

MAIL ANY NOTICE OF DEFAULT TO:  
FIRST BANK OF JASPER, a division of Synovus Bank  
960 Buford Highway  
Cumming, GA 30041

RETURN TO:  
Haynie, Litchfield, Crane & White, P.C.  
222 Washington Avenue  
Marietta, GA 30060  
File # 278060-14

**THIS DOCUMENT IS ALSO A FINANCING STATEMENT FILED AS A FIXTURE FILING PURSUANT TOTAL. CODE Section 7-9-402 (2002), AS AMENDED, AND SHOULD BE INDEXED IN THE INDEX OF FINANCING STATEMENTS UNDER NAME OF BORROWER AS DEBTOR, AND THE LENDER THE SECURED PARTY**

STATE OF ALABAMA  
COUNTY OF JEFFERSON

**MORTGAGE AND SECURTY AGREEMENT**

THIS MORTGAGE, (hereinafter referred to as this "Mortgage") is made and entered into this **31st day of July, 2014** by and between the following:

**SHOWMAKER REALTY, LLC**, whose address is 3705 Cumberland Trace, Birmingham, AL, 35242 party of the first part, as grantor as to Parcel 1 and 2 of Exhibit "A"

and

**CLARENCE L. MOSS, III** and **RENEE LEE MOSS** whose address is 3705 Cumberland Tract, Birmingham, AL 35242 as to Parcel 3 of Exhibit "A"

(hereinafter collectively referred to as or "Borrower"),

and **FIRST BANK OF JASPER, a division of Synovus Bank**, whose address is **960 Buford Highway, Cumming, GA 30041** party of the second part, as grantee (hereinafter referred to as "Lender");

**W I T N E S S E T H:**

THAT FOR AND IN CONSIDERATION of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, and in order to secure the indebtedness and other obligations of Borrower hereinafter set forth, Borrower does hereby grant, bargain, sell, convey, assign, transfer, pledge and set over unto Lender and the successors, successors-in-title, and assigns of Lender all of the following described land and interests in land, estates, easements, rights, improvements, personal property, fixtures, equipment, furniture, furnishings, appliances and appurtenances (hereinafter referred to collectively as the "Premises"):

(a) All those certain tracts, pieces or parcels of land more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof (hereinafter referred to as the "Land").

(b) All of Borrower's right, title and interest in and into all buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land, and all gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, elevators and motors, plumbing and heating fixtures, carpeting and other floor coverings, fire extinguisher and any other safety equipment required by governmental regulation or law, washers, dryers, water



heaters, mirrors, mantels, air conditioning apparatus, refrigerating plants, refrigerators, cooking apparatus and appurtenances, window screens, awning and storm sashes, which are or shall be attached to said buildings, structures or improvements and all other furnishings, furniture, fixtures, machinery, equipment, appliances, vehicles (excluding Borrower's personal automobiles, if any), building supplies and materials, books and records, chattels, inventory, accounts, farm products, consumer goods, general intangibles and personal property of every kind and nature whatsoever now or hereafter owned by Borrower and located in, on or about, or used or intended to be used with or in connection with the use, operation or enjoyment of the Premises, including all extensions, additions, improvements, betterments, after acquired property, renewals, replacements and substitutions, or proceeds from a permitted sale of any of the foregoing, and all the right, title and interest of Borrower in any such furnishings, furniture, fixtures, machinery, equipment, appliances, vehicles and personal property subject to or covered by any prior security agreement, conditional sales contract, chattel mortgage or similar lien or claim, together with the benefit of any deposits or payments now or hereafter made by Borrower or on behalf of Borrower, all tradenames, trademarks, servicemarks, logos and goodwill related thereto which in any way now or hereafter belong, relate or appertain to the Premises or any part thereof or are now or hereafter acquired by Borrower; and all inventory, accounts, chattel paper, documents, equipment, fixtures, farm products, consumer goods and general intangibles constituting proceeds acquired with cash proceeds of any of the property described hereinabove, all of which are hereby declared and shall be deemed to be fixtures and accessions to the Land and a part of the Premises as between the parties hereto and all persons claiming by, through or under them, and which shall be deemed to be a portion of the security for the indebtedness herein described and to be secured by this Mortgage. The location of the above described collateral is also the location of the Land.

(c) All easements, rights-of-way, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, minerals, flowers, shrubs, crops, trees, timber and other emblements now or hereafter located on the Land or under or above the same or any part or parcel thereof, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances, reversion and reversions, remainder and remainders, whatsoever, in any way belonging, relating or appertaining to the Premises or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Borrower.

(d) All income, rents, issues, profits and revenues of the Premises from time to time accruing (including without limitation all payments under leases or tenancies, proceeds of insurance, condemnation payments, tenant security deposits whether held by Borrower or in a trust account, and escrow funds), and all the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of Borrower of, in and to the same; reserving only the right to Borrower to collect the same so long as Borrower is not in Default, as defined in 2.01 hereunder.

TO HAVE AND TO HOLD the Premises and all parts, rights, members and appurtenances thereof, to the use, benefit and behoof of Lender and the successors and assigns of Lender, IN FEE SIMPLE forever; and Borrower covenants that Borrower is lawfully seized and possessed of the Premises as aforesaid, and has good right to convey the same, that the same are unencumbered except for those matters (hereinafter referred to as the "Permitted Encumbrances") expressly set forth in Exhibit "B" attached hereto and by this reference made a part hereof, and that Borrower does warrant and will forever defend the title thereto against the claims of all person whomsoever, except as to the Permitted Encumbrances.

This Mortgage is intended to operate and is to be construed as a Mortgage passing the title to the Premises to Lender and is made under those provisions of the existing laws of the State of Alabama relating to Mortgages, and is given to secure and guaranty the payment of the following described indebtedness (hereinafter referred to collectively as the "Indebtedness"):

(a) The debt evidenced by that certain promissory note (hereinafter referred to as the "Note") dated of even date herein, made by **SHOWMAKER REALTY, LLC (EPC) and SNS OF CENTRAL ALABAMA, LLC (Operating Company) (Co-Borrowers)**, to the order of Lender in the principal face amount of **FOUR MILLION THREE HUNDRED THIRTY**



**EIGHT THOUSAND NINE HUNDRED AND NO/100 DOLLARS (\$4,338,900.00)**, with the final payment being due on **July 31, 2034**; together with any and all renewals, modifications, consolidations and extensions of the indebtedness evidenced by the Note;

(b) Any and all additional advances made by Lender to protect or preserve the Premises or the security interest created hereby on the Premises, or for taxes, assessments or insurance premiums as hereinafter provided or for performance of any of Borrower's obligations hereunder or for any other purpose provided herein (whether or not the original Borrower remains the owner of the Premises at the time of such advances); and

(c) Any and all other indebtedness now owing or which may hereafter be owing by Borrower to Lender, now existing or hereafter coming into existence, however and whenever incurred or evidenced, whether express or implied, direct or indirect, absolute or contingent, or due or to become due, and all renewals, modifications, consolidations and extensions thereof.

Should the Indebtedness be paid according to the tenor and effect thereof when the same shall become due and payable, and should Borrower perform all covenants herein contained in a timely manner, then this Mortgage shall be canceled and surrendered.

Borrower hereby further covenants and agrees with Lender as follows:

## ARTICLE I

1.01 Payment of Indebtedness. Borrower shall pay the Note according to the tenor thereof and the remainder of the Indebtedness promptly as the same shall become due.

1.02 Taxes, Liens and Other Charges.

(a) Borrower shall pay, on or before the due date thereof, all taxes, assessments, levies, license fees, permit fees and all other charges (in each case whether general or special, ordinary or extraordinary, or foreseen or unforeseen) of every character whatsoever (including all penalties and interest thereof) now or hereafter levied, assessed, confirmed or imposed on, or in respect of, or which may be a lien upon, the Premises, or any part thereof, or any estate, right or interest therein, or upon the rents, issues, income or profits thereof, and shall submit to Lender such evidence of the due and punctual payment of all such taxes, assessments and other fees and charges as Lender may require in writing.

(b) Borrower shall pay, on or before the due date thereof, all taxes, assessments, charges, expenses, costs and fees which may now or hereafter be levied upon, or assessed or charged against, or incurred in connection with, the Note, the other Indebtedness, this Mortgage or any other instrument now or hereafter evidencing, securing or otherwise relating to the Indebtedness, and shall submit to Lender such evidence of the due and punctual payment of all such taxes, assessments, charges, expenses, costs and fees as Lender may require in writing.

(c) Borrower shall pay, on or before the due date thereof, (i) all premiums on policies of insurance covering, affecting or relating to the Premises, as required pursuant to Paragraph 1.03; (ii) all premiums on life insurance policies, if any, collaterally assigned or to be collaterally assigned to Lender; (iii) all premiums for mortgage insurance, if this Mortgage and the Note are so insured; and (iv) all ground rentals, other lease rentals and other sums, if any, owing by Borrower and becoming due under any lease or rental contract affecting the Premises. Borrower shall submit to Lender such evidence of the due and punctual payment of all such premiums, rentals and other sums as Lender may require in writing.

(d) In the event of the passage of any state, federal, municipal or other governmental law, order, rule or regulation, subsequent to the date hereof, in any manner changing or modifying the laws now in force governing the taxation of Mortgages or security agreements or debts secured thereby or the manner of collecting such taxes so as to adversely affect Lender, Borrower will pay any such tax on or before the due date thereof. If Borrower fails to make such prompt payment or if, in the opinion of Lender, any such state, federal, municipal, or other governmental law, order, rule or regulation prohibits Borrower from making such payment or would penalize Lender if Borrower makes such payment or if, in the opinion of Lender, the



making of such payment might result in the imposition of interest beyond the maximum amount permitted by applicable law, then the entire balance of the Indebtedness and all interest accrued thereon shall, at the option of Lender, become immediately due and payable.

1.03 Insurance.

(a) Borrower shall procure for, deliver to and maintain for the benefit of Lender during the term of this Mortgage, original paid up insurance policies of such insurance companies, in such amounts, in such form and substance, and with such expiration dates as are acceptable to Lender and containing non-contributory standard mortgagee clauses, their equivalent or a satisfactory mortgagee loss payable endorsement in favor of Lender, providing the following types of insurance covering the Premises and in the interest and liabilities incident to the ownership, possession and operation thereof:

(i) insurance against loss or damage by fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles, smoke, vandalism and malicious mischief and against such other hazard as, under good insurance practices, from time to time are insured against for properties of similar character and location, the amount of which insurance shall be not less than the greater of (A) the balance of the Indebtedness or (B) one hundred percent (100%) of the full replacement cost of the Premises without deduction for depreciation, and which policies of insurance shall contain satisfactory replacement cost endorsements;

(ii) when obtainable from the United States of America or any agency or instrumentality thereof, war risk insurance in the maximum amount available up to an amount equal to the replacement cost of the Premises;

(iii) such other insurance on the Premises or any replacements or substitutions therefore and in such amounts as may from time to time be reasonably required by Lender against other insurable casualties which at the time are commonly insured against in the case of properties of similar character and location due regard being given to the height and type of the improvements, their construction, location, use and occupancy, or any replacements or substitutions therefore.

(b) Lender is hereby authorized and empowered, at its option, to adjust or compromise any loss under any insurance policies maintained pursuant to this Paragraph 1.03, and to collect and receive the proceeds from any such policy or policies. Each insurance company is hereby authorized and directed to make payment for all such losses directly to Lender, instead of to Borrower and Lender jointly. In the event any insurance company fails to disburse directly and solely to Lender but disburses instead either solely to Borrower or to Borrower and Lender jointly, Borrower agrees immediately to endorse and transfer such proceeds to Lender. Upon the failure of Borrower to endorse and transfer such proceeds as aforesaid, Lender may execute such endorsements or transfers for and in the name of Borrower and Borrower hereby irrevocably appoints Lender as Borrower's agent and attorney-in-fact so to do. After deducting from said insurance proceeds all of its expenses incurred in the collection and administration of such sums, including reasonable attorney's fees actually incurred, Lender may apply the net proceeds or any part thereof, at its option, (i) to the payment of the Indebtedness, whether or not due and in whatever order Lender elects, (ii) to the repair and/or restoration of the Premises, and/or (iii) for any other purposes or objects for which Lender is entitled to advance funds under this Mortgage, all without affecting the security interest created by this Mortgage; and any balance of such monies then remaining shall be paid to Borrower or the person or entity lawfully entitled thereto. Lender shall not be held responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure.

(c) At least thirty (30) days prior to the expiration date of each policy maintained pursuant to this Paragraph 1.03, a renewal or replacement thereof satisfactory to Lender shall be delivered to Lender. Borrower shall deliver to Lender receipts evidencing the payment for all such insurance policies and renewals or replacements. The delivery of any insurance policies hereunder shall constitute an assignment of all unearned premiums as further security hereunder.



In the event of the foreclosure of this Mortgage or any other transfer of title to the Premises in extinguishment or partial extinguishment of the Indebtedness, all right, title and interest of Borrower in and to all insurance policies then in force shall pass to the purchaser or to Lender, as the case may be, and Lender is hereby irrevocably appointed by borrower as attorney-in-fact for Borrower to assign any such policy to said purchaser or to Lender, as the case may be, without accounting to Borrower for any unearned premiums thereon.

1.04 Monthly Deposits. Upon Default, at the option of Lender and further to secure the payment of the taxes assessments referred to in Paragraph 1.02 and the premiums on the insurance referred to in Paragraph 1.03, Borrower shall deposit with Lender, on the due date of each installment under the Note, such amounts as, in the estimation of Lender, shall be necessary to pay such charges as they become due; said deposits to be held by Lender, free of interest, and free of any liens or claims on the part of creditors of Borrower and as part of the security of Lender, and to be used by Lender to pay current taxes and assessments and insurance premiums on the Premises as the same accrue and are payable. Payment from said sums for said purposes shall be made by Lender at its discretion and may be made even though such payments will benefit subsequent owners of the Premises. Said deposits shall not be, nor be deemed to be, trust funds but may be commingled with the general funds of Lender. If said deposits are insufficient to pay the taxes and assessments and insurance premiums in full as the same become payable, Borrower will deposit with Lender such additional sum or sums as may be required in order for Lender to pay such taxes and assessments and insurance premiums in full. Upon any default in the provisions of this Mortgage or the Note, or any instrument evidencing, securing or in any way related to the Indebtedness, Lender may, at its option, apply any money in the fund resulting from said deposits to the payment of the Indebtedness in such manner as it may elect.

1.05 Condemnation. If all or any material portion ("material portion" to be reasonably determined by Lender) of the Premises shall be damaged or taken through condemnation (which terms when used in this Mortgage shall include any damage or taking by any governmental or quasi-governmental authority and any transfer by private sale in lieu thereof), either temporarily or permanently, then the entire Indebtedness shall, at the option of Lender, immediately become due and payable. Borrower, immediately upon obtaining knowledge of the institution, or the proposed, contemplated or threatened institution, of any action or proceeding for the taking through condemnation of the Premises or any part thereof will notify Lender, and Lender is hereby authorized, at its option, to commence, appear in and prosecute, through counsel selected by Lender, in its own or in Borrower's name, any action or proceeding relating to any condemnation, and to settle or compromise any claim in connection therewith. All such compensation, awards, damages, claims, rights of action and proceeds and the right thereto are hereby assigned by Borrower to Lender, and Lender is authorized, at its option, to collect and receive all such compensation, awards or damages and to give proper receipts and acquittances therefor without any obligation to question the amount of any such compensation, awards or damages. After deducting from said condemnation proceeds all of its expenses incurred in the collection and administration of such sums, including reasonable attorney's fees actually incurred, Lender may apply the net proceeds or any part thereof, at its option, (i) to the payment of the Indebtedness, whether or not due and in whatever order Lender elects, (ii) to the repair and/or restoration of the Premises and/or (iii) for any other purposes or objects for which Lender is entitled to advance funds under this Mortgage, all without affecting the security interest created by this Mortgage, and any balance of such monies then remaining shall be paid to Borrower or any other person or entity lawfully entitled thereto. Borrower agrees to execute such further assignments of any compensation, awards, damages, claims, rights of action and proceeds as Lender may require. If prior to the receipt by Lender of such award or proceeds, the Premises shall have been sold on foreclosure of this Mortgage, or under the power of sale herein granted, Lender shall have the right to receive such award or proceeds to the extent of any unpaid Indebtedness following such sale, with legal interest thereon, whether or not a deficiency judgment on this Mortgage or the Note shall have been sought or recovered, and to the extent of reasonable counsel fees, costs and disbursements actually incurred by Lender in connection with the collection of such award or proceeds.

1.06 Care of Premises.



(a) Borrower will keep the buildings, parking areas, roads and walkways, recreational facilities, landscaping and all other improvements of any kind now or hereafter erected on the Land or any part thereof in good condition and repair, will not commit or suffer any waste and will not do or suffer to be done anything which would or could increase the risk of fire or other hazard to the Premises or any other part thereof or which would or could result in the cancellation of any insurance policy carried with respect to the Premises.

(b) Borrower will not, outside ordinary course of business, remove, demolish or alter the structural character of any improvement located on the Land without the written consent of Lender.

(c) If the Premises or any part thereof is damaged by fire or other cause, Borrower will give immediate written notice thereof to Lender.

(d) Lender or its representative is hereby authorized to enter upon and inspect the Premises at any time during normal business hours.

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

(f) If all or any part of the Premises shall be damaged by fire or other casualty, Borrower will promptly restore the Premises to the equivalent of its original condition, and if a part of the Premises shall be damaged through condemnation, Borrower will promptly restore, repair or alter the remaining portions of the Premises in a manner reasonably satisfactory to Lender. Notwithstanding the foregoing, Borrower shall not be obligated so to restore, repair or alter unless in each instance, Lender agrees to make available to Borrower (pursuant to a procedure satisfactory to Lender) any net insurance or condemnation proceeds actually received by Lender hereunder in connection with such casualty loss or condemnation, to the extent such proceeds are required to defray the expense of such restoration, repair or alteration; provided, however, that the insufficiency of any such insurance or condemnation proceeds to defray the entire expense of restoration, repair or alteration shall in no way relieve Borrower of its obligation to restore, repair or alter. In the event all or any portion of the Premises shall be damaged or destroyed by fire or other casualty or by condemnation, Borrower shall promptly deposit with Lender a sum equal to the amount by which the estimated cost of the restoration of the Premises (as determined by Lender in its good faith judgment) exceed the actual net insurance or condemnation proceeds with respect to such damage or destruction.

#### 1.07 Lease, Contracts, Etc.

(a) As additional collateral and further security for the Indebtedness, Borrower does hereby assign to Lender Borrower's interest in any and all leases, tenant contracts, rental agreements, franchise agreements, management contracts, construction contracts, and other contracts, licenses and permits now or hereafter affecting the Premises, or any part thereof, and Borrower agrees to execute and deliver to Lender such additional instruments, in form and substance reasonably satisfactory to Lender, as may hereafter be requested by Lender further to evidence and confirm said assignment; provided, however, that acceptance of any such assignment shall not be construed as a consent by Lender to any lease, tenant contract, rental agreement, franchise agreement, management contract, construction contract, or other contract, license or permit, or to impose upon Lender any obligation with respect thereto. Without first obtaining on each occasion the written approval of Lender, Borrower shall not cancel or permit the cancellation of any such lease, tenant contract, rental agreement, franchise agreement, management contract, construction contract, or other contract, license or permit, or to impose upon Lender any obligation with respect thereto. Without first obtaining on each occasion the written approval of Lender, Borrower shall not cancel or permit the cancellation of any such lease, tenant contract, rental agreement, franchise agreement, management contract, construction contract or other contract, license or permit, or modify any of said instruments, or accept, or permit to be made, any prepayment of any installment of rent fees thereunder (except for security deposits and the usual prepayment of rent which results from the acceptance by a landlord on the first day of each month of the rent for that month). Borrower shall faithfully keep and perform,



or cause to be kept and performed, all of the covenants, conditions and agreements contained in each of said instruments, now or hereafter existing, on the part of Borrower to be kept and performed and shall at all time do all things necessary to compel performance by each other party to said instruments of all obligations, covenants and agreements by such other party to be performed thereunder.

(b) Borrower shall not execute any assignment of the income, rents, issues or profits, or any part thereof, from the Premises unless Lender shall first consent to such assignment and unless such assignment shall expressly provide that it is subordinate to the assignment contained in this Mortgage and any assignment executed pursuant hereto or concerning the Indebtedness.

(c) Borrower shall furnish to Lender, within ten (10) days after a request by Lender to do so, a sworn statement setting forth the names of all lessees and tenants of the Premises, the terms of their respective leases, tenant contracts or rental agreements, the space occupied, and the rentals payable thereunder, and stating whether any defaults, off-sets or defenses exist under or in connection with any of said leases, tenant contracts or rental agreements. Any and all leases, tenant contracts and rental agreements affecting the Premises shall provide for giving by the lessees or tenants thereunder of certificates with respect to the status of such lease, tenant contracts or rental agreements, and Borrower shall exercise Borrower's right to request such certificates within five (5) days of any demand therefore by Lender.

(d) Each lease, tenant contract and rental agreement pertaining to the Premises, or any part thereof, shall provide that, in the event of the enforcement by Lender of the remedies provided by law or by this Mortgage, the lessee or tenant thereunder will, upon request of Lender or any other person or entity succeeding to the interest of Lender as a result of such enforcement, automatically become the lessee or tenant of Lender or said successor-in-interest, without change in the terms or other provisions of said lease, tenant contract or rental agreement; provided, however, that neither Lender nor any such successor-in-interest shall be bound by any payment of rental or additional rental for more than one (1) month in advance, except prepayments in the nature of security for the performance by said lessee or tenant of its obligations under said lease, tenant contract or rental agreement and then only if such prepayments have been deposited with and are under the control of tenant contract or rental agreement made without the express written consent of Lender or said successor-in-interest. Each lease, tenant contract and rental agreement pertaining to the Premises shall also provide that, upon request by said successor in interest, the lessee or tenant thereunder shall deliver an instrument or instruments confirming such attornment.

(e) Notwithstanding any other provisions of this Mortgage, Borrower shall not hereafter enter into any lease, tenant contract, rental agreement, franchise agreement, management contract or other contract, license or permit affecting the Premises, or any part thereof, without the prior written consent of Lender and except upon the following conditions; (i) each such instrument shall contain a provision that the rights of the parties thereunder are expressly subordinate to all of the rights and title of Lender under this Mortgage; (ii) any such instrument shall contain a provision whereby the parties thereunder expressly recognize and agree that, notwithstanding such subordination, Lender may sell the Premises in the manner provided in Article 11, and thereby, at the option of Lender, sell the same subject to such instrument, and (iii) at or prior to the time of execution of any such instrument, Borrower shall, as a condition to such execution, procure from the other party or parties thereto an agreement in favor of Lender, in form and substance reasonably satisfactory to Lender, under which such party or parties agree to be bound by the provisions of Article II, regarding the manner in which Lender may foreclosure or exercise the power of sale under this Mortgage.

#### 1.08 Security Agreement.

(a) With respect to the machinery, apparatus, equipment, fittings, fixtures, building supplies and materials, articles of personal property, chattels, chattel paper, documents, inventory, accounts, farm products, consumer goods and general intangibles referred to or described in this Mortgage, or in any way connected with the use and enjoyment of the Premises, this Mortgage is hereby made and declared to be a security agreement as a part of the Premises,



in compliance with the provisions of the Uniform Commercial Code as enacted in the State of Alabama. Upon request by Lender, at any time and from time to time, a financing statement or statements reciting this Mortgage to be a security agreement affecting all of such property shall be executed by Borrower and Lender and appropriately filed. The remedies for any violation of the covenants, terms and conditions of the security agreement contained in this Mortgage shall be (i) as prescribed herein, or (ii) as prescribed by general law, or (iii) as prescribed by the specific statutory consequences now or hereafter enacted and specified in said Uniform Commercial Code, all at Lender's sole election. Borrower and Lender agree that the filing of any such financing statement or statements in the records normally having to do with personal property shall not in any way affect the agreement of Borrower and Lender that everything used in connection with the production of income from the Premises or adapted for use therein or which is described or reflected in this Mortgage, is, and at all times and for all purposes and in all proceedings, both legal or equitable, shall be, regarded as part of the real estate conveyed hereby regardless of whether (i) any such item is physically attached to the improvements, (ii) serial numbers are used for the better identification of certain items capable of being thus identified in an exhibit to this Mortgage, or (iii) any such item is referred to or reflected in any such financing statement or statements so filed at any time. Similarly, the mention in any such financing statement or statements of the rights in and to (i) the proceeds of any fire and/or hazard insurance policy, or (ii) any award in eminent domain proceedings for a taking or for loss of value, or (iii) Borrower's interest as lessor in any present or future lease or rights to income growing out of the use and/or occupancy of the Premises, whether pursuant to lease or otherwise, shall not in any way alter any of the rights of Lender as determined by this Mortgage or affect the priority of Lender's security interest granted hereby or by any other recorded document, it being understood and agreed that such mention in such financing statement or statements is solely for the protection of Lender in the event any court shall at any time hold with respect to the foregoing clauses (i), (ii) or (iii) of this sentence, that notice of Lender's priority of interest, to be effective against a particular class of persons, must be filed in the Uniform Commercial Code records.

(b) Borrower warrants that (i) Borrower's (that is, "Debtor's") name, identity or corporate structure and residence or principal place of business are as set forth in Subparagraph 1.08(c) hereof; (ii) Borrower (that is, "Debtor") has been using or operating under said name, identity or corporate structure without change for the time period set forth in Subparagraph 1.08(c) hereof; and (iii) the location of the collateral is upon the land. Borrower covenants and agrees that Borrower will furnish Lender with notice of any change in the matters addressed by clauses (i) and (iii) of this Subparagraph 1.08(b) within thirty (30) days of the effective date of any such change and Borrower will promptly execute any financing statements or other instruments deemed necessary by Lender to prevent any filed financing statement from becoming misleading or losing its perfected status.

(c) The information contained in this Subparagraph 1.08(c) is provided in order that this Mortgage shall comply with the requirements of the Uniform Commercial Code, as enacted in the State of Alabama, for instruments to be filed as financing statements. The names of the "Debtor" and the "Secured Party", the identity or corporate structure and residence or principal place of business of "Debtor" and the time period for which "Debtor" has been using or operating under are as set forth in Schedule 1 of Exhibit "C" attached hereto and by this reference made a part hereof; the mailing address of the "Secured Party" from which information concerning the security interest may be obtained, and the mailing address of "Debtor", are as set forth in Schedule 2 of said Exhibit "C" attached hereto; and a statement indicating the types, or describing the items, of collateral is set forth hereinabove.

1.09 Further Assurances: After Acquired Property. At any time, and from time to time, upon request by Lender, Borrower will make, execute and deliver, or cause to be made, executed and delivered, to Lender and, where appropriate, cause to be recorded and/or filed and from time to time thereafter to be re-recorded and/or refiled at such time and in such offices or places as shall be deemed desirable by Lender, any and all such other and further mortgages, Deeds of trust, Deeds to Secure Debt, security agreements, financing statements, continuation statements, instrument of further assurance, certificates and other documents as may, in the opinion of Lender, be necessary or desirable in order to effectuate, complete or perfect, or to continue and



1.14 Limit of Validity. If from any circumstances whatsoever, fulfillment of any provision of this Mortgage or the note, at the time performance of such provision shall be due, shall involve transcending the limit of validity presently prescribed by any applicable usury statute or any other applicable law, with regard to obligations of like character and amount, then, ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity, so that in no event shall any exaction be possible under this Mortgage or under the Note that is in excess of the current limit of such validity, but such obligation shall be fulfilled to the limit of such validity. The provisions of this Paragraph 1.14 shall control every other provision of this Mortgage and of the Note.

1.15 No Default Affidavits. At Lender's request, all payments under the Note or hereunder shall be accompanied by the affidavit of Borrower or a principal financial or accounting officer of Borrower, dated within five (5) days of delivery of such payment to Lender, swearing that he knows of no Default (as hereinafter defined), nor of any circumstance which after notice or lapse of time or both would constitute a Default, which has occurred and is continuing or, if any such Default has occurred and is continuing, specifying the nature and period of existence thereof and the action Borrower has taken or proposes to take with respect thereto and, except as otherwise specified, stating that Borrower has fulfilled all of Borrower's obligations under this Mortgage which are required to be fulfilled on or prior to the date of such affidavit.

1.16 Use and Management of Premises. Borrower shall at all times operate the Premises as described in Exhibit "D" attached hereto and by this reference made a part hereof. Borrower shall not be permitted to alter or change the use of the Premises or to abandon the Premises without the prior written consent of Lender.

1.17 Conveyance of Premises. Borrower hereby acknowledges to Lender that (i) the identity and expertise of Borrower were and continue to be material circumstances upon which Lender has relied in connection with, and which constitute valuable consideration to Lender for, the extending to Borrower of the Indebtedness evidenced by the Note and (ii) any change in such identity or expertise could materially impair or jeopardize the security for the payment of the Note granted to Lender by this Mortgage. Borrower therefore covenants and agrees with Lender, as part of the consideration for the extending to Borrower of the indebtedness evidenced by the Note, that Borrower shall not encumber, pledge, convey, transfer or assign any or all of its interest in the Premises (or any interest in or all of the interest in Borrower if Borrower is a corporation, partnership or some other entity) without the prior written consent of Lender. If Borrower does so encumber, pledge, convey, transfer or assign any or all of its interest in the Premises (or in Borrower) without the prior written consent of Lender, then Lender may, at Lender's option, declare the Indebtedness to be immediately due and payable.

1.18 Acquisition of Collateral. Borrower shall not acquire any portion of the personal property covered by this Mortgage subject to any security interest, conditional sales contract, title retention arrangement or other charge or lien taking precedence over the security title and lien of this Mortgage.

1.19 Junior Financing. Borrower shall not without the prior written consent of Lender incur an additional indebtedness or create or permit to be created or to remain, any mortgage, pledge, lien, lease, encumbrance or charge on, or conditional sale or other title retention agreement, whether prior or subordinate to the liens of this Mortgage with respect to the Premises or any part thereof or income therefrom other than the Mortgage herein and the Permitted Encumbrances.

1.20 Hazard Materials. (a) Borrower represents, warrants and agrees that: (i) neither Borrower nor, to the best knowledge of Borrower, any other person has used or installed any Hazardous Material (as hereinafter defined) on, from or affecting the Premises or received any notice from any governmental agency, entity or other person with regard to Hazardous Materials on, from or affecting the Premises; (ii) neither Borrower nor, to the best knowledge of Borrower, any other person has violated any applicable Environmental Laws (as hereinafter defined)



preserve (i) the obligation of Borrower under the Note and under this Mortgage and (ii) the security interest created by this Mortgage as a first and prior security interest upon and security title in and to all of the Premises, whether now owned or hereafter acquired by Borrower. Upon any failure by Borrower so to do, Lender may make, execute, record, file, re-record and/or refile any and all such mortgages, security agreements, financing statements, continuation statements, instruments, certificates and documents for and in the name of Borrower, and Borrower hereby irrevocably appoints Lender the agent and attorney-in-fact of Borrower so to do. The security title of this Mortgage and the security interest created hereby will automatically attach, without further act, to all after-acquired property attached to and/or used in the operation of the Premises or any part thereof.

1.10 Expenses. Borrower will pay or reimburse Lender, upon demand therefore, for all reasonable attorney's fees actually incurred, costs and expenses actually incurred by Lender in any suit, action, legal proceeding or dispute of any kind in which Lender is made a party or appears as party plaintiff or defendant, affecting the Indebtedness, this Mortgage or the interest created herein, or the Premises, including, but not limited to, the exercise of the power of sale contained in this Mortgage, any condemnation action involving the Premises or any action to protect the security hereof, and any such amounts paid by Lender shall be added to the Indebtedness and shall be secured by this Mortgage.

1.11 Estoppel Affidavit. Borrower, upon ten (10) days' prior written notice, shall furnish Lender a written statement, duly acknowledged, setting forth the unpaid principal of, and interest on, the Indebtedness, stating whether or not any offsets or defenses exist against the Indebtedness, or any portion thereof, and, if such offsets or defenses exist, stating in detail the specific acts relating to each such offset or defense.

1.12 Subrogation. To the full extent of the Indebtedness, Lender is hereby subrogated to the liens, claims and demands, and to the rights of the owners and holders of each and every lien, claim, demand and other encumbrance on the Premises which is paid or satisfied, in whole or in part, out of the proceeds of the Indebtedness, and the respective liens, claims, demands and other encumbrances shall be, and each of them is hereby, preserved and shall pass to and be held by Lender as additional collateral and further security for the Indebtedness, to the same extent they would have been preserved and would have been passed to and held by Lender had they been duly and legally assigned, transferred, set over and delivered unto Lender by assignment, notwithstanding the fact that any instrument providing public notice of the same may be satisfied and canceled of record.

1.13 Books, Records, Accounts and Annual Reports. Borrower shall keep and maintain or shall cause to be kept and maintained, at Borrower's cost and expense and in accordance with generally accepted accounting principles, proper and accurate books, records and accounts reflecting all items of income and expense in connection with the operation of the Premises and in connection with any services, equipment or furnishings provided in connection with the operation of the Premises. Lender, by Lender's agents, accountants and attorneys, shall have the right from time to time to examine such books, records and accounts at the office of Borrower or such other person or entity maintaining such books, records and accounts, to make copies or extracts thereof as Lender shall desire and to discuss Borrower's affairs, finances and accounts with Borrower and with the officers and principals of Borrower, at such reasonable times as may be requested by Lender. Borrower will furnish to Lender annually within sixty (60) days after the end of Borrower's fiscal year a financial statement (audited if requested by Lender) for the Premises for such fiscal year prepared by an independent certified public accountant satisfactory to Lender containing a profit and loss statement and all supporting schedules covering the operation of the Premises, all reasonable detail, prepared in accordance with generally accepted accounting standards consistently applied and accompanied by the unqualified opinion and certification of such independent certified public accountant (and if audited, who shall have examined and certified the accuracy of such audit); and Borrower will furnish to Lender, at any time within thirty (30) days after demand by Lender, unaudited statements, certified by Borrower's principal financial or accounting officer, covering such financial matters as Lender may reasonably request, including, without limitation, monthly operating statements with respect to the Premises.



relating to or affecting the Premises or any other property owned by Borrower; (iii) the Premises are presently in compliance with all Environmental Laws, and there are no facts or circumstances presently existing upon or under the Premises, or relating to the Premises, which may violate any applicable Environmental Laws, and there is not now pending or, to the best knowledge of the Borrower, threatened any action, suit, investigation or proceeding against Borrower or the Premises (or against any other party relating to the Premises) seeking to enforce any right or remedy under any of the Environmental Laws; (iv) the Premises Property shall be kept free of Hazardous Materials, and shall not be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce, or process Hazardous Materials; except in accordance with applicable law; (v) Borrower shall not cause or permit the installation of Hazardous Materials in, on, over or under the Premises or a Release (as hereinafter defined) of Hazardous Materials onto or from the Premises or suffer the presence of Hazardous Materials in, on, over or under the Premises; (vi) Borrower shall comply with, and ensure compliance by all other parties with, all applicable Environmental Laws relating to or affecting the Premises, and Borrower shall keep the Premises free and clear of any liens imposed pursuant to any applicable environmental Laws, all at Borrower's sole cost and expense; (vii) Borrower has obtained and will at all times continue to obtain and/or maintain all licenses, permits and/or other governmental or regulatory actions necessary to comply with the Environmental Laws (the "Permits") and Borrower is and will continue to be and at all times remain in full compliance with the terms and provisions of the Permits; (viii) there has been no Release of any Hazardous Materials on or from the Premises, whether or not such Release emanated from the land or any contiguous real estate; (ix) Borrower shall immediately give Lender oral and written notice in the event that Borrower receives any notice from any governmental agency, entity, or any other party with regard to Hazardous Materials on, from or affecting the Premises and Borrower shall conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials on, from or affecting the Premises in accordance with all applicable Environmental Laws.

(b) For purposes of this Mortgage: (i) "Hazardous Material" or "Hazardous Materials" means and includes petroleum products and gas products, flammable explosives, radioactive materials, asbestos or any material containing asbestos, polychlorinated biphenyls, and/or any hazardous, toxic or dangerous waste, substance or material defined as such, or as a Hazardous Substance or any similar term, by, in or for the purposes of the Environmental Laws, including, without limitation Section 101 (14) of CERCLA (as hereinafter defined); (ii) "Release" shall have the meaning given such term, or any similar term, in the Environmental Laws, including, without limitation, Section 101(22) of CERCLA; and (iii) "Environmental Law" or "Environmental Laws" shall mean any "Super Fund" or Super Lien" law, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree, regulating, relating to or imposing liability or standards of conduct concerning any Hazardous Materials as may now or at any time hereafter be in effect, including, without limitation, the following, as the same may be amended or replaced from time to time, and all regulations promulgated thereunder or in connection therewith: the Super Fund Amendments and Reauthorization Act of 1986 ("SARA"); the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"); the Clean Air Act ("CAA"); the Clean Water Act ("CWA"); the Toxic Substances Control Act ("TSCA"); the Solid Waste Disposal Act ("SWDA"), as amended by the Resource Conservation and Recovery Act ("RCRA"); the Hazardous Waste Management System; and the Occupational Safety and Health Act of 1970 ("OSHA"). The obligations and liabilities of Borrower under this Paragraph 1.20 shall survive the exercise of power of sale under or foreclosure of this Mortgage, the delivery of a Mortgage in lieu of foreclosure, the cancellation or release of record of this Mortgage, and/or the payment and cancellation of the Note;

## ARTICLE II

2.01 Default. The terms "Default" or "Defaults", wherever used in this Mortgage, shall mean any one or more of the following events:

(a) Failure by Borrower to pay as and when due and payable any portion of the Indebtedness; or

(b) Failure by Borrower duly to observe or perform any other term, covenant, condition or agreement of this Mortgage; or



(c) Failure by Borrower duly to observe or perform any term, covenant, condition or agreement in any loan agreement, assignment of lease or any other agreement now or hereafter evidencing, securing or otherwise relating to the Note or this Mortgage or the Indebtedness; or

(d) The occurrence of a default or event of default under any loan agreement, assignment of leases or any other agreement now or hereafter evidencing, securing or otherwise related to the Note or this Mortgage or the Indebtedness; or

(e) Any warranty of Borrower contained in this Mortgage, or in any loan agreement, assignment of leases or any other agreement now or hereafter evidencing or securing or otherwise relating to the Note or this Mortgage or the Indebtedness which proves to be untrue or misleading in any material respect; or

(f) The filing by Borrower or any endorser or guarantor of the Note of a voluntary petition in bankruptcy or the filing by Borrower or any such endorser or guarantor of any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief for itself under any present or future federal, state or other law or regulation relating to bankruptcy, insolvency or other relief for debtors, or Borrower's or any such endorser's or guarantor's seeking or consenting to or acquiescing in the appointment of any trustee, receiver or Liquidator of Borrower, such endorser or guarantor, or of all or any substantial part of the Premises or of any other property or assets of Borrower, such endorser or guarantor, or of any or all of the income, rents, issues, profits or revenues thereof, or the making by Borrower, or any such endorser or guarantor, of any general assignment for the benefit of creditors, or the admission in writing by Borrower, or for any such endorser or guarantor, of its inability to pay its debts generally as they become due or the commission by Borrower or any such endorser or guarantor of an act of bankruptcy; or

(g) The filing of a petition against Borrower, or any endorser or guarantor of the Note, seeking any reorganization arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal, state or other law or regulation relating to bankruptcy, insolvency or other relief for debtors, or the appointment of any trustee, receiver or liquidator of Borrower, or of any such endorser or guarantor or of all of the income, rents, issues, profits or revenues thereof unless such petition shall be dismissed within thirty (30) days after such filing, but in any event prior to the entry of an order, judgment or decree approving such petition; or

(h) The Premises are subjected to actual or threatened waste or any part thereof is removed, demolished or altered without the prior written consent of Lender; or

(i) Borrower or any endorser or guarantor of the Note (if a corporation) is liquidated or dissolved or its charter expires or is revoked, or Borrower or such endorser or guarantor (if a partnership or business association) is dissolved or partitioned, or Borrower or such endorser or guarantor if a trust) is terminated or expires, or Borrower or such endorser or guarantor (if an individual) dies; or

(j) The filing of any federal tax lien or claim of lien for labor or material is filed of record against Borrower or the Premises and same not being removed by payment in full or bond within thirty (30) days from date of recording.

2.02 Acceleration of Maturity. If a Default shall have occurred, then the entire Indebtedness shall, at the option of Lender, immediately become due and payable without notice or demand, time being of the essence of this Mortgage; and no omission on the part of Lender to exercise such option when entitled to do so shall be construed as a waiver of such right.

### 2.03 Right to Enter and Take Possession.

(a) If a Default shall have occurred, Borrower, upon demand of Lender, shall forthwith surrender to Lender the actual possession of the Premises and if, and to the extent, permitted by law, Lender itself, or by such officers or agents as it may appoint, may enter and take possession of all of the Premises without the appointment of a receiver, or an application therefore, and may exclude Borrower and its agents and employees wholly therefrom, and may have joint access with Borrower to the books, papers and accounts of Borrower.



(b) If Borrower shall for any reason fail to surrender or deliver the Premises or any part thereof after such demand by Lender, Lender may obtain a judgment or decree conferring upon Lender the right to immediate possession of the Premises to Lender, and Borrower hereby specifically covenants and agrees that Borrower will not oppose, contest or otherwise hinder or delay Lender in any action or proceeding by Lender to obtain such judgment or decree. Borrower will pay to Lender upon demand, all reasonable expenses actually incurred of obtaining such judgment or decree, including reasonable compensation to Lender, its attorneys and agents, and all such expenses and compensation shall, until paid, become part of the Indebtedness and shall be secured by this Mortgage.

(c) Upon every such entering upon or taking possession, Lender may hold, store, use, operate, manage and control the Premises and conduct the business thereof, and, from time to time (i) make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon and purchase or otherwise acquire additional fixtures, personalty and other property; (ii) insure or keep the Premises insured; (iii) manage and operate the Premises and exercise all the rights and powers of Borrower to the same extent as Borrower could in its own name or otherwise act, with respect to the same; and (iv) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted to Lender, all as Lender from time to time may determine to be in its best interest. Lender may collect and receive all the income, rents, issues, profits and revenues from the Premises, including those past due as well as those accruing thereafter, and Lender may apply any monies and proceeds received by Lender, in whatever order or priority Lender in its sole discretion may determine, to the payment of (i) all expenses of taking, holding, managing and operating the Premises (including compensation for the services of all persons employed for such purposes); (ii) the cost of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements, purchases and acquisitions; (iii) the cost of such insurance; (iv) such taxes, assessments and other similar charges as Lender may at its option pay; (v) other proper charges upon the Premises or any part thereof; (vi) the reasonable compensation, expenses and disbursements of the attorneys and agents of Lender; (vii) accrued interest; (viii) deposits required in Paragraph 1.04 and other sums required to be paid under this Mortgage; or (ix) overdue installments of principal. Anything in this Paragraph 2.03 to the contrary notwithstanding, Lender shall not be obligated to discharge or perform the duties of a landlord to any tenant or incur any liability as the result of any exercise by Lender of its rights under this Mortgage, and Lender shall be liable to account only for the rents, incomes, issues, profits and revenues actually received by Lender.

(d) In the event that all such interest, deposits and principal installments and other sums due under any of the terms, covenants, conditions and agreements of this Mortgage shall be paid and all Defaults shall be cured, and as a result thereof Lender surrenders possession of the Premises to Borrower, the same right of taking possession shall continue to exist if any subsequent Default shall occur.

2.04 Performance by Lender. If Borrower shall Default in the payment, performance or observance of any term, covenant or condition of this Mortgage, Lender may, at its option, pay, perform or observe the same, and all payments made or costs or expenses incurred by Lender in connection therewith shall be secured hereby and shall be, without demand, immediately repaid by Borrower to Lender with interest thereon at the default rate provided in the Note. Lender shall be the sole judge of the necessity for any such actions and of the amounts to be paid. Lender is hereby empowered to enter and to authorize others to enter upon the Premises or any part thereof for the purpose of performing or observing any such defaulted term, covenant or condition without thereby becoming liable to Borrower or any person in possession holding under Borrower.

2.05 Receiver. If a Default shall have occurred, Lender, upon application to a court of competent jurisdiction, shall be entitled as a matter of strict right, without notice and without regard to the adequacy or value of any security for the Indebtedness or the solvency of any party bound for its payment, to the appointment of a receiver to take possession of and to operate the Premises and to collect and apply the incomes, rents, issues, profits and revenues thereof. The receiver shall have all of the rights and powers permitted under the laws of the State of Alabama.



Borrower will pay to Lender upon demand all reasonable expenses, including receivers fees, attorney's fees, costs and agent's compensation actually incurred, incurred pursuant to the provisions of this Paragraph 2.05, and any such amounts paid by Lender shall be added to the Indebtedness and shall be secured by this Mortgage.

#### 2.06 Enforcement.

(a) If a Default shall have occurred, Lender, at its option, may sell the Premises or any part of the Premises without appraisal (the Borrower having waived and assigned to the Lender all rights of appraisal) at a judicial sale pursuant to the provisions of 28. U.S.C. 2001(a); or at the option of the Lender at one or more public sale or sales before the door of the courthouse of the county in which the Land or any part of the Land is situated, to the highest bidder for cash, in order to pay the Indebtedness, and all expenses of sale and of all proceedings in connection therewith, including reasonable attorney's fees actually incurred, after advertising the time, place and terms of sale once a week for four (4) weeks immediately preceding such sale (but without regard to the number of days) in a newspaper in which Sheriff's sales are advertised in said county. At any such public sale, Lender may execute and deliver to the purchaser a conveyance of the Premises or any part of the Premises in fee simple, with full warranties of title and to this end, Borrower hereby constitutes and appoints Lender the agent and attorney-in-fact of Borrower to make such sale and conveyance, and thereby to divest Borrower of all right, title and equity that Borrower may have in and to the Premises and to vest the same in the purchaser or purchasers at such sale or sales, and all the acts and doings of said agent and attorney-in-fact are hereby ratified and confirmed and any recitals in said conveyance or conveyances as to facts essential to a valid sale shall be binding upon Borrower. The aforesaid power of sale and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise, are granted as cumulative of the other remedies provided hereby or by law for collection of the Indebtedness and shall not be exhausted by one exercise thereof but may be exercised until full payment of all of the Indebtedness. In the event of any sale under this Mortgage by virtue of the exercise of the powers herein granted, or pursuant to any order in any judicial proceeding or otherwise, the Premises may be sold as an entirety or in separate parcels and in such manner or order as Lender in its sole discretion may elect, and if Lender so elects, Lender may sell the personal property covered by this Mortgage at one or more separate sales in any manner permitted by the Uniform Commercial Code of the State of Alabama, and one or more exercises of the powers herein granted shall not extinguish nor exhaust such powers, until the entire Premises are sold or the Indebtedness is paid in full. If the Indebtedness is now or hereafter further secured by any chattel mortgages, pledges, contracts of guaranty, assignments of lease or other security instruments, Lender may at its option exhaust the remedies granted under any of said security instruments either concurrently or independently, and in such order as Lender may determine.

(b) If a Default shall have occurred, Lender may, in addition to and not in abrogation of the rights covered under Subparagraph 2.06(a), either with or without entry or taking possession as herein provided or otherwise, proceed by a suit or suits in law or in equity or by any other appropriate proceeding or remedy (i) to enforce payment of the Note or the performance of any term, covenant, condition or agreement of this Mortgage or any other right and (ii) to pursue any other remedy available to it, all as Lender in its sole discretion shall elect.

2.07 Purchase by Lender. Upon any foreclosure sale or sales of all or any portion of the Premises under the power herein granted. Lender may bid for and purchase the Premises and shall be entitled to apply all or any part of the Indebtedness as a credit to the purchase price.

2.08 Application of Proceeds of Sale. In the event of a foreclosure or sale of all or any portion of the Premises under the power herein granted, the proceeds of said sale shall be applied, in whatever order Lender in its sole discretion may decide, to the expenses of such sale and of all proceedings in connection therewith, including reasonable attorney's fees actually incurred, to insurance premiums, liens, assessments, taxes and charges including utility charges advanced by Lender, to payment of the outstanding principal balance of the Indebtedness, or to the accrued interest on all of the foregoing; and the remainder, if any, shall be paid to Borrower, or to the person or entity lawfully entitled thereto.



2.09 Borrower as Tenant Holding Over. In the event of any such foreclosure sale or sales under the power herein granted, Borrower shall be deemed a tenant holding over and shall forthwith deliver possession to the purchaser or purchasers at such sale or be summarily dispossessed according to provisions of law applicable to tenants holding over.

2.10 Waiver of Appraisement, Valuation, etc. Borrower agrees, to the full extent permitted by law, that in case of a Default on the part of Borrower hereunder, neither Borrower nor anyone claiming through or under Borrower will set up, claim or seek to take advantage of any moratorium, reinstatement, forbearance, appraisement, valuation, stay, extension, homestead, exemption or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, or the absolute sale of the Premises, or the delivery of possession thereof immediately after such sale to the purchaser at such sale, and Borrower, for itself and all who may at any time claim through or under it, hereby waives to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the assets subject to the security interest of this Mortgage marshalled upon any foreclosure or sale under the power herein granted.

2.11 Waiver of Redemption, Notice, Marshalling, Etc. Borrower hereby waives and releases (a) all benefit that might accrue to Borrower by virtue of any present or future law exempting the Premises, or any part of the proceeds arising from any sale thereof, from attachment, levy or sale on execution, or providing for any appraisement, valuation, stay of execution, exemption from civil process, redemption or extension of term for payment (b) unless specifically required herein, all notices of Borrower default or of Lender's election to exercise, or Lender's actual exercise, of any option or remedy under the Note, the Guaranty or the Security Documents, and (c) any right to have the Premises marshalled.

2.12 Leases. Lender, at its option, is authorized to foreclose this Mortgage subject to the rights of any tenants of the Premises, and the failure to make any such tenants parties to any such foreclosure proceedings and to foreclose their rights will not be, nor be asserted to be by Borrower, a defense to any proceedings instituted by Lender to collect the Indebtedness.

2.13 Discontinuance of Proceedings. In case Lender shall have proceeded to enforce any right, power or remedy under this Mortgage by foreclosure, entry or otherwise or in the event Lender commences advertising of the intended exercise of the sale under power provided hereunder, and such proceeding or advertisement shall have been withdrawn, discontinued or abandoned for any reason, or shall have been determined adversely to Lender, then in every such case (i) Borrower and Lender shall be restored to their former positions and rights, (ii) all rights, powers and remedies of Lender shall continue as if no such proceeding had been taken, (iii) each and every Default declared or occurring prior or subsequent to such withdrawal, discontinuance or abandonment shall and shall be deemed to be a continuing Default and (iv) neither this Mortgage, nor the Note, nor the Indebtedness, nor any other instrument concerned therewith, shall be or shall be deemed to have been reinstated or otherwise affected by such withdrawal, discontinuance or abandonment; and Borrower hereby expressly waives the benefit of any statute or rule of law now provided, or which may hereafter be provided, which would produce a result contrary to or in conflict with the above.

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

2.15 Waiver.

(a) No delay or omission by Lender or by any holder of the Note to exercise any right, power or remedy accruing upon any breach or Default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such breach or Default, or acquiescence therein, and every right, power and remedy given by this Mortgage to Lender may



be exercised from time to time and as often as may be deemed expedient by Lender. No consent or waiver, expressed or implied, by Lender to or of any breach or Default by Borrower in the performance of the obligations of Borrower hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or Default in the performance of the same or any other obligations by Borrower hereunder. Failure on the part of Lender to complain of any act or failure to act or to declare a Default, irrespective of how long such failure continues, shall not constitute a waiver by Lender of its rights hereunder or impair any rights, powers or remedies of Lender hereunder.

(b) No act or omission by Lender shall release, discharge, modify, change or otherwise affect the original liability under the Note, this Mortgage or any other obligation of Borrower or any subsequent purchaser of the Premises or any part thereof, or any maker, co-signer, endorser, surety or guarantor, or preclude Lender from exercising any right, power or privilege herein granted or intended to be granted in the event of any Default then made or of any subsequent Default, or alter the security title, security interest or lien of this Mortgage except as expressly provided in an instrument or instruments executed by Lender. Without limiting the generality of the foregoing, Lender may: (i) grant forbearance or an extension of time for the payment of all or any portion of the Indebtedness; (ii) take other or additional security for the payment of the Indebtedness; (iii) waive or fail to exercise any right granted hereunder or in the Note; (iv) consent to the granting of any easement or other right affecting the Premises; (vii) make or consent to any agreement subordinating the security title, security interest or lien hereof; or (viii) take or omit to take any action whatsoever with respect to the Note, this Mortgage, the Premises or any document or instrument evidencing, securing or in any way related to the Indebtedness; all without releasing, discharging, modifying, changing or affecting any such liability, or precluding Lender from exercising any such right, power of privilege or affecting the security title, security interest or lien of this Mortgage. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Premises, Lender, without notice, is hereby authorized and empowered to deal with any such vendee or transferee with reference to the Premises or the Indebtedness, or with reference to any of the terms, covenants, conditions or agreements hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing and/or discharging any liabilities, obligations or undertakings.

2.16 Suits to Protect the Premises. Lender shall have the power to institute and maintain such suits and proceedings as it may deem expedient (i) to prevent any impairment of the Premises by any acts which may be unlawful or constitute a Default under this Mortgage, (ii) to preserve or protect its interest in the Premises and in the incomes, rents, issues, profits and revenues arising therefrom and (iii) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would impair the security hereunder or be prejudicial to the interest of Lender.

2.17 Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Borrower, its creditors or its property, Lender, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Lender allowed in such proceedings for the entire amount of the Indebtedness at the date of the institution of such proceedings and for any additional amount of the Indebtedness after such date.

2.18 Waiver of Borrower's Rights to Judicial Hearing and Non-Statutory Notice. BY EXECUTION OF THIS MORTGAGE AND BY INITIALING THIS PARAGRAPH 2.18, BORROWER EXPRESSLY: (A) ACKNOWLEDGES THE RIGHT OF LENDER TO ACCELERATE THE INDEBTEDNESS EVIDENCED BY THE NOTE AND ANY OTHER INDEBTEDNESS AND THE POWER OF ATTORNEY GIVEN HEREIN TO LENDER TO SELL THE PREMISES BY NONJUDICIAL FORECLOSURE UPON DEFAULT BY BORROWER WITHOUT ANY JUDICIAL HEARING AND WITHOUT ANY NOTICE OTHER THAN SUCH NOTICE (IF ANY) AS IS SPECIFICALLY REQUIRED TO BE GIVEN UNDER THE PROVISIONS OF THIS MORTGAGE: (B) WAIVES ANY AND ALL RIGHTS WHICH BORROWER MAY HAVE UNDER THE CONSTITUTION OF THE



UNITED STATES OF AMERICA (INCLUDING, WITHOUT LIMITATION, THE FIFTH AND FOURTEENTH AMENDMENTS THEREOF), THE VARIOUS PROVISIONS OF THE CONSTITUTIONS FOR THE SEVERAL STATES, OR BY REASON OF ANY OTHER APPLICABLE LAW, (1) TO NOTICE AND TO JUDICIAL HEARING PRIOR TO THE EXERCISE BY LENDER OF ANY RIGHT OR REMEDY HEREIN PROVIDED TO LENDER, EXCEPT SUCH NOTICE (IF ANY) AS IS SPECIFICALLY REQUIRED TO BE GIVEN UNDER THE PROVISIONS OF THIS MORTGAGE AND (2) CONCERNING THE APPLICATION, RIGHTS OR BENEFITS OF ANY STATUTE OF LIMITATION OR ANY MORATORIUM, REINSTATEMENT, MARSHALLING FORBEARANCE, APPRAISEMENT VALUATION, STAY EXTENSION, HOMESTEAD, EXEMPTION OR REDEMPTION LAWS: (C) ACKNOWLEDGES THAT BORROWER HAS READ THIS MORTGAGE AND ANY AND ALL QUESTIONS OF BORROWER REGARDING THE LEGAL EFFECT OF THIS MORTGAGE AND ITS PROVISIONS HAVE BEEN EXPLAINED FULLY TO BORROWER, AND BORROWER HAS CONSULTED WITH COUNSEL OF BORROWER'S CHOICE PRIOR TO EXECUTING THIS MORTGAGE AND INITIALING THIS PARAGRAPH 2.18; AND (D) ACKNOWLEDGES THAT ALL WAIVERS OF THE AFORESAID RIGHTS OF BORROWER HAVE BEEN MADE KNOWINGLY, INTENTIONALLY AND WILLINGLY BY BORROWER AS PART OF A BARGAINED FOR LOAN TRANSACTION AND THAT THIS MORTGAGE IS VALID AND ENFORCEABLE BY LENDER AGAINST BORROWER IN ACCORDANCE WITH ALL THE TERMS AND CONDITIONS HEREOF.

INITIALED BY BORROWER

CLM RM

### ARTICLE III

3.01 Successors and Assigns. This Mortgage shall inure to the benefit of and be binding upon Borrower and Lender and their respective heirs, executors, legal representatives, successors, successors-in-title and assigns. Whenever a reference is made in this Mortgage to "Borrower" or "Lender" such reference shall be deemed to include a reference to the heirs, executors, legal representatives, successors, successors-in-title and assigns of Borrower and Lender, as the case may be. The provisions of this paragraph 3.01 are subject to the restrictions on transfer contained in Paragraph 1.17.

3.02 Terminology. All personal pronouns used in this Mortgage whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles of articles and paragraphs are for convenience only and neither limit nor amplify the provisions of this Mortgage, and all references herein to articles, paragraphs or subparagraphs shall refer to the corresponding articles, paragraphs or subparagraphs of this Mortgage unless specific reference is made to articles, paragraphs or subparagraphs of another document or instrument.

3.03 Severability. If any provisions of this Mortgage or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Mortgage and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

3.04 Applicable Law. This Mortgage shall be interpreted, construed and enforced according to the laws of the State of Alabama.

3.05 Notices. Any and all notices, elections or demands permitted or required to be made under this Mortgage shall be in writing, signed by the party giving such notice, election or demand, and shall be delivered by commercial courier service, or sent by registered or certified United States mail, postage prepaid, to the other party at the address set forth below, or at such other address within the continental United States of America as may have theretofore been designated in writing. The earlier of the date of delivery as evidenced by the commercial courier



service delivery records or on the date of acceptance of the return receipt, as the case may be, shall be the date of such notice, election or demand. For the purposes of this Mortgage:

The address of Borrower is:  
3705 Cumberland trace  
Birmingham, AL 35242

The address of Lender is:  
960 Buford Highway  
Alpharetta, Georgia 30004

3.06 Replacement of Note. Upon receipt of evidence reasonably satisfactory to Borrower of the loss, theft, destruction or mutilation of the Note, and in the case of any such loss, theft or destruction, upon delivery of an indemnity agreement reasonably satisfactory to Borrower or, in the case of any such mutilation, upon surrender and cancellation of the Note, Borrower will execute and deliver, in lieu thereof, a replacement Note, identical in form and substance to the Note and dated as of the date of the Note and upon such execution and delivery all references in this Mortgage to the Note shall be deemed to refer to such replacement Note.

3.07 Assignment. This Mortgage is assignable by Lender, and any assignment hereof by Lender shall operate to vest in the assignee all rights and powers herein conferred upon and granted to Lender.

3.08 Time is of the Essence. Time is of the essence with respect to each and every covenant, agreement and obligation of Borrower under this Mortgage, the Note and any and all other instruments now or hereafter evidencing, securing or otherwise relating to the Indebtedness.

3.09 Attorney's Fees. Whenever the term "attorney's fees" is used herein, said term shall be deemed to mean only reasonable attorney's fees actually incurred, including, without limitation, reasonable out-of-pocket expenses actually incurred therewith.

3.10 Small Business Administration Loan. The Loan secured by this lien was made under a United States Small Business Administration (SBA) nationwide program which uses tax dollars to assist small business owners. If the United States is seeking to enforce this Document, then under SBA regulations:

a) When SBA is the holder of the Note, this document and all documents evidencing or securing this Loan will be construed in accordance with federal law.

b) Lender or SBA may use local or state procedures for purposes such as filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using these procedures, SBA does not waive any federal immunity from local or state control, penalty, tax or liability. No Borrower or Guarantor may claim or asset against SBA any local or state law to deny any obligation of Borrower, or defeat any claim of SBA with respect to this loan.

Any clause in this document requiring arbitration is not enforceable when SBA is the holder of the Note secured by this instrument.


[signature page to follow]



IN WITNESS WHEREOF, Borrower has executed this Mortgage under seal, as of the day and year first above written.

BORROWER:

**SHOWMAKER REALTY, LLC**

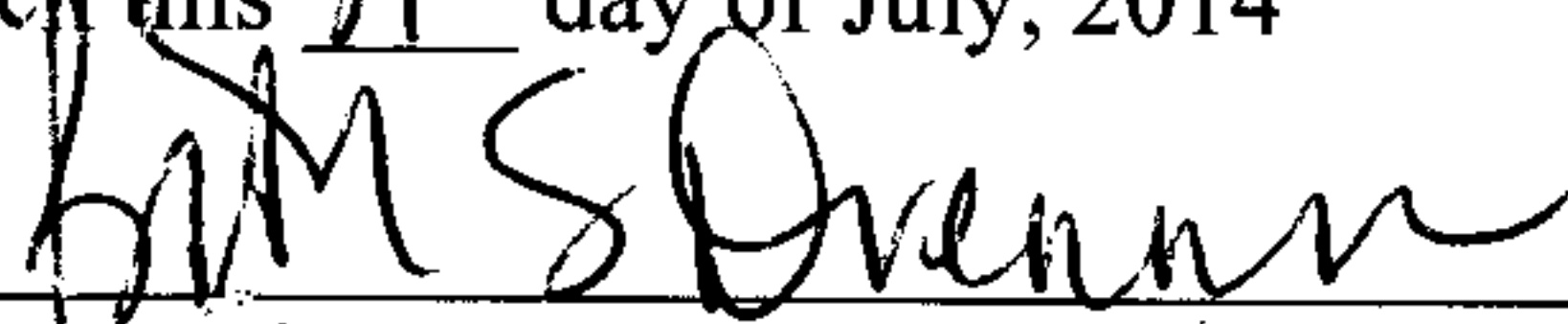
By:  (SEAL)  
**CLARENCE MOSS, Member**

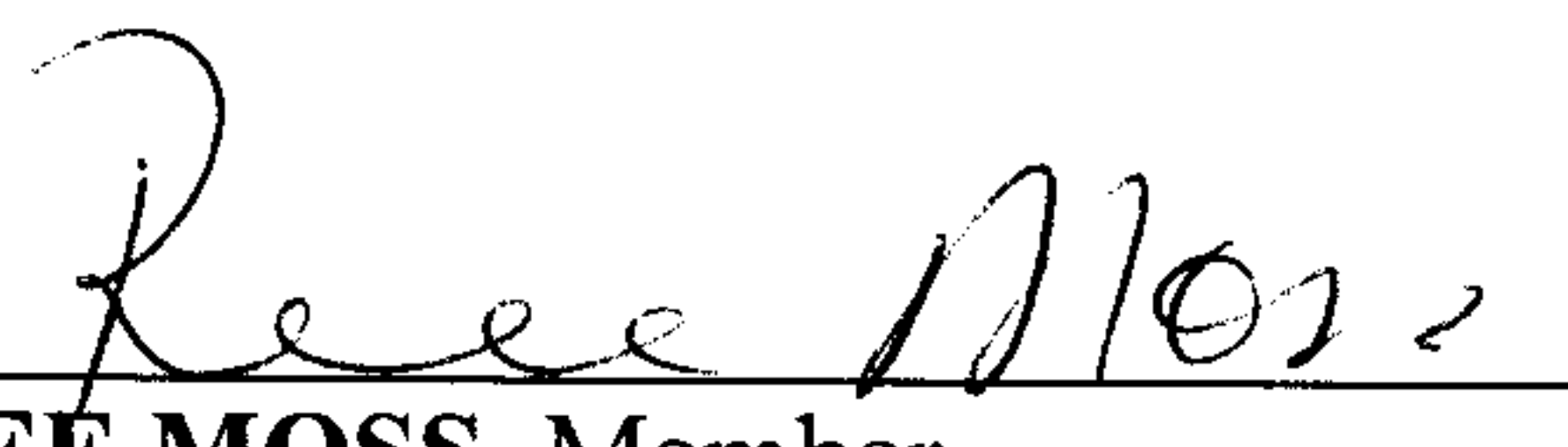
STATE OF ALABAMA  
COUNTY OF Shelby

I Beth Drennen

A Notary Public in and for said County and State, hereby certify that CLARENCE MOSS who is a Member of SHOWMAKER REALTY, LLC, a limited liability company, is/are signed to the foregoing instrument, and who is/are known to me, acknowledged before me on this day that being informed of the contents of the instrument, he/she/they, as such Member, and with full authority executed the same voluntarily for and as the act of said company

Given this 31<sup>st</sup> day of July, 2014

  
Notary Public  
My Commission Expires: 8/13/16

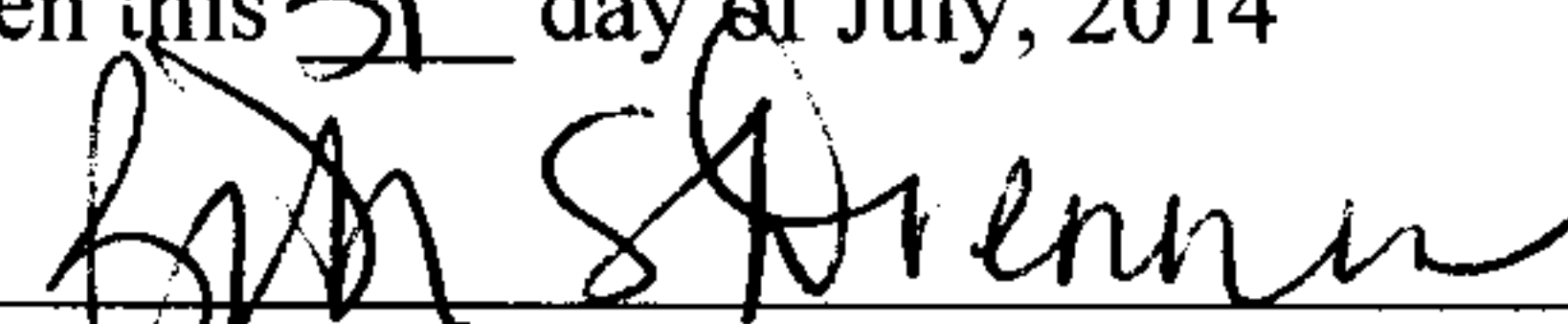
By:  (SEAL)  
**RENEE MOSS, Member**

STATE OF ALABAMA  
COUNTY OF Shelby

I Beth Drennen

A Notary Public in and for said County and State, hereby certify that RENEE MOSS who is a Member of SHOWMAKER REALTY, LLC, a limited liability company, is/are signed to the foregoing instrument, and who is/are known to me, acknowledged before me on this day that being informed of the contents of the instrument, he/she/they, as such Member, and with full authority executed the same voluntarily for and as the act of said company

Given this 31<sup>st</sup> day of July, 2014

  
Notary Public  
My Commission Expires: 8/13/16


 (SEAL)  
**CLARENCE LOUIS MOSS, III, individually**

STATE OF ALABAMA  
COUNTY OF Shelby

I Beth Drennen

A Notary Public in and for said County and State, hereby certify that CLARENCE MOSS who signed the foregoing instrument, and who is/are known to me, acknowledged before me on this day that being informed of the contents of the instrument, he/she/they, with full authority executed the same voluntarily for and as the act of said company

Given this 31<sup>st</sup> day of July, 2014

  
Notary Public  
My Commission Expires: 8/13/16



*Renée Lee Moss* (SEAL)  
RENEE LEE MOSS, individually

STATE OF ALABAMA  
COUNTY OF Shelby

I *Beth Drennen*

A Notary Public in and for said County and State, hereby certify that RENEE MOSS who signed the foregoing instrument, and who is/are known to me, acknowledged before me on this day that being informed of the contents of the instrument, he/she/they, with full authority executed the same voluntarily for and as the act of said company

Given this 31<sup>st</sup> day of July, 2014

*Beth Drennen*

Notary Public

My Commission Expires: 8/13/16





**EXHIBIT "A"**

Parcel 1- owned by **SHOWMAKER REALTY, LLC**

**Lot 1, according to the Survey of Taco Bell Survey , as recorded in Map Book 182, page 3, in the Probate Office of Jefferson County, Alabama; TOGETHER WITH those certain easements and/or covenants reserved in Instrument 9412/9824 and Instrument 9412/9817, and easements granted in that certain Reciprocal Easement Agreement for ingress and egress recorded in Instrument 9703/2321, as recorded in said probate office.**


Parcel 2- owned by **SHOWMAKER REALTY, LLC**

**Lot 4, according to the Survey of Colonial Promenade Alabaster South, as recorded in Map Book 38, pages 119 A & B, in the Probate Office of Shelby County, Alabama.**

**Together with that certain Slope Easement as recorded in Instrument 2006020600058230 in the Probate Office of Shelby County, Alabama.**

Parcel 3 - owned by **CLARENCE LOUIS MOSS, III AND RENEE LEE MOSS**

**Lot 17, according to the Survey of Meadow Brook Estates, 2nd Sector, 2nd Phase, as recorded in Map Book 7, page 130, in the Probate Office of Shelby County, Alabama.**

  
20140806000243810 21/26 \$90.00  
Shelby Cnty Judge of Probate, AL  
08/06/2014 11:58:07 AM FILED/CERT



## EXHIBIT "B"

### Exceptions as to Parcel 1

1. Building line(s) as shown by recorded map.
2. Right of Way granted to Alabama Power Company by instrument recorded in Real 401, Page 89 and Real 1792, Page 120 in the Probate Office of Jefferson County, Alabama.
3. Declaration of Protective Covenants, Agreements, Easements, Charges and Liens for Riverchase (Business), as recorded in Shelby Misc. Book 13, Page 50 refiled in Birmingham Real 1236, Page 881 and refiled in Bessemer Real 348, page 837, Amendment No. 1 to Declaration as recorded in Shelby Misc. Book 15, page 189 refiled in Birmingham Real 1294, Page 30 and refiled in Bessemer Real 348, Page 875, further amended by Amendment No. 2 in Shelby Misc. Book 19, page 633, refiled in Birmingham Real 1437, Page 570 and refiled in Bessemer Real 348, Page 878, in the Probate Office of Shelby County, Alabama.
4. Restrictions and Easements as shown by recorded map.
5. 50 foot Buffer strip, Easements, Drainage and Utility Lines and Restrictions to Building size as set out in deed recorded in Real 1617, Page 567 in the Probate Office of Jefferson County, Alabama.
6. Mineral and mining rights and rights incident thereto recorded in Volume 492, Page 469, in the Probate Office of Jefferson County, Alabama.
7. Oil, Gas, Petroleum, Sulpher and rights relating thereto recorded in Volume 3642, Page 258, in the Probate Office of Jefferson County, Alabama.
8. Easement Agreement recorded in Real 4219, Page 882 in the Probate Office of Jefferson County, Alabama.
9. Grant of Easement recorded in Instrument 9505/2454 in the Probate Office of Jefferson County, Alabama.
10. Reciprocal Easement Agreement recorded in Instrument 9412/9824 in the Probate Office of Jefferson County, Alabama.
11. Declaration of Restrictive Covenants as recorded in Instrument 9412/9817, in the Probate Office of Jefferson County, Alabama, but omitting any covenant or restriction based on race, color, religion, sex, handicap, familial status, or national origin.
12. Reservations, Covenants, Restrictions and Easements appearing of record in Instrument 9412/9813, in the Probate Office of Jefferson County, Alabama, but omitting any covenant or restriction based on race, color, religion, sex, handicap, familial status, or national origin.
13. First Amendment to non-exclusive easement agreement recorded in Instrument 9404/3958 in the Probate Office of Jefferson County, Alabama.
14. Declaration of Restrictive Covenants as recorded in Instrument 9404/3956, in the Probate Office of Jefferson County, Alabama, but omitting any covenant or restriction based on race, color, religion, sex, handicap, familial status, or national origin.
15. Reciprocal Easement Agreement for ingress and egress and public utilities recorded in Instrument Instrument 9703/2321 in the Probate Office of Jefferson, Alabama.
16. Restrictions appearing of record in Real 778, page 181, in the Probate Office of Jefferson County, Alabama, but omitting any covenant or restriction based on race, color, religion, sex, handicap, familial status or national origin.
17. Taxes for the year 2014 and subsequent years, which are liens not yet due or payable and any additional taxes for the current year or any prior years, as a result of amended, re-assessment or re-billing of taxes.

### Exceptions as to Parcel 2

17. Building line(s) as shown by map recorded in Map Book 38, Pages 119 A and B, in the Probate Office of Shelby County, Alabama.
18. Easement(s) as shown by map recorded in Map Book 38, Pages 119 A and B, in the Probate Office of Shelby County, Alabama.
19. Restrictions as shown by map recorded in Map Book 38, Pages 119 A and B, in the Probate Office of Shelby County, Alabama.



20. Easement Agreement with Alabaster Water Board as shown by Instrument 1996/4040 in the Probate Office of Shelby County, Alabama.
21. Right of Way granted to Alabama Power Company by instrument recorded in Volume 222, page 430; Deed Book 107, page 132; Deed Book 107, page 135 and Deed Book 107, page 136, in the Probate Office of Shelby County, Alabama.
22. Right of way and easement recorded in Volume 304, page 457, in the Probate Office of Shelby County, Alabama.
23. Operation and Easement Agreement recorded in Instrument 20060117000026240; Addendum to said agreement recorded in Instrument 20060503000208300 and 1st Amendment recorded in Instrument 20070220000077630 in the Probate Office of Shelby County, Alabama.
24. Alabaster Development Agreement recorded in Instrument 20050712000346700 in the Probate Office of Shelby County, Alabama.
25. Easement to Alabama Power Company recorded in Instrument 20060424000190010 and Instrument 20070323000132380, in the Probate Office of Shelby County, Alabama.
26. Agreement with Alabama Power Company and Highway 31 Alabaster, LLC recorded in Instrument Instrument 20060424000190020, in the Probate Office of Shelby County, Alabama.
27. Agreement as recorded in Instrument 20060503000208280 and Instrument 20060503000208290, in the Probate Office of Shelby County, Alabama.
28. Memorandum of Site Development Agreement recorded in Instrument 20060113000022860, in the Probate Office of Shelby County, Alabama.
29. Construction, Operating and Easement Agreement recorded in Instrument 20060316000123780 in the Probate Office of Shelby County, Alabama.
30. Agreement between Alabama Power Company and Shelby County recorded in Book 217, page 418 in the Probate Office of Shelby County, Alabama.
31. Right of way to Southern Bell Telephone and Telegraph Company, as recorded in Book 320, page 909, in the Probate Office of Shelby County, Alabama.
32. Rights of tenants in possession.
33. Easement to Alabama Power Company recorded in Instrument 20071029000498250, Instrument 20071029000497350, Instrument 20071029000498230, Instrument 20071029000498240, Instrument 20071030000500760, Instrument 20071109000517690 and Instrument 20071029000498180, in the Probate Office of Shelby County, Alabama.
34. Restrictions appearing of record in Instrument 20120509000163110, in the Probate Office of Jefferson County, Alabama, but omitting any covenant or restriction based on race, color, religion, sex, handicap, familial status, or national origin
19. Taxes for the year 2014 and subsequent years, which are liens not yet due or payable and any additional taxes for the current year or any prior years, as a result of amended, re-assessment or re-billing of taxes.

#### Exceptions as to Parcel 3

35. Building line(s) as shown by recorded map.
36. Easement(s) as shown by recorded map.
37. Restrictions as shown by recorded map.
38. Agreement with Alabama Power Company recorded in Misc. Volume 48, Page 880, in the Probate Office of Shelby County, Alabama.
39. Right of Way granted to Alabama Power Company by instrument recorded in Volume 318, page 414; Volume 318, Page 412 and Volume 318, Page 416 in the Probate Office of Jefferson County, Alabama.
40. Restrictions appearing of record in Misc. Volume 29, Page 929, in the Probate Office of Jefferson County, Alabama, but omitting any covenant or restriction based on race, color, religion, sex, handicap, familial status, or national origin.



41. Mineral and mining rights and rights incident thereto recorded in Volume 32, Page 306 and Volume 40, Page 265, in the Probate Office of Jefferson County, Alabama.
42. Taxes for year 2014 and subsequent years, which are liens not yet due or payable and any additional taxes or the current year or any prior years, as a result of amended, re-assessment or re-billing of taxes

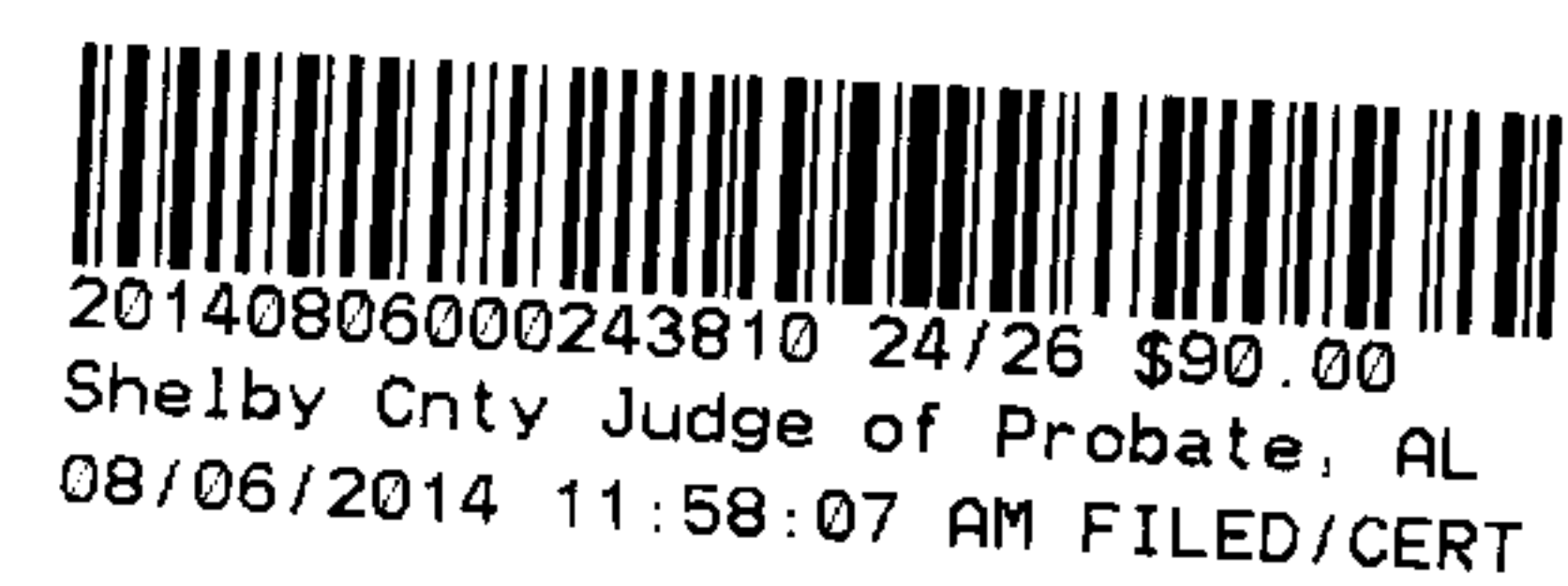




EXHIBIT "C"

SCHEDULE 1

(Description of "Debtor" and "Secured Party")

A. DEBTOR:

1. Name and Identity of Debtor:

SHOWMAKER REALTY, LLC  
CLARENCE LOUIS MOSS, III and RENEE LEE MOSS

2. The principal place of business of Debtor is located at:

3705 Cumberland Trace  
Birmingham, AL 35242

B. SECURED PARTY: FIRST BANK OF JASPER, a division of Synovus Bank

\*\*\*\*\*

SCHEDULE 2

(Notice Mailing Addresses of "Debtor" and "Secured Party")

- A. The mailing address of Debtor is:

3705 Cumberland Trace  
Birmingham, AL 35242

- B. The mailing address of Secured Party is:

960 Buford Highway  
Cumming, GA 30041

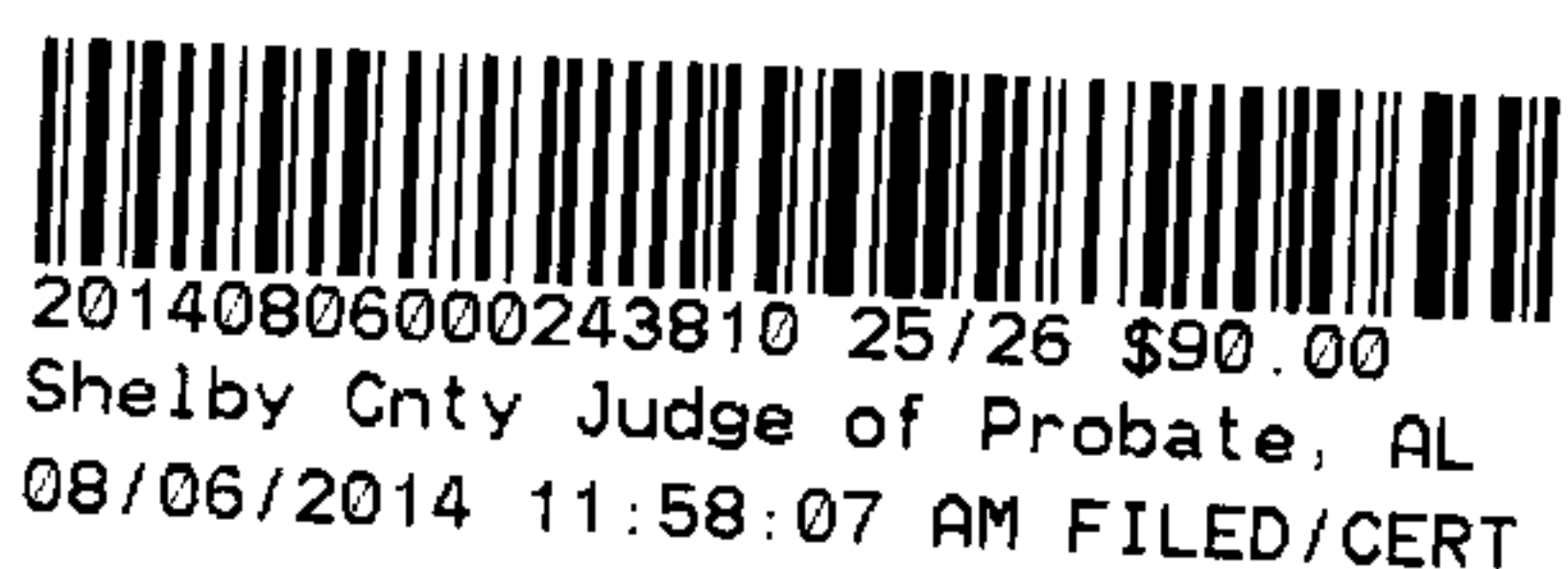





EXHIBIT "D"

(Use of Premises)

Borrower shall at all times operate the Premises for business purposes. (As to Parcel 1 and Parcel 2 only)

  
20140806000243810 26/26 \$90.00  
Shelby Cnty Judge of Probate, AL  
08/06/2014 11:58:07 AM FILED/CERT

*Recorders Note : Distribution  
Form Completed*

20140805000696480 25/25  
Bk: LR201415 Pg:12326  
Jefferson County, Alabama  
08/05/2014 11:00:05 AM MTG  
Fee - \$89.00  
Mortgage Tax -\$6508.35  
Total of Fees and Taxes-\$6597.35  
LMCDUFFIE