12:19:45 PM FILED/CERT

**MORTGAGE, SECURITY AGREEMENT, FINANCING
STATEMENT AND FIXTURE FILING**

SOLID EQUITIES, INC.

Mortgagor,
having an office at
6622 Broad Street, Suite A
Douglasville, GA 30134

to

BRANCH BANKING AND TRUST COMPANY

a North Carolina state-chartered bank
Mortgagee,

having an office at
271 17th Street, NW, Suite 900
Atlanta, Georgia 30363

Maximum Amount Secured: \$1,491,000.00

Premises:

4710 Moffett Road, Mobile, AL 36618 (Mobile County)
1225 First Street North, Alabaster, AL 35007 (Shelby County)
824 Green Springs, Birmingham, AL 35209 (Jefferson County)
9849 Parkway, Birmingham, AL 35206 (Jefferson County)
823 Ninth Avenue, Bessemer, AL 35020 (Jefferson County)
2380 Center Point, Birmingham, AL 35215 (Jefferson County)

(See Exhibit "A" for Complete Description)



20130524000214040 2/34 \$112.00
Shelby Cnty Judge of Probate, AL
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**MORTGAGE, SECURITY AGREEMENT, FINANCING
STATEMENT AND FIXTURE FILING**

THIS MORTGAGE, SECURITY AGREEMENT, FINANCING STATEMENT AND FIXTURE FILING ("Mortgage") is made as of May 21, 2013, by **SOLID EQUITIES, INC.**, a Georgia Corporation ("Mortgagor"), with the mailing address of 6622 Broad Street, Suite A, Douglasville, GA 30134, for the benefit of **BRANCH BANKING AND TRUST COMPANY**, a North Carolina state-chartered bank ("Mortgagee") with the mailing address of 271 17th Street, NW, Suite 900, Atlanta, Georgia 30363.

WITNESSETH:

WHEREAS, Mortgagor has executed and delivered to Mortgagee a Secured Promissory Note of even date herewith in the principal amount of **ONE MILLION FOUR HUNDRED AND NINETY-ONE THOUSAND AND NO/100THS DOLLARS (\$1,491,000.00)**, (which Secured Promissory Note, together with all notes issued and accepted in substitution or exchange therefor, and as any of the foregoing may from time to time be modified, extended, renewed, consolidated, restated or replaced, is hereinafter sometimes referred to as the "Note"), which Note provides, among other things, for final payment of principal and interest under the Note, if not sooner paid or payable as provided therein, to be due on or before the 21st day of May, 2018, the Note by this reference thereto being incorporated herein; and

WHEREAS, Mortgagee intends to secure the prompt payment of the Note together with interest, charges and prepayment fees, if any, thereon in accordance with the terms of the Note, and any additional indebtedness accruing to Mortgagee on account of any future payments, advances or expenditures made by Mortgagee pursuant to the Note or this Mortgage and any additional sums with interest thereon which may be loaned to Mortgagor by Mortgagee or advanced under the Loan Documents (as hereinafter defined) (all hereinafter sometimes collectively referred to as the "Indebtedness").

NOW, THEREFORE, Mortgagor, to secure payment of the Indebtedness and the performance of the covenants and agreements herein contained to be performed by Mortgagor, for good and valuable consideration in hand paid, the receipt and sufficiency whereof are hereby acknowledged, and intending to be legally bound, hereby agrees and covenants as follows:

1. **Granting Clauses.** Mortgagor hereby irrevocably and absolutely does by these presents GRANT AND CONVEY, MORTGAGE AND WARRANT, SET OVER, TRANSFER, ASSIGN, BARGAIN AND SELL to Mortgagee, its successors and assigns, with all POWERS OF SALE (if any) and all statutory rights under the laws of Alabama, and grants to Mortgagee a security interest in, all of Mortgagor's present and hereafter acquired estate, right, title and interest in, to and under the following (collectively referred to herein as the "Premises"):

(a) Those certain parcels of real property situated in Jefferson County, Alabama, Mobile County, Alabama, and Shelby County, Alabama, and more particularly described as

Parcels 1-6 on Exhibit "A" attached hereto and incorporated herein by this reference (collectively, the "Land"), together with all buildings, structures and improvements now or hereafter erected on the Land, together with all fixtures and items that are to become fixtures thereto (collectively, the "Improvements");

(b) All and singular the easements, rights-of-way, licenses, permits, rights of use or occupancy, privileges, tenements, appendages, hereditaments and appurtenances and other rights and privileges attached or belonging to the Land or Improvements or in any way appertaining thereto, whether now or in the future, and all the rents, issues and profits from the Land or Improvements;

(c) The land lying within any street, alley, avenue, roadway or right-of-way open or proposed or hereafter vacated in front of or adjoining the Land; and all right, title and interest, if any, of Mortgagor in and to any strips and gores adjoining the Land;

(d) All machinery, apparatus, equipment, goods, signage and appurtenant structures thereto, systems, building materials, carpeting, furnishings, fixtures and property of every kind and nature whatsoever, now or hereafter located in or upon or affixed to the Land or Improvements, or any part thereof, or used or usable in connection with any construction on or any present or future operation of the Land or Improvements, now owned or hereafter acquired by Mortgagor, including, but without limitation of the generality of the foregoing: all heating, lighting, refrigerating, ventilating, air-conditioning, air-cooling, fire extinguishing, plumbing, cleaning, telephone, communications and power equipment, systems and apparatus; and all elevators, switchboards, motors, pumps, screens, awnings, floor coverings, cabinets, partitions, conduits, ducts and compressors; and all cranes and craneways, oil storage, sprinkler/fire protection and water service equipment; and also including any of such property stored on the Land or Improvements or elsewhere and intended to be used in connection with or incorporated into the Land or Improvements or for the pursuit of any other activity in which Mortgagor may be engaged on the Land or Improvements, and including without limitation all tools, musical instruments and systems, audio or video equipment, cabinets, awnings, window shades, venetian blinds, drapes and drapery rods and brackets, screens, carpeting and other window and floor coverings, decorative fixtures, plants, cleaning apparatus, and cleaning equipment, refrigeration equipment, cables, computers and computer equipment, software, books, supplies, kitchen equipment, appliances, tractors, lawn mowers, ground sweepers and tools, signage and appurtenant structures thereto, swimming pools, whirlpools, recreational or play equipment together with all substitutions, accessions, repairs, additions and replacements to any of the foregoing; it being understood and agreed that all such machinery, equipment, apparatus, goods, systems, fixtures, signage and property are a part of the Improvements and are declared to be a portion of the security for the Indebtedness (whether in single units or centrally controlled, and whether physically attached to said real estate or not), excluding, however, personal property owned by tenants of the Land or Improvements; and

(e) Any and all awards, payments or insurance proceeds, including interest thereon, and the right to receive the same, which may be paid or payable with respect to the Land or Improvements or other properties described above as a result of: (1) the exercise of the right of eminent domain or action in lieu thereof; or (2) the alteration of the grade of any street; or (3)

any fire, casualty, accident, damage or other injury to or decrease in the value of the Land or Improvements or other properties described above, to the extent of all amounts which may be secured by this Mortgage at the date of receipt of any such award or payment by Mortgagor or Mortgagee, and of the reasonable counsel fees actually incurred, costs and disbursements incurred by Mortgagor or Mortgagee in connection with the collection of such award or payment. Mortgagor agrees to execute and deliver, from time to time, such further instruments as may be requested by Mortgagee to confirm such assignment to Mortgagee of any such award or payment.

The parties intend the definition of Premises to be broadly construed and in the case of doubt as to whether a particular item is to be included in the definition of Premises, the doubt should be resolved in favor of inclusion.

TO HAVE AND TO HOLD the Premises with all rights, privileges and appurtenances thereunto belonging, and all income, rents, royalties, revenues, issues, profits and proceeds therefrom, unto Mortgagee, its successors and assigns, forever, for the uses and purposes herein expressed.

THIS MORTGAGE IS GIVEN TO SECURE: Payment of the Indebtedness; payment of such additional sums with interest thereon which may hereafter be loaned to Mortgagor by Mortgagee pursuant to the Note or Mortgage or otherwise advanced under the Loan Documents (the "Loan"), including without limitation advances made by Mortgagee to protect the Premises or the lien of this Mortgage or to pay taxes, assessments, insurance premiums, and all other amounts that Mortgagor has agreed to pay pursuant to the provisions hereof or that Mortgagee has incurred by reason of the occurrence of an Event of Default (as hereinafter defined), including without limitation, advances made to enable the completion of the Improvements or any restoration thereof, even though the aggregate amount outstanding at any time may exceed the original principal balance stated herein and in the Note; and the due, prompt and complete performance of each and every covenant, condition and agreement contained in this Mortgage, the Note, and every other agreement, document and instrument to which reference is expressly made in this Mortgage or which at any time evidences or secures the Indebtedness evidenced by the Note (this Mortgage, the Note and all such other agreements, documents and instruments evidencing, securing and otherwise relating to the Note, but excluding the certain Indemnity Agreement Regarding Hazardous Materials executed by Mortgagor, are hereinafter sometimes collectively referred to as the "Loan Documents"). Mortgagor hereby warrants that, subject to the matters set forth as permitted exceptions in Exhibit "B" attached hereto and incorporated herein by this reference, Mortgagor has good and marketable title to the Premises, is lawfully seized and possessed of the Premises and every part thereof, and has the right to convey same; that Mortgagor will forever warrant and defend the title to the Premises unto Mortgagee against the claims of all persons whomsoever; and that the Premises are unencumbered except as set forth on Mortgagee's title insurance policy dated on or about even date herewith regarding the Premises.

2. **Maintenance, Repair and Restoration of Improvements, Payment of Prior Liens, etc.** Mortgagor shall: (a) promptly repair, restore or rebuild any Improvements now or hereafter on the Premises which may become damaged or be destroyed, such Improvements to

be of at least equal value and substantially the same character as prior to such damage or destruction; (b) keep the Premises in good condition and repair, without waste, and free from mechanics' liens or other liens which are not removed by payment or bond within thirty (30) days or claims for lien (except the lien of current general taxes duly levied and assessed but not yet due and payable); (c) immediately pay when due or within any applicable grace period any indebtedness which may be secured by a lien or charge on the Premises (no such lien, except for current general taxes duly levied and assessed but not yet payable, to be permitted hereunder), and upon request exhibit satisfactory evidence to Mortgagee of the discharge of such lien; (d) complete within a reasonable time any Improvements now or at any time in process of erection upon the Land; (e) to the extent applicable comply with all requirements of law (including, without limitation, pollution control and environmental protection laws), ordinance or other governmental regulation in effect from time to time affecting the Premises and the use thereof, and covenants, easements and restrictions of record with respect to the Premises and the use thereof; (f) make no material alterations in the Premises; (g) suffer or permit no material change in the general nature of the use of the Premises, without Mortgagee's written consent; (h) initiate or acquiesce in no zoning reclassification or variance with respect to the Premises without Mortgagee's written consent; and (i) pay each item of Indebtedness when due according to the terms hereof or of the Note.

3. **Payment of Taxes.** In the event not paid by deposit or escrow as provided herein, Mortgagor shall pay thirty (30) days before any delinquency or any penalty or interest attaches all general taxes, special taxes, special assessments, water charges, sewer service charges, and all other charges against the Premises of any nature whatsoever when due, and shall, upon written request, furnish to Mortgagee duplicate receipts therefor.

4. **Tax Deposits.** Upon request by Mortgagee after default hereunder (whether or not cured as may be allowed hereunder) Mortgagor covenants and agrees to deposit with such depository as the Mortgagee from time to time may in writing appoint, which deposits shall be insured by the FDIC, and in the absence of such appointment, then at the office of Mortgagee, commencing on the date of disbursement of the loan secured hereby and on the first day of each month following the month in which said disbursement occurred until the Indebtedness is fully paid, a sum equal to one-twelfth (1/12th) of the last total annual taxes and assessments for the last ascertainable year (if the current year's taxes and assessments are not yet ascertainable) (general and special) on the Premises (unless said taxes are based upon assessments which exclude the Improvements or any part thereof now constructed or to be constructed, in which event the amount of such deposits shall be based upon the Mortgagee's reasonable estimate as to the amount of taxes and assessments to be levied and assessed). Such deposits are to be held without any allowance of interest (unless local law requires otherwise) and are to be used for the payment of taxes and assessments (general and special) on the Premises next due and payable when they become due. Upon demand by such depository, Mortgagor shall deliver and pay over to such depository from time to time such additional sums or such additional security as are necessary to make up any deficiency in the amount necessary to enable such depository to fully pay any of the items hereinabove mentioned as they become payable. If the funds so deposited exceed the amount required to pay such items hereinabove mentioned for any year, the excess shall be applied on a subsequent deposit or deposits. Said deposits need not be kept separate and apart from any other funds of Mortgagee or such depository.

If any such taxes or assessments (general or special) shall be levied, charged, assessed or imposed upon or for the Premises, or any portion thereof, and if such taxes or assessments shall also be a levy, charge, assessment or imposition upon or for any other property not covered by the lien of this Mortgage, then the computation of any amount to be deposited under this Paragraph 4 shall be based upon the entire amount of such taxes or assessments, and Mortgagor shall not have the right to apportion the amount of any such taxes or assessments for the purposes of such computation.

5. **Mortgagee's Interest In and Use of Deposits.** Mortgagee shall apply any monies at the time on deposit pursuant to Paragraphs 4 and 7 hereof, for the purposes for which made hereunder and any excess monies on deposit to any of Mortgagor's obligations herein or in the Note or any of the Loan Documents contained, in such order and manner as the Mortgagee may elect. When the Indebtedness has been fully paid, any remaining deposits shall be paid to Mortgagor or to the then owner or owners of the Premises. A security interest within the meaning of the Alabama Uniform Commercial Code ("UCC") is hereby granted to the Mortgagee in and to any monies at any time on deposit pursuant to Paragraphs 4 and 7 hereof and such monies and all of Mortgagor's right, title and interest therein are hereby assigned to Mortgagee, as additional security for the Indebtedness and shall in the absence of the occurrence of an Event of Default be applied by the depository for the purposes for which made hereunder and shall not be subject to the direction or control of Mortgagor; provided, however, that neither Mortgagee nor said depository shall be liable for any failure to apply to the payment of taxes and assessments and insurance premiums any amount so deposited. Neither Mortgagee nor any depository hereunder shall be liable for any act or omission taken in good faith or pursuant to the instruction of any party but only for its willful misconduct. Mortgagor agrees to cooperate with Mortgagee in executing a control agreement, if necessary, with the depository chosen to manage the deposit account envisioned by Paragraphs 4 and 7 for the purpose of perfecting the security interest in said account.

6. **Insurance.**

(a) At all times until the Indebtedness is fully paid, the Improvements and all fixtures, equipment and property therein contained or installed shall be kept insured against loss and damage by such hazards, casualties and contingencies in such amounts and for such periods as may from time to time be required by Mortgagee as provided herein. All insurance shall be written in policies and by insurance companies approved by Mortgagee which approval shall not be unreasonably withheld so long as a Best Class rating of at least A VII is maintained and the policy otherwise conforms to the terms hereof. All policies of insurance and renewals thereof shall contain standard noncontributory mortgagee loss payable clauses to Mortgagee and shall provide for at least thirty (30) days prior written notice of cancellation to Mortgagee as well as a waiver of subrogation endorsement, all as required by Mortgagee, in form and content acceptable to Mortgagee. All policies (or duplicate certified copies or certificates thereof) shall, with all premiums fully paid, be delivered to Mortgagee as issued at least thirty (30) days before the expiration of existing policies and shall be held by Mortgagee until all sums hereby secured are fully paid. Upon request by Mortgagee, Mortgagor shall furnish Mortgagee evidence of the replacement cost of the Improvements. In case of sale pursuant to a foreclosure of this Mortgage

or other transfer of title to the Premises and extinguishment of the Indebtedness, complete title to all policies, other than liability insurance policies, held by Mortgagee and all prepaid or unearned premiums thereon shall pass to and vest in the purchaser or grantee. Mortgagee shall not by reason of accepting, rejecting, approving or obtaining insurance incur any liability for payment of losses.

(b) Mortgagor covenants and agrees to maintain insurance coverage on the Premises of: (i) all risk coverage property insurance (insuring against special causes of loss) for an amount equal to one hundred percent (100%) of the full replacement cost of the Improvements, written on a replacement cost basis and with a replacement cost endorsement (without depreciation), with no co-insurance (or with an agreed amount endorsement deleting the co-insurance clause), including coverage for business interruption insurance, and containing a mortgagee clause in Mortgagee's favor; and if at any time a dispute arises with respect to replacement cost, Mortgagor agrees to provide at Mortgagor's expense, an insurance appraisal prepared by an insurance appraiser approved by Mortgagee, establishing the full replacement cost in a manner satisfactory to the insurance carrier; (ii) commercial general liability insurance with a broad form coverage endorsement for an amount as required from time to time by the Mortgagee but not less than an aggregate amount of Two Million and No/100 Dollars (\$2,000,000.00) with a single occurrence limit of not less than One Million and No/100 Dollars (\$1,000,000.00) for claims arising from any one (1) accident or occurrence in or upon the Premises and naming Mortgagee as an additional insured thereunder; and (iii) flood insurance whenever in Mortgagee's judgment such protection is necessary and is available and in such case in an amount acceptable to Mortgagee and naming Mortgagee as the loss payee thereunder.

(c) Mortgagor shall not obtain separate insurance concurrent in form or contributing in the event of loss with that required to be maintained hereunder.

7. **Insurance Premium Deposits.** Upon request by Mortgagee after default hereunder (whether or not cured as may be allowed hereunder), it is further covenanted and agreed by Mortgagor that for the purpose of providing funds with which to pay the premiums as the same become due on the policies of insurance as herein covenanted to be furnished by the Mortgagor, Mortgagor shall deposit with Mortgagee or the depositary referred to in Paragraph 4 hereof on the date of disbursement of the proceeds of the loan secured hereby and on the first day of each month following the month in which said disbursement occurred, an amount equal to the annual premiums that will next become due and payable on such policies less any amount then on deposit with the Mortgagee or such depositary, divided by the number of months to elapse thirty (30) days prior to the date when such premiums become delinquent. No interest shall be allowed to Mortgagor on account of any deposit or deposits made hereunder and said deposits need not be kept separate and apart from any other funds of Mortgagee or such depositary.

8. **Adjustment of Losses with Insurer and Application of Proceeds of Insurance.**

(a) In case of loss or damage by fire or other casualty, Mortgagor shall immediately give written notice of such occurrence to Mortgagee and the insurance companies that have insured against such risks.



(b) In case of loss or damage by fire or other casualty, Mortgagor shall, if no Event of Default then exists hereunder, have the sole and exclusive right to settle, compromise or adjust any claim under, and receive, for the purpose of rebuilding and restoration, the proceeds arising from, any and all losses payable under insurance policies to the extent the amount thereof does not exceed One Hundred Thousand and No/100 Dollars (\$100,000.00), and all claims for losses in excess of said amount shall be settled, compromised or adjusted only with the mutual agreement of Mortgagor and Mortgagee and the proceeds paid as hereinafter provided. In the event insurance proceeds in excess of One Hundred Thousand and No/100 Dollars (\$100,000.00) are payable or if an Event of Default exists hereunder, then in either of such events, Mortgagee is authorized to collect and receipt for any insurance proceeds. Insurance proceeds collected by Mortgagee as aforesaid, after deducting therefrom any expenses incurred in the collection thereof, shall, if requested by Mortgagor in writing within thirty (30) days after the proceeds of insurance covering such damage or destruction become available, be made available to Mortgagor for the purpose of paying the cost of rebuilding or restoring of the Improvements if (i) the Premises, in Mortgagee's sole and absolute discretion is capable of being restored to that condition which existed immediately prior to the damage or loss, (ii) the insurance proceeds, together with all other funds which are to be provided by Mortgagor, are sufficient to restore the Premises, (iii) Mortgagee determines that income from the Premises shall not be materially and adversely affected following the completion of the restoration or rebuilding; and (iv) no Event of Default then exists hereunder or under any other Loan Document, and no circumstance or condition exists that would constitute an Event of Default upon the giving of notice or the passage of time, or both. In the event that Mortgagee makes said proceeds available to Mortgagor to pay the cost of rebuilding or restoring of the Improvements, such proceeds shall be made available in the manner and under the conditions that the Mortgagee may reasonably require to assure proper application of such proceeds. In the event such insurance proceeds are made available by the Mortgagee, the Mortgagor shall pay all costs incurred by Mortgagee in connection with the application of such insurance proceeds (including but not limited to reasonable costs incurred by Mortgagee, and a title company or agent approved by Mortgagee in overseeing the disbursement of such insurance proceeds). The Improvements shall be restored or rebuilt so as to be of at least equal value and substantially the same character as prior to such damage or destruction. If the projected cost of rebuilding, repairing or restoring of the Improvements exceeds the sum of One Hundred Thousand and No/100 Dollars (\$100,000.00), then insurance proceeds shall not be made available to Mortgagor unless and until Mortgagee has approved plans and specifications for the proposed rebuilding and restoration, which approval shall not be unreasonably withheld. If the proceeds are to be made available by Mortgagee to Mortgagor to pay the cost of said rebuilding or restoration, any surplus which may remain out of said insurance proceeds after payment of the costs of rebuilding or restoring the Premises shall, at the option of the Mortgagee, be applied on account of the Indebtedness or be paid to any party entitled thereto under such conditions as Mortgagee may reasonably require. No interest shall be allowed to Mortgagor on any proceeds of insurance held by Mortgagee.

(c) In the event proceeds of insurance are not made available to Mortgagor for the purpose of paying the cost of the rebuilding or restoring of the Improvements, Mortgagee, after deducting the costs of any collection, adjustment and compromise, shall apply such insurance proceeds in accordance with terms of the Note upon the Indebtedness, provided that any amount so applied by Mortgagee in reduction of the outstanding principal balance of the Note shall be

credited to installments of principal in the inverse order of their maturity but no such application shall delay or postpone any installment payment of principal and interest under the Note.

9. **Stamp Tax.** If, by the laws of the United States of America, or of any state having jurisdiction over Mortgagor, any tax is due or becomes due in respect of the issuance of the Note hereby secured and this Mortgage, Mortgagor covenants and agrees to pay such tax in the manner required by any such law. Mortgagor further covenants to reimburse Mortgagee for any sums which Mortgagee reasonably expends by reason of the imposition of any tax on the issuance of the Note secured hereby and this Mortgage.

10. **Observance of Lease Assignment.**

(a) As additional security for the payment of the Note secured hereby and for the faithful performance of the terms and conditions contained herein, Mortgagor, as landlord, has assigned to Mortgagee, by that certain Assignment of Rents and Leases dated on or about this same date (the "Assignment of Rents"), all of Mortgagor's right, title and interest as landlord in and to all leases or other rights of use and or occupancy of any part of the Premises, both present and future (hereinafter collectively referred to as the "Leases") and all of the rents, issues and profits from the Leases or guaranties thereof (hereinafter collectively referred to as the "Rents").

(b) All Leases entered into after the date hereof are subject to the approval of Mortgagee as to form and content, which approval shall not be unreasonably withheld, and Mortgagor will not, without Mortgagee's prior written consent, make any Lease.

(c) Mortgagor will not, without Mortgagee's prior written consent: (i) execute an assignment or pledge of any Rents and/or any Leases; or (ii) accept any prepayment of any installment of any Rents more than thirty (30) days before the due date of such installment, and in any event no more than thirty (30) days in advance of the then current month.

(d) Mortgagor at its sole cost and expense will: (i) at all times promptly and faithfully abide by, discharge and perform all material covenants, conditions and agreements contained in all Leases, on the part of the landlord thereunder to be kept and performed; (ii) enforce or secure the performance of all material covenants, conditions and agreements of the Leases on the part of the lessees to be kept and performed, but except in the ordinary course of business Mortgagor shall not modify, amend, renew, extend, cancel, terminate or accept surrender of any Lease without the prior written consent of Mortgagee; (iii) appear in and defend any material action or proceeding arising under, growing out of or in any manner connected with the Leases or material obligations, duties or liabilities of landlord or of the lessees thereunder; (iv) upon written request of Mortgagee, transfer and assign to Mortgagee, any Lease or Leases heretofore or hereafter entered into, and make, execute and deliver to Mortgagee upon demand, any and all instruments required to effectuate said assignment; (v) furnish Mortgagee, within ten (10) days after a written request by Mortgagee so to do, a written statement containing the names of all lessees, terms of all Leases, including the spaces occupied and the rentals payable thereunder; and (vi) exercise within five (5) days of any demand therefor by Mortgagee any right to request from the lessee under any Lease a certificate with respect to the status thereof.

(e) Nothing in this Mortgage or in any other documents relating to the loan secured hereby shall be construed to obligate Mortgagee, expressly or by implication, to perform any of the covenants of Mortgagor as landlord under any of the Leases assigned to Mortgagee or to pay any sum of money or damages therein provided to be paid by the landlord, each and all of which covenants and payments Mortgagor agrees to perform and pay.

(f) Mortgagor will not permit any Lease or any part thereof to become subordinate to any lien other than the lien hereof.

(g) Mortgagee shall have the option to declare this Mortgage in default because of a material default of landlord in any Lease of the Premises which materially and adversely affects Mortgagee's security unless such default is cured by Mortgagor pursuant to the terms of the Lease and within any applicable cure period or unless such default would not permit the tenant to terminate the Lease. It is covenanted and agreed that an Event of Default under the Assignment of Rents shall constitute an Event of Default hereunder on account of which the whole of the Indebtedness shall at once, at the option of the Mortgagee, become immediately due and payable without notice to the Mortgagor.

11. **Effect of Extension of Time.** If the payment of the Indebtedness, or any part thereof, is extended or varied, or if any part of any security for the payment of the Indebtedness is released, or if any person or entity liable for the payment of the Indebtedness is released, or if Mortgagee takes other or additional security for the payment of the Indebtedness, or if Mortgagee waives or fails to exercise any right granted herein, or in the Note secured hereby, or in any other instrument given to secure the payment hereof, then all persons now or at any time hereafter liable for the payment of the Indebtedness, or any part thereof, or interested in the Premises shall be held to assent to such extension, variation, release, waiver, failure to exercise or the taking of additional security, and their liability and the lien and all provisions hereof shall continue in full force, the right of recourse against all such persons being expressly reserved by Mortgagee, notwithstanding such extension, variation, release, waiver, failure to exercise, or the taking of additional security.

12. **Effect of Changes in Laws Regarding Taxation.** In the event of the enactment after this date of any law of the state in which the Premises are located deducting from the value of the Premises for the purpose of taxation any lien thereon, or imposing upon the Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or Mortgagee's interest in the Premises, or the manner of collection of taxes, so as to affect this Mortgage or the debt secured hereby or the holders thereof, then, and in any such event, Mortgagor, upon demand by Mortgagee, shall pay such taxes or assessments, or reimburse Mortgagee therefor if Mortgagee pays such taxes and submits proof of payment to Mortgagor; provided, however, that if in the opinion of counsel for Mortgagee: (a) it might be unlawful to require Mortgagor to make such payment, or (b) the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law; then and in such event, Mortgagee may elect, by notice in writing given to Mortgagor, to declare all of the Indebtedness to be and become due and payable sixty (60) days from the giving of such notice.



13. **Mortgagee's Performance of Defaulted Acts.** Upon the occurrence of an Event of Default herein, Mortgagee may, but need not, and whether electing to declare the whole of the Indebtedness due and payable or not, and without waiver of any other remedy, make any payment or perform any act herein required of Mortgagor in any form and manner deemed expedient, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting the Premises or contest any tax or assessment or cure any default of Mortgagor as landlord in any Lease. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including reasonable attorneys' fees actually incurred, and any other monies advanced by Mortgagee in regard to any tax referred to in Paragraphs 9 and 12 hereof or to protect the Premises or the lien hereof, shall be additional Indebtedness and shall become immediately due and payable without notice and with interest thereon at the Default Rate of interest set forth in the Note. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to it on account of any Event of Default on the part of Mortgagor.

14. **Mortgagee's Reliance on Tax Bills, Etc.** Mortgagee in making any payment hereby authorized: (a) relating to taxes and assessments, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof; or (b) relating to insurance premiums, may do so according to any bill or statement procured from the appropriate company without inquiry into the accuracy of such bill or statement; or (c) for the purchase, discharge, compromise or settlement of any other prior lien, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted.

15. **Acceleration of Indebtedness in Event of Default.** It is expressly agreed by Mortgagor that time is of the essence hereof and that the whole of the Indebtedness shall become immediately due and payable without notice to Mortgagor at the option of the Mortgagee upon the occurrence of one or more of the following events (hereinbefore and hereinafter collectively referred to as "Events of Default" and individually referred to as an "Event of Default"):

(a) nonpayment of any monetary sum due hereunder within ten (10) days after the same shall become due and such failure to pay continues for ten (10) days after Mortgagee's receipt of written notice of default from Mortgagor (which notice Mortgagor shall be required to give only twice in any twelve (12) month period; or

(b) default shall be made in the due observance or performance of the terms and conditions of Paragraph 6 hereof (Insurance) or Paragraph 30 hereof (Due on Sale or Further Encumbrance); or

(c) default shall be made in the due observance or performance of any of the other covenants, agreements or conditions hereinbefore or hereinafter contained, required to be kept or performed or observed by the Mortgagor which does not relate to the nonpayment of any monetary sum, and such default is not cured within thirty (30) days following written notice

thereof by Mortgagee to Mortgagor or within such longer period of time, not exceeding an additional sixty (60) days, as may be reasonably necessary to cure such non-compliance if Mortgagor is diligently and with continuity of effort pursuing such cure and the failure is susceptible of cure within an additional period of sixty (60) days; or

(d) the entry of a decree or order for relief by a court having jurisdiction in respect of Mortgagor, a general partner of Mortgagor if Mortgagor is a partnership, the beneficiary or beneficiaries of Mortgagor if Mortgagor is a trust, a managing member of Mortgagor if Mortgagor is a limited liability company, or any guarantor of the Note secured hereby (any of the foregoing parties being referred to herein as a "Key Party"), in any involuntary case under the federal bankruptcy laws now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law, or for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or other similar official) for any Key Party or any substantial part of the property of any such Key Party, or for the winding up or liquidation of the affairs of any Key Party and the continuance of any such decree or order unstayed and in effect for a period of sixty (60) consecutive days; or

(e) the commencement by any Key Party, of a voluntary case under federal bankruptcy laws, as now constituted or hereafter amended, or any other applicable federal or state bankruptcy, insolvency or any other similar laws or the consent by any such Key Party to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or other similar official) of any Key Party, or of any substantial part of the property of any such person or entity, or the making by any such Key Party of an assignment for the benefit of creditors or the failure of any such Key Party generally to pay the debts of any such Key Party as such debts become due, or the taking of action by any such Key Party in furtherance of any of the foregoing; or

(f) any warranty, representation, certification, financial statement, or other information furnished or to be furnished to Mortgagee by or on behalf of Mortgagor or any guarantor of the Note to induce Mortgagee to loan the money evidenced by the Note proves to have been inaccurate or false in any material respect when made; or

(g) any breach, default, event of default or failure of performance (however denominated) under the Note or any of the other Loan Documents, and the expiration of any applicable cure period without the same having been cured; or

(h) Mortgagor shall be in default of, or in violation of, beyond any applicable grace period, any conditions, covenants or restrictions which benefit or burden the Premises.

If, while any insurance proceeds or condemnation awards are being held by Mortgagee to reimburse Mortgagor for the cost of rebuilding or restoration of buildings or improvements on the Premises, Mortgagee shall accelerate the Indebtedness, then and in such event, the Mortgagee shall be entitled to apply all such insurance proceeds and condemnation awards then held by it in reduction of the Indebtedness and any excess held by it over the amount of Indebtedness then due hereunder shall be returned to Mortgagor or any other party entitled thereto without interest.

16. **Acceleration of Indebtedness; Remedies.**

(a) **Primary Remedies.** If an Event of Default shall occur, Mortgagee may: declare the Indebtedness to be and the same shall be, immediately due and payable without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived and without regard to the value of the property held as security for the Indebtedness or the solvency of any person liable for the payment of such Indebtedness; and/or exercise any other right, power or remedy available to it at law or in equity, hereunder or under any other Loan Document without demand, protest or notice of any kind, all of which are hereby expressly waived, except such as is expressly required hereby or by such other Loan Document. Without limiting the generality of the foregoing, Mortgagee may:

(i) Foreclose the lien of this Mortgage, against all or part of the Premises or any tract or parcel comprising the Premises, or to sell the Premises, by judicial or nonjudicial foreclosure in accordance with the laws of Alabama including the right to exercise the POWER OF SALE herein granted, and may pursue any other remedy available to commercial mortgage lenders under the laws of Alabama.

(ii) Exercise the POWER OF SALE herein granted, and in furtherance thereof, Mortgagee may, to the extent permitted by Alabama law, at its option, whether or not possession of the Premises is taken, after giving notice by publication once a week for three consecutive weeks of the time, place and terms of each such sale by publication in a newspaper published in any county wherein the Premises to be sold or any part thereof is located, to sell the Premises (or such tract, parcel, part or parts thereof as the Mortgagee may from time to time elect to sell) in front of such county's courthouse door, at public outcry, to the highest bidder for cash. The Mortgagee, its successors and assigns, may bid at any sale or sales had under the terms of this Mortgage and may purchase the Premises or any part thereof, if the highest bidder therefor. The purchaser at any such sale or sales shall be under no obligation to see to the proper application of the purchase money. At any foreclosure sale, any part or all of the Premises, real, personal or mixed, may be offered for sale in parcels or en masse for one total price, the proceeds of any such sale en masse 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 marshalling or like proceeding. In case the Mortgagee, in the exercise of the power of sale herein given, elects to sell the Premises 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 Premises not previously sold shall have been sold or all the Indebtedness secured hereby shall have been paid in full.

The Mortgagor hereby authorizes and empowers the Mortgagee or the auctioneer at any foreclosure sale had hereunder, for and in the name of the Mortgagor, to execute and deliver to the purchaser or purchasers of any of the

Premises sold at foreclosure good and sufficient deeds of conveyance or bills of sale thereto.

(iii) In lieu of or in addition to exercising the power of sale hereinabove given, the Mortgagee, may proceed by suit to foreclose its lien on, security interest in, and assignment of the Premises, subject to the limitations set out in the Loan Documents to sue the Mortgagor for damages on account of or arising out of said Event of Default or breach or for specific performance of any provision contained herein, or to enforce any other appropriate legal or equitable right or remedy.

(iv) Take all action to protect and enforce the rights of Mortgagee under this Mortgage by suit for specific performance of any covenant herein contained, or in aid of the execution of any power herein granted or for the enforcement of any other rights.

(v) Exercise any or all of the rights and remedies available to a secured party under the UCC, including the right to (A) enter the Premises and take possession of any personal property without demand or notice and without prior judicial hearing or legal proceedings, which Mortgagor hereby expressly waives, (B) require Mortgagor to assemble any personal property, or any portion thereof, and make it available to Mortgagee at a place or places designated by Mortgagee and reasonably convenient to both parties and (C) sell all or any portion of the personal property at public or private sale, without prior notice to Mortgagor except as otherwise required by law (and if notice is required by law, after ten days' prior written notice), at such place or places and at such time or times and in such manner and upon such terms, whether for cash or on credit, as Mortgagee in its sole discretion may determine. As to any property subject to Article 9 of the UCC included in the Premises, Mortgagee may proceed under the UCC or proceed as to both real and personal property in accordance with the provisions of this Mortgage and the rights and remedies that Mortgagee may have at law or in equity, in respect of real property, and treat both the real and personal property included in the Premises as one parcel or package of security. Mortgagor shall have the burden of proving that any such sale pursuant to the UCC was conducted in a commercially unreasonable manner.

(vi) Terminate any management agreements, contracts, or agents/managers responsible, for the property management of the Premises, if in the sole discretion of Mortgagee such property management is unsatisfactory in any respect.

(vii) Foreclose this Mortgage, at Mortgagee's option, by judicial or non-judicial foreclosure, for the entire unpaid amount of the Indebtedness, or only as to the sum past due, with interest and costs without injury to this Mortgage or the displacement or impairment of the remainder of the lien thereof, and at such foreclosure sale the Premises shall be sold subject to all remaining items of the

Indebtedness and Mortgagee may again foreclose, in the same manner, as often as there may be any sum past due. In case of sale in any action or proceeding to foreclose this Mortgage, the Mortgagee shall have the right to sell the Premises covered hereby in parts or as an entirety. It is intended hereby to give to the Mortgagee the widest possible discretion permitted by law with respect to all aspects of any such sale or sales.

(viii) If an Event of Default occurs due to the nonpayment of the Indebtedness, or any part thereof, as an alternative to the right of foreclosure for the full Indebtedness after acceleration thereof, Mortgagee shall have the right to institute proceedings, either judicial or non-judicial, at Mortgagee's option, for partial foreclosure with respect to the portion of said Indebtedness so in default, as if under a full foreclosure, and without declaring the entire Indebtedness due (such proceedings being hereinafter referred to as "Partial Foreclosure"), and provided that if a foreclosure sale is made because of an Event of Default in the payment of a part of the Indebtedness, such sale may be made subject to the continuing lien of this Mortgage for the unmatured part of the Indebtedness; and it is agreed that such sale pursuant to a Partial Foreclosure, if so made, shall not in any manner affect the unmatured part of the Indebtedness, but as to such unmatured part, this Mortgage and the lien thereof shall remain in full force and effect just as though no foreclosure sale had been made under the provisions of this Paragraph. Notwithstanding any Partial Foreclosure, Mortgagee may elect, at any time prior to sale pursuant to such Partial Foreclosure, to discontinue such Partial Foreclosure and to accelerate the Indebtedness by reason of any Event of Default upon which such Partial Foreclosure was predicated or by reason of any other further Event of Default, and proceed with full foreclosure proceedings. It is further agreed that several foreclosures may be made pursuant to Partial Foreclosure without exhausting the right of full or Partial Foreclosure sale for any unmatured part of the Indebtedness, it being the purpose to provide for a Partial Foreclosure sale of the Indebtedness hereby without exhausting the power to foreclose and to sell the Premises pursuant to any such Partial Foreclosure for any other part of the Indebtedness, whether matured at the time or subsequently maturing, and without exhausting any right of acceleration and full foreclosure.

(b) Receiver. If an Event of Default shall occur, Mortgagee shall be entitled as a matter of right to the appointment of a receiver of the Premises and the rents, revenues, issues, profits, royalties, income and benefits thereof, without notice or demand except as provided herein, and without regard to the adequacy of the security for the Indebtedness, the value of the Premises or the solvency of Mortgagor, either before or after any sale, and, Mortgagee may be appointed as such receiver. Such receiver shall have the power: (i) to collect the rents, issues and profits of the Premises during the pendency of any foreclosure proceedings whether by judicial or non-judicial foreclosure, and, in case of a sale and a deficiency, for such time when Mortgagor, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits, to the maximum time and extent permitted by law; (ii) to extend or modify any then existing Leases and to make new leases, which extensions, modifications and new leases may provide for terms to expire, or for options to leases to extend or renew terms to

expire, beyond the maturity date of the Note and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the secured obligations, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser; and (iii) all other powers which may be necessary or are usual in such case for the protection, possession, control, management, and operation of the Premises during the whole of said period. The court from time to time may authorize the receiver to apply the net income in the receiver's hands in payment in whole or in part of: (i) the Indebtedness and all obligations hereunder, or by any decree foreclosing this Mortgage, or in accordance with applicable non-judicial foreclosure provisions, any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree; and (ii) if this is a leasehold mortgage, all rents due or which may become due under the underlying lease.

(c) Sales by Parcels. In any sale made under or by virtue of this Mortgage or pursuant to any judgment or decree of court, the Premises may be sold in one or more parts or parcels or as an entirety and in such order as Mortgagee may elect, without regard to the right of Mortgagor, or any person claiming under it, to the marshaling of assets. To the full extent permitted by law, Mortgagor waives the marshaling of assets.

(d) Effect of Sale. The purchaser at any sale made under or by virtue of this Mortgage or pursuant to any judgment or decree of court shall take title to the Premises or the part thereof so sold free and discharged of the estate of Mortgagor therein, the purchaser being hereby discharged from all liability to see to the application of the purchase money. Any person, including Mortgagee, may purchase at any such sale. Mortgagee is hereby irrevocably appointed the attorney-in-fact of Mortgagor in its name and stead to make all appropriate transfers and deliveries of the Premises or any portions thereof so sold and, for this purpose, Mortgagee may execute all appropriate instruments of transfer, and may substitute one or more persons with like power, Mortgagor hereby ratifying and confirming all that its said attorneys or such substitute or substitutes shall lawfully do by virtue hereof. Nevertheless, promptly upon Mortgagee's written request, Mortgagor shall ratify and confirm, or cause to be ratified and confirmed, any such sale or sales by executing and delivering, or by causing to be executed and delivered, to Mortgagee or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of Mortgagee, for the purpose, and as may be designated, in such request. Any sale or sales made under or by virtue of this Mortgage, to the extent not prohibited by law, shall operate to divest all the estate, right, title, interest, property, claim and demand whatsoever, whether at law or in equity, of Mortgagor in, to and under the Premises, or any portions thereof so sold, and shall be a perpetual bar both at law and in equity against Mortgagor, its successors and assigns, and against any and all persons claiming or who may claim the same, or any part thereof, by, through or under Mortgagor, or its successors or assigns. The powers and agency herein granted are coupled with an interest and are irrevocable.

(e) Eviction of Mortgagor After Sale. If Mortgagor fails or refuses to surrender possession of the Premises after any sale thereof, Mortgagor shall be deemed a tenant at

sufferance, subject to eviction by means of forcible entry and detainer proceedings, provided, that this remedy is not exclusive or in derogation of any other right or remedy available to Mortgagee or any purchaser of the Premises under any provision of this Mortgage or pursuant to any judgment or decree of court.

(f) Insurance Policies. In the event of a foreclosure sale pursuant to this Mortgage or other transfer of title or assignment of the Premises in extinguishment, in whole or in part, of the Indebtedness, all right, title and interest of Mortgagor in and to all policies of insurance required under the provisions of this Mortgage shall inure to the benefit of and pass to the successor in interest of Mortgagor or the purchaser or grantee of the Premises or any part thereof so transferred.

(g) Foreclosure; Expense of Litigation. When the Indebtedness hereby secured, or any part thereof shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof for such Indebtedness or part thereof. In any suit to foreclose the lien hereof, there shall be allowed and included as additional Indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' fees actually incurred, appraiser's fees, actual costs of environmental reviews or audits, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to the title as Mortgagee may deem reasonably necessary either to prosecute such action or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the Premises. All expenditures and expenses of the nature in this Paragraph mentioned and such expenses and fees as may be incurred in the protection of the Premises and the maintenance of the lien of this Mortgage, including the reasonable fees actually incurred of any attorneys employed by Mortgagee in any litigation or proceeding affecting this Mortgage, the Note or the Premises, including appellate, probate and bankruptcy proceedings, or in preparations for the commencement or defense of any proceedings or threatened suit or proceeding shall be immediately due and payable by Mortgagor, with interest thereon at the Default Rate of interest as set forth in the Note and shall be secured by this Mortgage.

17. Application of Proceeds. The proceeds of any sale made either under the power of sale hereby given or under a judgment, order or decree made in any action to foreclose or to enforce this Mortgage, shall be applied:

(a) first to the payment of (i) all costs and expenses of such sale, including reasonable attorneys' fees actually incurred, environmental site assessors' fees and costs, appraisers' fees and costs of procuring title searches, title insurance policies and similar items and (ii) all charges, expenses and advances incurred or made by Mortgagee in order to protect the lien or estate created by this Mortgage or the security afforded hereby including any expenses of entering, taking possession of and operating the Premises;

(b) then to the payment of any other Indebtedness in such order as Mortgagee may determine until the same have been paid in full; and

(c) any balance thereof shall be paid to Mortgagor, or to whosoever shall be legally entitled thereto, or as a court of competent jurisdiction may direct.

18. **Rights and Remedies Cumulative.** Each right, power and remedy herein conferred upon Mortgagee is cumulative and in addition to every other right, power or remedy, express or implied, given now or hereafter existing, at law or in equity, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by Mortgagee, and the exercise or the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy and no delay or omission of Mortgagee in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any Event of Default or acquiescence therein.

19. **Mortgagee's Right of Inspection.** Mortgagee shall, upon reasonable notice to Mortgagor, have the right to inspect the Premises at all reasonable times and access thereto shall be permitted for that purpose.

20. **Condemnation.** The Mortgagee may, at its option, in its own name (a) appear or proceed in any condemnation proceeding, and (b) make any compromise or settlement thereof, provided that so long as the Mortgagor promptly prosecutes any compromise or settlement thereof, the Mortgagor shall control any compromise or settlement proceeding with the result thereof being subject to the Mortgagee's approval. The Mortgagor shall give the Mortgagee immediate notice of the initiation of any condemnation proceeding, and a copy of every pleading, notice and other items served in any condemnation proceeding. Mortgagor hereby assigns, transfers and sets over unto the Mortgagee the entire proceeds of any award or any claim for damages for any of the Premises taken or damaged under the power of eminent domain or by condemnation. Mortgagee may elect to apply the proceeds of the award upon or in reduction of the Indebtedness, whether due or not, or make said proceeds available for restoration or rebuilding of the Premises. In the event that Mortgagee elects, in Mortgagee's sole and absolute discretion, to make said proceeds available to reimburse Mortgagor for the cost of the rebuilding or restoration of the Improvements, such proceeds shall be made available in the manner and under the conditions that Mortgagee may require. In any event, the Improvements shall be restored or rebuilt in accordance with plans and specifications to be submitted to and approved by Mortgagee prior to commencement of any building or restoration. If the proceeds are made available by Mortgagee to reimburse Mortgagor for the cost of said rebuilding or restoration, any surplus which may remain out of said award after payment of such cost of rebuilding or restoration shall at the option of Mortgagee be applied on account of the Indebtedness or be paid to any party entitled thereto. No interest shall be allowed to Mortgagor on the proceeds of any award held by the Mortgagee.

21. **Release Upon Payment and Discharge of Mortgagor's Obligations.** Mortgagee shall release this Mortgage and the lien thereof by proper instrument upon payment and discharge of all Indebtedness including any prepayment premium provided for herein or in the Note secured hereby.

22. **Giving of Notice.** (a) All notices, demands, requests, and other communications desired or required to be given hereunder ("Notices"), shall be in writing and shall be given by: (i) hand delivery to the address for Notices; (ii) delivery by overnight courier service to the address for Notices; or (iii) sending the same by United States mail, postage prepaid, certified mail, return receipt requested, addressed to the address for Notices.

(b) All Notices shall be deemed given and effective upon the earlier to occur of: (i) the hand delivery of such Notice to the address for Notices; (ii) one business day after the deposit of such Notice with an overnight courier service by the time deadline for next day delivery addressed to the address for Notices; or (iii) three business days after depositing the Notice in the United States mail as set forth in (a)(iii) above. All Notices shall be addressed to the following addresses:

Mortgagor: Solid Equities, Inc.
6622 Broad Street, Suite A
Douglasville, GA 30134
ATTN: Kelvin R. Davidson

and

Solid Equities, Inc.
5 Ardmore SQ NW
Atlanta, GA 30309
ATTN: George R. Kingston

with a copy to: Walter P. Rowe, Esq.
Hartley, Rowe & Fowler, P.C.
6622 East Broad Street
Douglasville, GA 30134

Mortgagee: Branch Banking and Trust Company
271 17th Street, NW, Suite 900
Atlanta, Georgia, 30363
Attention: Scott Balkcum, Assistant Vice President

with a copy to: Harold E. Gill, Jr., Esq.
Taylor English Duma LLP
1600 Parkwood Circle, Suite 400
Atlanta, GA 30339

or to such other persons or at such other place as any party hereto may by Notice designate as a place for service of Notice. Provided, that the "copy to" Notice to be given as set forth above is a courtesy copy only; and a Notice given to such person is not sufficient to effect giving a Notice

to the principal party, nor does a failure to give such a courtesy copy of a Notice constitute a failure to give Notice to the principal party.

23. **Waiver of Defense.** No action for the enforcement of the lien or of any provision hereof shall be subject to any defense which would not be good and available to the party interposing same in an action at law or in equity upon the Note hereby secured.

24. **Waiver of Certain Statutory Rights.** Mortgagor shall not, and will not, apply for or avail itself of any homestead, appraisement, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but to the extent lawfully allowed hereby waives the benefit of such laws. Mortgagor, for itself and all who may claim through or under it, waives any and all right to have the property and estates comprising the Premises marshaled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Premises sold as an entirety.

25. **Furnishing of Financial Statements to Mortgagee.** (a) Mortgagor covenants and agrees that it will keep and maintain books and records of account, or cause books and records of account to be kept and maintained in which full, true and correct entries shall be made of all dealings and transactions relative to the Premises, which books and records of account shall, at reasonable times during business hours and on reasonable notice, be open to inspection by Mortgagee and Mortgagee's accountants and other duly authorized representatives. Such books of record and account shall be kept and maintained either:

(i) In accordance with generally accepted accounting principles consistently applied; or

(ii) In accordance with a cash basis or other recognized comprehensive basis of accounting consistently applied.

(b) Mortgagor covenants and agrees to furnish, or cause to be furnished to Mortgagee, such financial information as set forth in the loan agreement between the Mortgagor and Mortgagee of even date herewith (the "Loan Agreement").

(c) If Mortgagor omits to deliver as required any report or statement required by this Paragraph 25 or the Loan Agreement, and said omission is not cured by Mortgagor within thirty (30) days after written notice of such omission has been given by Mortgagee to Mortgagor, Mortgagee may elect, in addition to exercising any remedy for an Event of Default as provided for in this Mortgage, to make an audit of all books and records of Mortgagor including its bank accounts which in any way pertain to the Premises and to prepare the statement or statements which Mortgagor failed to obtain and deliver. Such audit shall be made and such statement or statements shall be prepared by an independent certified public accountant to be selected by Mortgagee. Mortgagor shall pay all reasonable expenses of the audit and other services, which expenses shall be secured hereby as additional Indebtedness and shall be immediately due and payable with interest thereon at the Default Rate of interest as set forth in the Note and shall be secured by this Mortgage.

26. **Filing and Recording Fees.** Mortgagor will pay all filing, registration or recording fees and all reasonable expenses incident to the execution and acknowledgment of this Mortgage and all federal, state, county and municipal taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of said Note and this Mortgage.

27. **Business Purpose.** Mortgagor represents, covenants and agrees that all of the proceeds of the Note secured by this Mortgage will be used solely for business purposes and in furtherance of the regular business affairs of Mortgagor.

28. **Exculpatory.** The liability of the Mortgagor personally to pay the Note or any interest that may accrue thereon, or any Indebtedness or obligation accruing or arising hereunder is limited to the extent set forth in the Note.

29. **Security Agreement.** Mortgagor and Mortgagee agree that this Mortgage shall constitute a security agreement within the meaning of the UCC with respect to all sums on deposit with the Mortgagee with respect to insurance proceeds or condemnation proceeds ("Deposits") and with respect to any personal property included in the definition herein of the word "Premises," which property may not be deemed to form a part of the real estate described in Exhibit "A," and all replacements of such property, substitutions and additions thereto and the proceeds thereof, all such property being sometimes hereinafter collectively referred to as the "Collateral," and that a security interest in and to the Collateral and the Deposits is hereby granted to Mortgagee and the Deposits and all of Mortgagor's right, title and interest therein are hereby assigned to Mortgagee, all to secure payment of the Indebtedness and to secure performance by Mortgagor of the terms, covenants and provisions hereof. Upon the occurrence of an Event of Default under this Mortgage, Mortgagee, pursuant to the appropriate provisions of the UCC, shall have the option of proceeding with respect to the Collateral in accordance with its rights and remedies with respect to the real property, in which event the default provisions of the UCC shall not apply. The parties agree that, in the event Mortgagee shall elect to proceed with respect to the Collateral separately from the real property, ten (10) days' notice of the sale of the Collateral shall be reasonable notice. The reasonable expenses of retaking, holding, preparing for sale, selling and the like incurred by Mortgagee shall include, but not be limited to, reasonable attorneys' fees actually incurred and legal expenses incurred by Mortgagee. Mortgagor agrees that, without the written consent of Mortgagee, Mortgagor will not remove or permit to be removed from the Premises any of the Collateral except that so long as the Mortgagor is not in default hereunder, Mortgagor shall be permitted to sell or otherwise dispose of the Collateral, when obsolete, worn out, inadequate, unserviceable or unnecessary for use in the operation of the Premises, upon replacing the same or substituting for the same other Collateral at least equal in value to the initial value to that disposed of and in such a manner so that said Collateral shall be subject to the security interest created hereby, and so that the security interest of Mortgagee shall be first in priority, it being expressly understood and agreed that all replacements of the Collateral and any additions to the Collateral shall be and become immediately subject to the security interest of this Mortgage and covered hereby. Mortgagor shall, from time to time, on request of Mortgagee, deliver to Mortgagee an inventory of the Collateral in reasonable detail. Mortgagor covenants and represents that all Collateral, and all

replacements thereof, substitutions therefor or additions thereto, unless Mortgagee otherwise consents, now are and will be free and clear of liens (other than the lien of taxes not yet due or payable), encumbrances or security interests of others. Mortgagor shall, upon demand execute and deliver to Mortgagee such financing statements and other documents in form satisfactory to Mortgagee, and will do all such acts and things as Mortgagee may at anytime, or from time to time, reasonably request or as may be necessary or appropriate to establish and maintain a first perfected security interest in the Deposits and Collateral, subject to no liens (other than the lien of taxes not yet due or payable), encumbrances, or security interests of others. Notwithstanding the foregoing, Mortgagor may grant purchase money security interests in order to acquire furniture, fixtures and/or equipment.

This Mortgage also constitutes a financing statement for the purpose of the UCC and shall constitute a "fixture filing" under such statutes and shall be filed in the real estate records of the County in which the Land is located. The Mortgagor hereby authorizes the Mortgagee to file all financing statements evidencing the security interest granted to the Mortgagee in the Collateral with all appropriate filing jurisdictions. For such purpose information concerning the debtor and the secured party is set forth below:

Name of Debtor:	Solid Equities, Inc. 6622 Broad Street, Suite A Douglasville, GA 30134 ATTN: Kelvin R. Davidson
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Debtor is an organization, being a Georgia corporation organized under the laws of Georgia.

Debtor's Organization Number:	K221329
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Address of Property:	4710 Moffett Mobile, AL 36618 (Mobile County) 1225 First Street N, Alabaster, AL 35007 (Shelby County) (Remaining Four Properties in Jefferson County) 824 Green Springs, Birmingham, AL 35209 9849 Parkway, Birmingham, AL 35206 823 Ninth Avenue, Bessemer, AL 35020 2380 Center Point, Birmingham, AL 35215
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Name of Secured Party:	BRANCH BANKING AND TRUST COMPANY
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Address of Secured Party:	271 17 th Street, NW, Suite 900, Atlanta, GA 30363 Attention: Scott Balkcum, Assistant Vice President
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This financing statement covers the Collateral. Some of the items or types of property comprising the Collateral are or are to become fixtures on the real property described in this

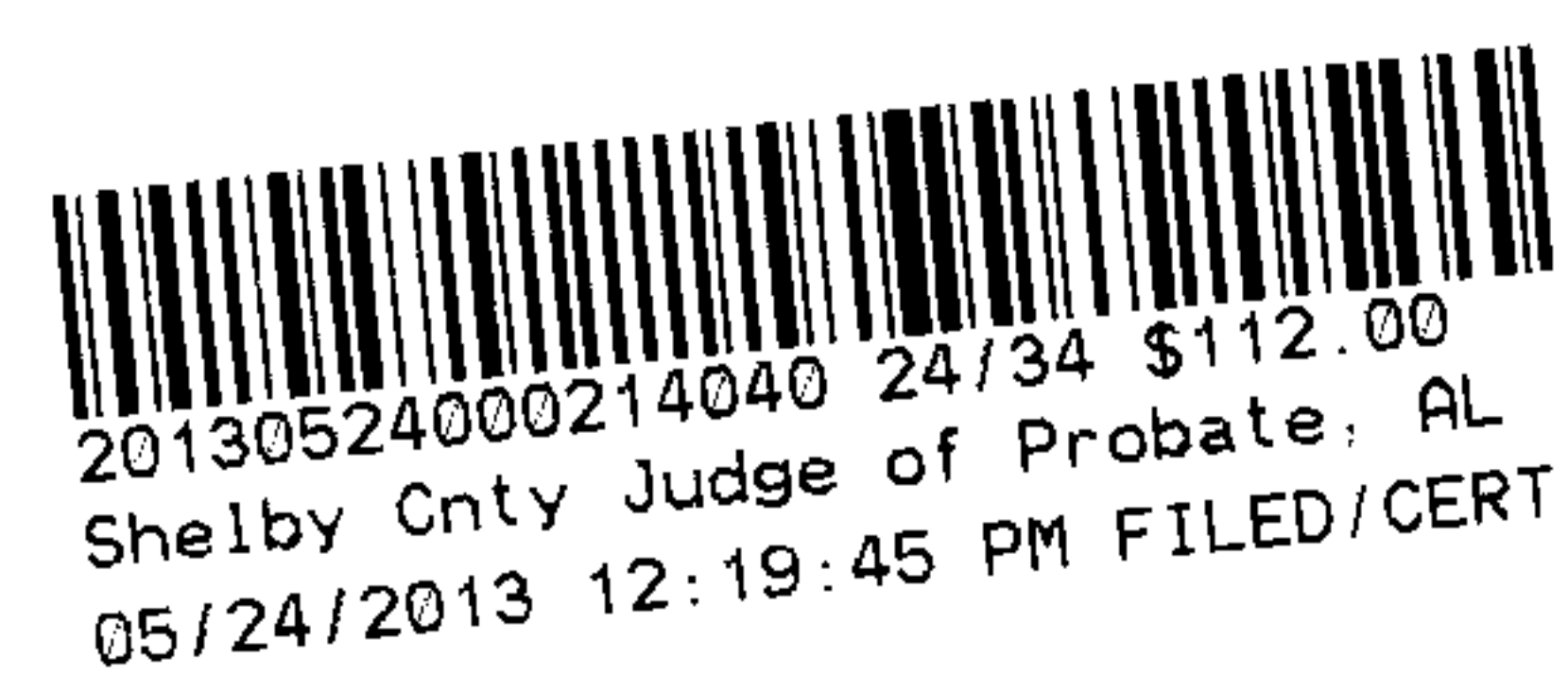
Mortgage. Mortgagor is the record owner of the real property described herein upon which the foregoing fixtures and other items and types of property are located.

30. **Due on Sale or Further Encumbrance.** If, without the Mortgagee's prior written consent, (i) the Premises or any part thereof or any interest in the Premises or the Mortgagor is sold or conveyed; (ii) title to the Premises or any interest therein is divested; (iii) the Premises or any ownership interest in the Mortgagor is further encumbered or pledged (except Mortgagor may grant purchase money security interests to others in order to acquire furniture, fixtures and/or equipment); (iv) any lease which gives the lessee any option to purchase the Premises or any part thereof is entered into, or, (v) without limiting the generality of clause (i) above, the ownership of shares of the Mortgagor, if a corporation, or of any corporate general partner of Mortgagor, if a partnership, or the general partnership interests in any partnership which is a general partner of Mortgagor, or any membership interest in a Mortgagor which is a limited liability company, or any beneficial or fiduciary interest in any Mortgagor which is a trust or trustee, is sold or, the Mortgagee shall at its sole discretion be entitled to accelerate the Indebtedness and declare the then unpaid principal balance and all accrued interests and other sums due and payable under the Note due and payable and exercise all remedies available to Mortgagee under the Loan Documents. The Mortgagor understands that the present ownership of the Premises and Improvements will be a material inducement to Mortgagee in the making of the loan secured by this mortgage.

31. **Captions.** The captions or headings preceding the text of the paragraphs or subparagraphs of this Mortgage are inserted only for convenience of reference and shall not constitute a part of this Mortgage, nor shall they in any way affect its meaning, construction or effect.

32. **No Waiver; Modifications in Writing.** No failure or delay on the part of Mortgagee in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The remedies provided for herein are cumulative and are not exclusive of any remedies that may be available to any party at law or in equity or otherwise. No amendment, modification, supplement, termination or waiver of or to any provision of this Mortgage, nor consent to any departure therefrom, shall be effective unless the same shall be in writing and signed by or on behalf of the party to be charged with the enforcement thereof. Any amendment, modification or supplement of or to any provision of this Mortgage, any waiver of any provision of this Mortgage, and any consent to any departure from the terms of any provision of this Mortgage, shall be effective only in the specific instance and for the specific purpose for which made or given.

33. **Relationship.** Mortgagee is only a lender under the Loan Documents, and nothing contained in this Mortgage or the other Loan Documents and no action taken by the parties pursuant hereto shall be deemed to constitute the Mortgagee and any other of the parties to any of the Loan Documents a partnership, an association, a joint venture or other entity, nor constitute Mortgagee as a fiduciary for any of the parties.



34. **Governing Law.** This Mortgage shall be governed by the laws (excluding conflicts of laws rules) of Alabama.

35. **Time of Essence.** Time is of the essence in the performance by the parties of this Mortgage.

36. **Construction.** Mortgagor has been represented by its own counsel in this transaction, and this Mortgage shall not be construed more strongly against any party regardless of who was more responsible for its preparation.

37. **Gender; Number; Terms.** Words and phrases herein shall be construed as in the singular or plural number and as masculine, feminine or neuter gender, according to the context. The use of the words "herein," "hereof," "hereunder" and other similar compounds of the word "here" shall refer to this entire Mortgage and not to any particular section, paragraph or provision. The term "person" and words importing persons as used in this Mortgage shall include firms, associations, partnerships (including limited partnerships), joint ventures, trusts, corporations, limited liability companies, and other legal entities, including public or governmental bodies, agencies or instrumentalities, as well as natural persons.

38. **Integration.** This Mortgage, together with the other Loan Documents and the certain Indemnity Agreement Regarding Hazardous Materials executed by Mortgagor, constitute the entire agreement between the parties hereto pertaining to the subject matters hereof and thereof and supersede all negotiations, preliminary agreements and all prior or contemporaneous discussions and understandings of the parties hereto in connection with the subject matters hereof and thereof.

39. **General Indemnification.** (a) Mortgagor shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties (defined below) from and against any and all Losses (defined below) imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any one or more of the following provided the same is not caused by or arise out of the actions of the Mortgagee, its representatives or contractors: (i) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Premises or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (ii) any use, nonuse or condition in, on or about the Premises or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (iii) performance of any labor or services or the furnishing of any materials or other property in respect of the Premises or any part thereof; (iv) any failure of the Premises to be in compliance with any applicable laws; (v) any and all claims, demands or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in any Lease; or (vi) the payment of any commission, charge or brokerage fee to anyone which may be payable by Mortgagor in connection with the funding of the Loan evidenced by the Note and secured by this Mortgage. Any amounts payable to Mortgagee by reason of the application of this Paragraph shall become immediately due and payable and shall bear interest at the Default Rate (as defined in the Note) from the date loss or damage is sustained by Mortgagee until paid. The term "Losses" shall mean any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions,


proceedings, obligations, debts, damages, losses, costs, expenses, fines, penalties, charges, fees, judgments, awards, amounts paid in settlement of whatever kind or nature (including but not limited to attorneys' fees and other costs of defense). The term "Indemnified Parties" shall mean (i) Mortgagee, (ii) any prior owner or holder of the Note, (iii) any servicer or prior servicer of the Loan, (iv) any participant or any prior participant in any portion of the Loan, (v) any trustees, custodians or other fiduciaries who hold or who have held a full or partial interest in the Loan for the benefit of any participant or other third party, (vi) any receiver or other fiduciary appointed in a foreclosure or other collection proceeding, (vii) any officers, directors, shareholders, partners, members, employees, agents, servants, representatives, contractors, subcontractors, affiliates or subsidiaries of any and all of the foregoing, and (viii) the heirs, legal representatives, successors and assigns of any and all of the foregoing (including, without limitation, any successors by merger, consolidation or acquisition of all or a substantial portion of the Indemnified Parties' assets and business), in all cases whether during the term of the Loan or as part of or following a foreclosure of the Loan.

(b) Upon written request by any Indemnified Party, Mortgagor shall defend such Indemnified Party (if requested by any Indemnified Party, in the name of the Indemnified Party) by attorneys and other professionals approved by the Indemnified Parties. Notwithstanding the foregoing, any Indemnified Parties may, in their sole discretion, engage their own attorneys and other professionals to defend or assist them, and, at the option of the Indemnified Parties, their attorneys shall control the resolution of any claim or proceeding. Upon demand, Mortgagor shall pay or, in the sole discretion of the Indemnified Parties, reimburse, the Indemnified Parties for the payment of reasonable fees actually incurred and disbursements of attorneys, engineers, environmental consultants, laboratories and other professionals in connection therewith.

(c) Mortgagor shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any intangible or similar tax on the making and/or recording of this Mortgage, the Note or any of the other Loan Documents.

40. Miscellaneous.

(a) This Mortgage and all provisions hereof shall extend to and be binding upon Mortgagor and its heirs, permitted successors, permitted grantees and permitted assigns, any subsequent owner or owners of the Premises and all persons claiming under or through Mortgagor (but this clause shall not be construed as constituting the consent by Mortgagee to the transfer of any interest in the Premises), and the word "Mortgagor" when used herein shall include any such person and all persons liable for the payment of the Indebtedness or any part thereof, whether or not such persons shall have executed said Note or this Mortgage. The word "Mortgagee," when used herein, shall include the successors and assigns of Mortgagee, and the holder or holders, from time to time, of the Note secured hereby. In addition, in the event Mortgagor is a land trust or similar entity, the term "Mortgagor" as used herein shall include the beneficiary or beneficiaries of such land trust or similar entity.


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(b) In the event one or more of the provisions contained in this Mortgage or the Note secured hereby, or in any other security documents given to secure the payment of the Note secured hereby, shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of Mortgagee, not affect any other provision of this Mortgage, and this Mortgage shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

(c) The Mortgagor will, from time to time, upon ten (10) business days' prior written request from Mortgagee, make, execute, acknowledge and deliver to Mortgagee such supplemental mortgages, certificates and other documents, including without limitation UCC financing statements, as may be necessary for better assuring and confirming unto Mortgagee any of the Premises, or for more particularly identifying and describing the Premises, or to preserve or protect the priority of this Mortgage lien, and generally do and perform such other acts and things and execute and deliver such other instruments and documents as may reasonably be deemed necessary or advisable by Mortgagee to carry out the intentions of this Mortgage.

(d) Mortgagor shall not by act or omission permit any building or other improvement on any premises not subject to the lien of this Mortgage to rely on the Premises or any part thereof or any interest therein to fulfill any municipal or governmental requirement, and Mortgagor hereby assigns to Mortgagee any and all rights to give consent for all or any portion of the Premises or any interest therein to be so used. Similarly, no building or other Improvement on the Premises shall rely on any premises not subject to the lien of this Mortgage or any interest therein to fulfill any governmental or municipal requirement. Mortgagor shall not by act or omission impair the integrity of the Premises as a single zoning lot separate and apart from all other premises. Any act or omission by Mortgagor which would result in a violation of any of the provisions of this paragraph shall be void.

(e) Mortgagor and Mortgagee will, from time to time, upon ten (10) business days' prior written request by the other, execute, acknowledge and deliver to other party, a certificate stating that this Mortgage is unmodified and in full force and effect (or, if there have been modifications, that this Mortgage is in full force and effect as modified and setting forth such modifications) and stating the principal amount secured hereby and the interest accrued to date on such principal amount. The estoppel certificate from Mortgagor shall also state to the best knowledge of Mortgagor whether any offsets or defenses to the Indebtedness exist and if so shall identify them.

(f) The Note secured hereby includes provisions for the assessment of a Late Charge, as defined therein. Said Late Charge shall be secured hereby as Indebtedness, as that term is used herein.

(g) Mortgagee shall have the right and option to exercise power of sale or to commence a civil action to foreclose this Mortgage and to obtain a decree of foreclosure. The failure to join any tenant or tenants as party defendant or defendants in any such civil action or the failure of any decree of foreclosure and sale to foreclose their rights shall not be asserted by Mortgagor as a defense in any civil action instituted to collect the Indebtedness, or any part

thereof, or any deficiency remaining unpaid after foreclosure and sale of the Premises, any statute or rule of law at any time existing to the contrary notwithstanding.

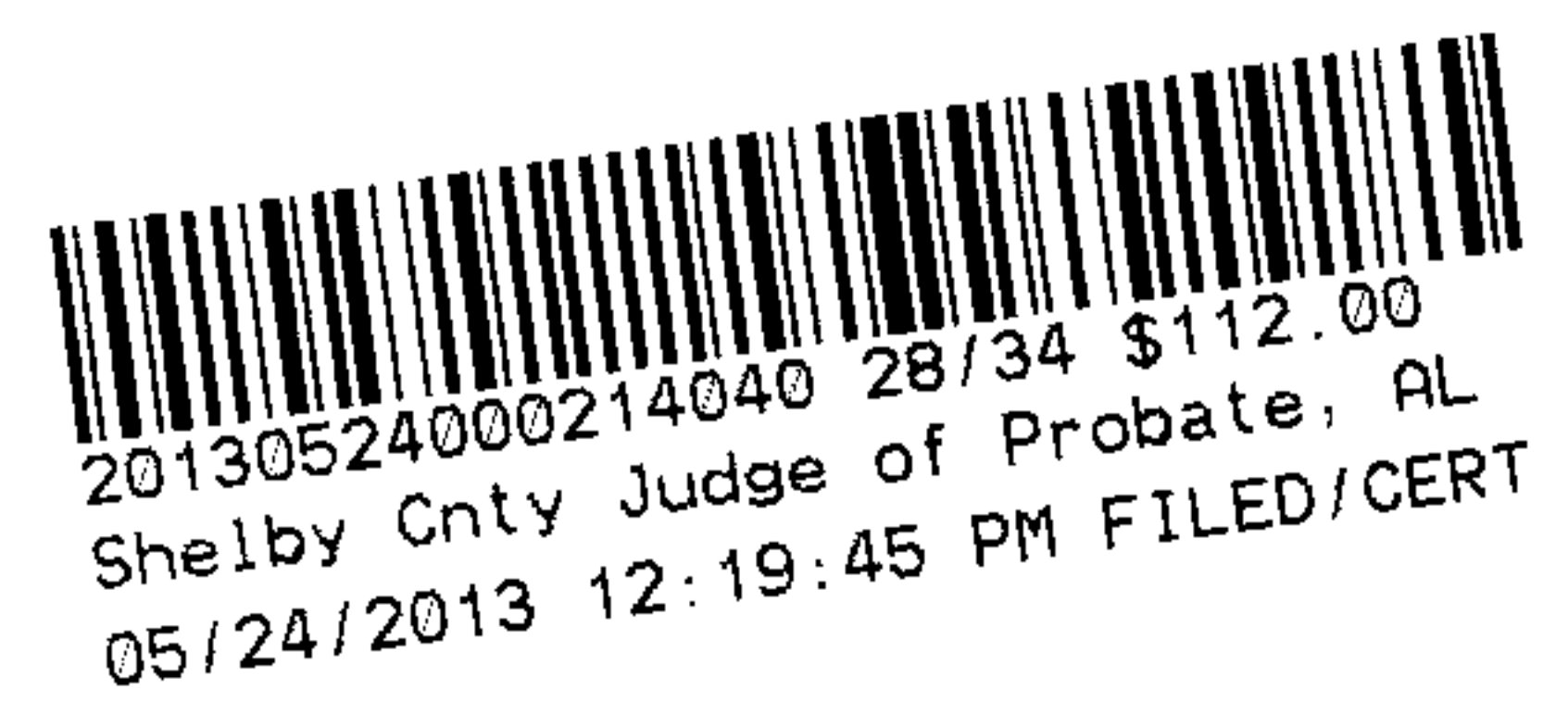
(h) At the option of Mortgagee, this Mortgage shall become, subject and subordinate, in whole or in part (but not with respect to priority of entitlement to insurance proceeds or any award in condemnation) to any one or more, or to all, Leases upon the execution by Mortgagee and recording or registration thereof, at any time hereafter, in the Office of the Recorder in and for the county wherein the Premises are situated, or such other office as determined by Mortgagee, of a unilateral declaration to that effect.

(i) In the event that maturity of the Indebtedness is accelerated by Mortgagee because of the occurrence of an Event of Default hereunder and a tender of payment is made by or on behalf of Mortgagor in the amount necessary to satisfy the Indebtedness at any time prior to judicial confirmation or other conclusion if confirmation is not required, of a foreclosure sale or sale under a power of sale, then such tender shall constitute a prepayment under the Note and shall, to the extent specified in the Note, require payment of the prepayment premium provided for in the Note.

(j) All agreements between Mortgagor and Mortgagee (including, without limitation, those contained in this Mortgage and the Note) are expressly limited so that in no event whatsoever shall the amount paid or agreed to be paid to the Mortgagee exceed the highest lawful rate of interest permissible under the laws of Alabama. If, from any circumstances whatsoever, fulfillment of any provision hereof or the Note or any other documents securing the Indebtedness at the time performance of such provision shall be due, shall involve the payment of interest exceeding the highest rate of interest permitted by law which a court of competent jurisdiction may deem applicable hereto, then, ipso facto, the obligation to be fulfilled shall be reduced to the highest lawful rate of interest permissible under the laws of Alabama; and if for any reason whatsoever Mortgagee shall ever receive as interest an amount which would be deemed unlawful, such interest shall be applied to the payment of the last maturing installment or installments of the principal Indebtedness (whether or not then due and payable) and not to the payment of interest.

(k) Mortgagor covenants and agrees that it shall constitute an Event of Default hereunder if any of the proceeds of the loan for which the Note is given will be used, or were used, as the case may be, for the purpose (whether immediate, incidental or ultimate) of purchasing or "carrying" any "margin stock" as such terms are defined in Regulation U of the Board of Governors of the Federal Reserve System (12 CFR Part 221) or for the purpose of reducing or retiring any indebtedness which was originally incurred for any such purpose.

(l) Mortgagor shall include a "no lien" provision in any property management agreement hereafter entered into by Mortgagor or its beneficiary with a property manager for the Premises, whereby the property manager waives and releases any and all mechanics' lien rights that such property manager, or anyone claiming through or under such manager, may have.



(m) The money, property or services that are the subject of the transactions provided for in the Loan Documents are not primarily for personal, family or household purposes as contemplated by Section 5-19-1(2) of the Code of Alabama 1975, as amended.


(n) The date of this Mortgage is intended as a date for the convenient identification of this Mortgage, and as the date on which the Loan was funded, and is not intended to indicate that this Mortgage was executed and delivered on that date.

41. **WAIVER OF JURY TRIAL.** THE PARTIES HERETO, AFTER CONSULTING OR HAVING HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL, KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION BASED ON OR ARISING OUT OF THIS AGREEMENT OR INSTRUMENT, OR ANY RELATED INSTRUMENT OR AGREEMENT, OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR ANY COURSE OF CONDUCT, DEALING, STATEMENTS, WHETHER ORAL OR WRITTEN, OR ACTION OF ANY PARTY HERETO. NO PARTY SHALL SEEK TO CONSOLIDATE BY COUNTERCLAIM OR OTHERWISE, ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. THESE PROVISIONS SHALL NOT BE DEEMED TO HAVE BEEN MODIFIED IN ANY RESPECT OR RELINQUISHED BY ANY PARTY HERETO EXCEPT BY A WRITTEN INSTRUMENT EXECUTED BY ALL PARTIES.

IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS AGREEMENT SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. MORTGAGOR ACKNOWLEDGES AND AGREES THAT THERE ARE NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN CONTRACT AND NO SUCH OTHER TERMS AND PROVISIONS MAY BE LEGALLY ENFORCED. YOU MAY CHANGE THE TERMS OF THIS AGREEMENT ONLY BY ANOTHER WRITTEN AGREEMENT.

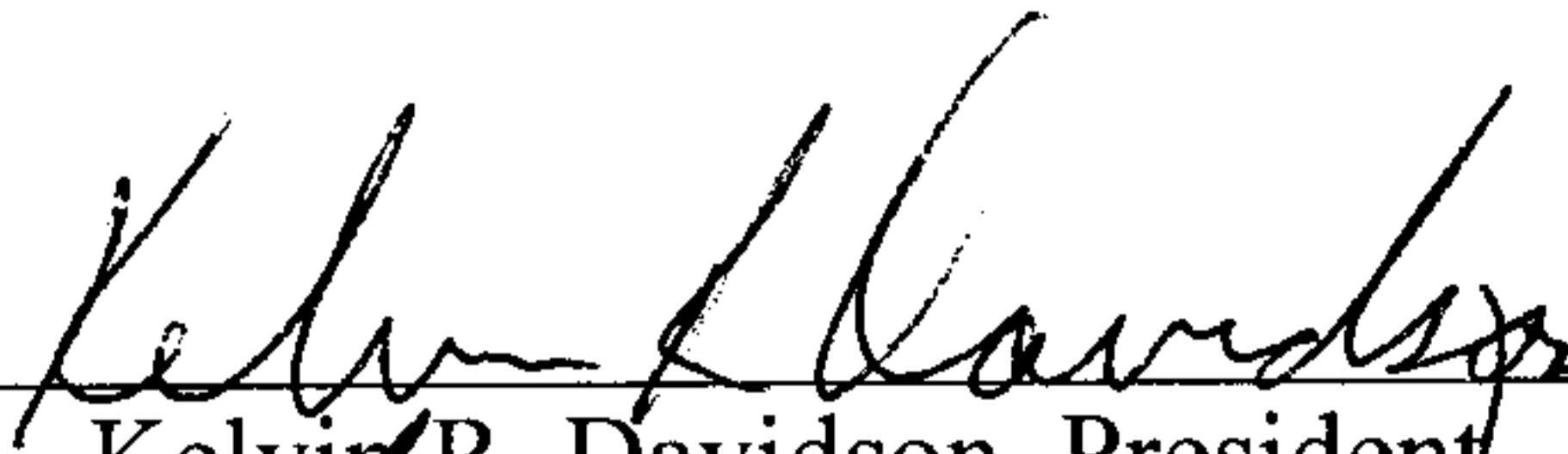
Mortgagor acknowledges receipt of a copy of this instrument at the time of execution hereof.

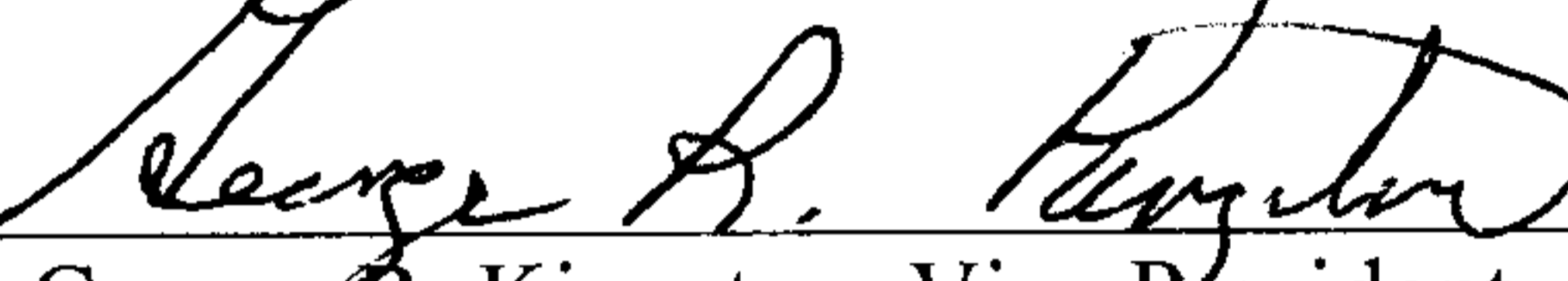
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IN WITNESS WHEREOF, the Mortgagor has executed this instrument the day and year first above written.

SOLID EQUITIES, INC., a Georgia corporation

By: 
Kelvin R. Davidson, President

Attest: 
George R. Kingston, Vice President

[CORPORATE SEAL]

STATE OF GEORGIA)
COUNTY OF DOUGLAS)

On this 21st day of May, 2013, before me, a notary public, personally appeared Kelvin R. Davidson, to me personally known, who being by me duly sworn did say that he is the President of Solid Equities, Inc., a Georgia corporation, that (the seal affixed to said instrument is the seal of said) (no seal has been procured by the said) corporation and that, being informed of the contents of said instrument, that said instrument was signed (and sealed) on behalf of the said corporation and acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it voluntarily executed.



Name:
Notary Public

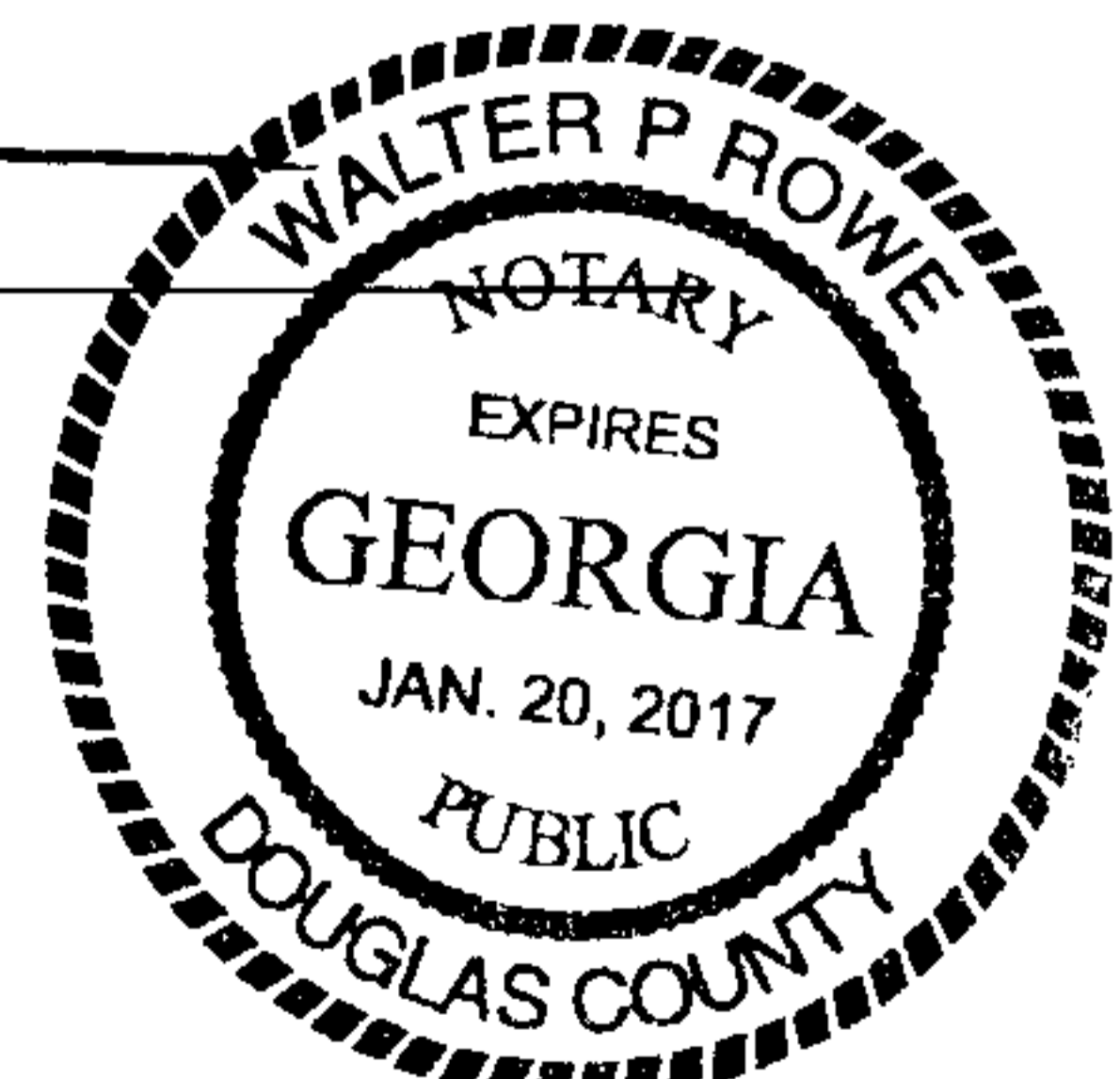
STATE OF GEORGIA)
COUNTY OF DOUGLAS)



On this 21st day of May, 2013, before me, a notary public, personally appeared George R. Kingston, to me personally known, who being by me duly sworn did say that he is the Vice President of Solid Equities, Inc., a Georgia corporation, that (the seal affixed to said instrument is the seal of said) (no seal has been procured by the said) corporation and that, being informed of the contents of said instrument, that said instrument was signed (and sealed) on behalf of the said corporation and acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it voluntarily executed.



Name:
Notary Public



[SIGNATURE PAGE TO MORTGAGE]



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EXHIBIT "A"

LEGAL DESCRIPTION

Parcel I - 4710 Moffett Road, Mobile, Alabama

Commencing at the Southwest corner of Section 2, Township 4 South, Range 2 West, Mobile County, Alabama; run Eastwardly along the South line of said Section 2, a distance of 1938.7 feet to a point, thence run North 00 degrees 10 minutes 00 seconds East, 79.9 feet to the intersection of the North line of the 120 foot right of way for Moffett Road and the East line of the 60 foot right of way for Shelton Beach Road; thence continue North 00 degrees 10 minutes 00 seconds East, run along said East line of Shelton Beach Road 90.05 feet to the point of beginning of the property herein described; thence continue North 00 degrees 10 minutes 00 seconds East, along said East line of Shelton Beach Road 128.69 feet to a point; thence run South 89 degrees 50 minutes 26 seconds East, 199.90 feet to a point; thence run South 00 degrees 09 minutes 52 seconds West, 200.07 feet to a point on the North right of way line of Moffett Road as acquired by the State of Alabama as per instrument recorded in Real Property Book 1474, Page 269, Probate Records, Mobile County, Alabama; thence along said North line of Moffett Road, as follows: North 86 degrees 26 minutes 29 seconds West, 139.42 feet, North 43 degrees 44 minutes 17 seconds West, 87.58 feet to the point of beginning.

Parcel II - 1225 First Street North, Alabaster, Alabama

A parcel of land situated in the Southwest quarter of Section 25, the Southeast quarter of Section 26, the Northeast quarter of Section 35, and the Northwest quarter of Section 36, all in Township 20 South, Range 3 West, Shelby County, Alabama, more particularly described as follows:

Commence at the Southwest corner of said Section 25; thence Easterly along the South line of said Section 130.60 feet to the Westerly right of way line of U.S. Highway 31 and the point of beginning of the parcel herein described; thence turn an angle to the left of 74° 13' 10" and run Northeasterly along said right of way line 26.00 feet; thence leaving said right of way line turn an interior angle of 72° 31' 29" (72° 25' 19" of Record) and run Southwesterly 248.43 feet (248.11 feet of Record) to the Easterly right of way of the Louisville Nashville Railroad; Thence turn an interior angle of 99° 40' 53" (99° 40' 41" of Record) and run Southwesterly along said right of way line 112.00 feet; thence leaving said right of way line turn an interior angle of 82° 40' 40" (82° 45' 05" of Record) and run Southeasterly 228.45 feet (229.09 feet of Record) to the Westerly right of way line of U.S. Highway #31; thence turn an interior angle of 105° 49' 08" (105° 51' 05" of Record) and run Northeasterly along said right of way line 100.00 feet to the point of beginning.

Parcel III - 824 Green Springs Highway, Birmingham, Alabama

All that tract or parcel of land lying and being in the NE 1/4 of NE 1/4 of Section 23, Township 18 South, Range 3 West, Jefferson County, Alabama, being more particularly described as:

Commencing at a 3/4" crimped top pipe marking the SW corner of the NE 1/4 of the NE 1/4 of Section 23; thence, North 02 degrees 38 minutes 03 seconds East, a distance of 192.15 feet to a chiseled X and the POINT OF BEGINNING; thence North 00 degrees 06 minutes 45 seconds West, a distance of 157.88 feet to a PK nail; thence, along the Southerly line of a tract of land conveyed to Hitech Landscape Design & Management, Inc. conveyed in Deed Book 2010007, page 19014, Jefferson County records, North 68 degrees 52 minutes 00 seconds East, a distance of 91.90 feet to a PK nail; thence, along the Westerly right of

way line of Green Springs Highway, having a 120 foot right of way, South 30 degrees 40 minutes 00 seconds East, a distance of 80.00 feet to a point; thence, South 30 degrees 40 minutes 00 seconds East, a distance of 70.00 feet to a chiseled X; thence, along the Northerly line of a tract of land conveyed to Heritage QSR/Alabama Investments, LLC in Deed Book 2010004, page 445, Jefferson County records, South 69 degrees 03 minutes 00 seconds West, a distance of 173.38 feet to the POINT OF BEGINNING.

Parcel IV - 9849 Parkway East, Birmingham, Alabama


Lot 1, according to Shoney's Inc. Survey of Roebuck, as recorded in Map Book 168, Page 53, in the Probate Office of Jefferson County, Alabama.

Parcel V - 823 9th Avenue, Bessemer, Alabama

Lots 9 and 10 in Block 423, according to the Survey of West Lake Highlands, as recorded in Map Book 2, Page 7, in the Bessemer Division of the Probate Office of Jefferson County, Alabama.

Parcel VI - 2380 Center Point Parkway, Birmingham, Alabama

Commence at the Southeast corner of Lot 12, Block 2, Coleman Gardens Survey, Second Sector, as recorded in Map Book 49, Page 90, in the Probate Office of Jefferson County, Alabama, this point being on the northerly right of way line of 23rd Terrace; thence travel easterly along this northerly right-of-way line a distance of 131.0 feet to the point of beginning of said parcel of land; thence turn 90°00' to the left and travel in a northerly distance of 149.8 feet to a point which is on the southerly property line of Pizza Hut Property; thence turn 89°46' to the right and travel easterly along this property line a distance of 52.53 feet to the lot corner; thence turn 0° 53' to the right and travel easterly a distance of 160.6 feet, more or less, to a point on the westerly right of way of Center Point Road (Al. Hwy #75); thence travel in a southerly direction a distance of 151.0 feet, more or less, (chord distance) to a point on this right of way line and on the northerly right of way line of 23rd Terrace; thence travel in a westerly direction along this right of way line of 23rd Terrace a distance of 185.0 feet to the point of beginning; all of this property being located in the NE ¼ of the NW ¼ of Section 18, Township 16 South, Range 1 West, Jefferson County, Alabama.


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EXHIBIT "B"
Permitted Exceptions



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EXHIBIT "B"

PERMITTED EXCEPTIONS

1. Right of Way granted to Alabama Power Company by instrument recorded in Real Property Book 2451, page 437 and Real Property Book 6711, page 1149, in the Probate Office of Mobile County, Alabama. (Parcel I)
2. Permit to Postal Telegraph Cable Company, recorded in Deed Book 80, page 44, in the Probate Office of Shelby County, Alabama. (Parcel II)
3. Permits to Alabama Power Company, recorded in Deed Book 103, page 54; Deed Book 119, page 165 and Deed Book 160, page 65, in the Probate Office of Shelby County, Alabama. (Parcel II)
4. Easement to AT&T, as recorded in Deed Book 168, page 496, in the Probate Office of Shelby County, Alabama. (Parcel II)
5. Sanitary Sewer Easement over caption lands from Mrs. Kathleen Williams to the Town of Alabaster recorded in Book 340, page 65, in the Probate Office of Shelby County, Alabama. (Parcel II)
6. Mineral and mining rights and rights incident thereto and release of damages recorded in Deed Book 36, page 426, in the Probate Office of Shelby County, Alabama. (Parcel II)
7. Easement to AT&T, as recorded in Real Volume 13, page 272 and Volume 3020, page 49, in the Probate Office of Jefferson County, Alabama. (Parcel III)
8. Restrictions appearing of recorded in Instrument 200114/6463, in the Probate Office of Jefferson County, Alabama. (Parcel III)
9. Restrictions as shown by map recorded in Map Book 168, Page 53, in the Probate Office of Jefferson County, Alabama. (Parcel IV)
10. 10 foot Easement for access to Five Mile Creek, recorded in Volume 2836, page 117 in the Probate Office of Jefferson County, Alabama. (Parcel IV)
11. Right of way to Jefferson County, filed in Probate Case #59236. (Parcel IV)
12. Rights of certain tenants in possession, as tenants only, under unrecorded leases, which tenants have no rights of first refusal or options to purchase (All parcels)
13. Encroachment of 1 story brick building into setback line according to the survey of Aaron M. McCullough with Hughes-Ray Company Inc. dated 05/15/2013, last revised 05/17/2013, Job No. H13148. (as to Parcel III only)
14. Encroachment of existing building into setback line according to the survey of Harry W. Watkins with Watkins Engineering Consultants Inc. dated 04/13/1995, last revised 09/11/1995, Job No.1396R. (as to Parcel V only)