

**Prepared By:**

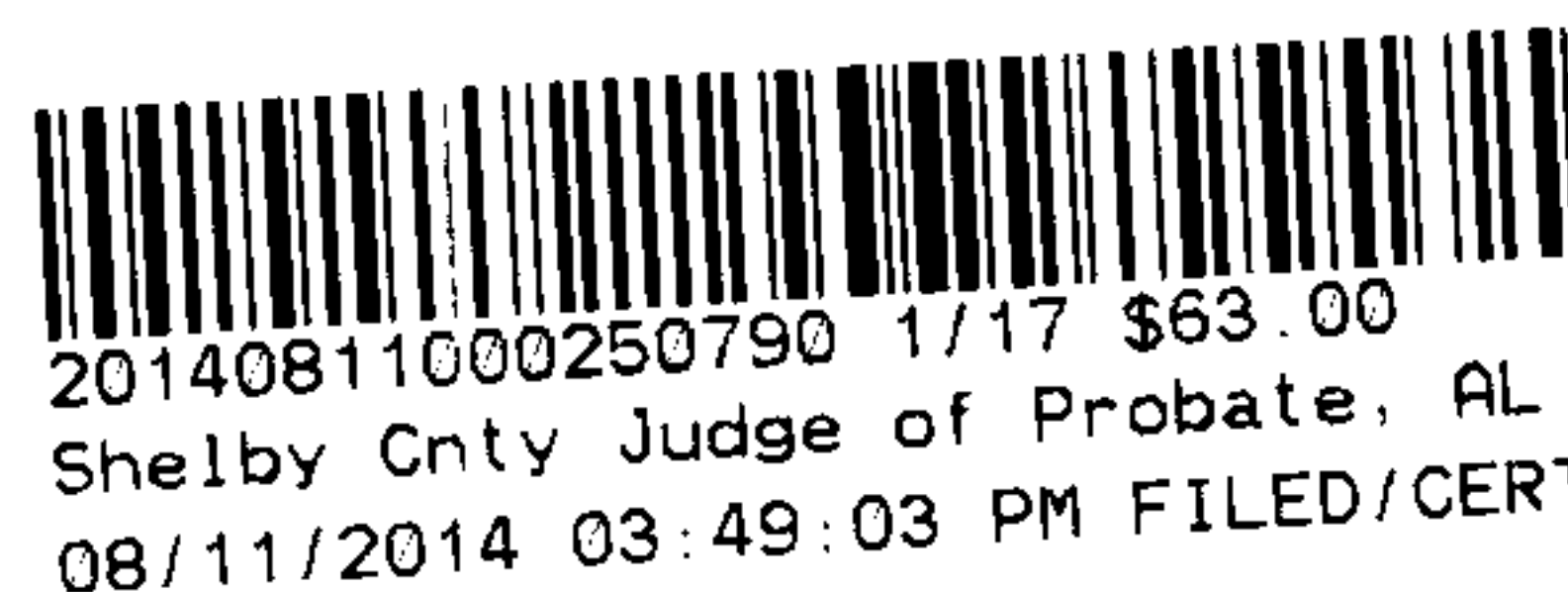
Barry D. Hassell, Esq. (ASB-1172-R44H)  
Copeland, Cook, Taylor & Bush P.A.  
1076 Highland Colony Parkway, 600 Concourse  
Ridgeland, Mississippi 39157  
601-856-7200

**When Recorded Mail to:**

Barry D. Hassell, Esq.  
Copeland, Cook, Taylor & Bush P.A.  
1076 Highland Colony Parkway, 600 Concourse  
Ridgeland, Mississippi 39157  
601-856-7200

**Send Tax Notices to:**

Community Trust Bank  
1511 North Trenton  
Ruston, LA 71270



**Indexing Instructions: Lot 15, Map Book 35, Page 102 A & B, Shelby County, Alabama.**

## **MORTGAGE**

MAXIMUM LIEN. The lien of this Mortgage shall not exceed at any one time \$ **\$7,575,489.12**

THIS MORTGAGE dated July 29, 2014, is made and executed between SOUTHERN WINGS FOUR, LLC, whose address is 2772 JOHN HAWKINS PARKWAY, HOOVER, ALABAMA 35244 (referred to below as "Mortgagor") and COMMUNITY TRUST BANK, whose address is 1511 NORTH TRENTON, RUSTON, LOUISIANA 71270 (referred to below as "Mortgagee").

**GRANT OF MORTGAGE:** For valuable consideration, Mortgagor mortgages, grants, bargains, sells and conveys to Mortgagee all of Mortgagor's right, title, and interest, in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures, all easements, rights of way and appurtenances, all water, water rights, watercourses and ditch rights (including stock in utilities with ditch or irrigation rights), and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in SHELBY County, State of Alabama:

### **SEE EXHIBIT A**

The Real Property address is commonly known as 840 COLONIAL PROMENADE PKWY, ALABASTER, Alabama 35007. The Real Property described above does not constitute the Homestead of the Mortgagor. Mortgagor presently assigns to Mortgagee all of Mortgagor's, right, title, and interest in and to all present and future leases of the Property and all rents from the Property. In addition, Mortgagor grants to Mortgagee a Uniform Commercial Code security interest in the Personal Property and Rents.



THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE THE PAYMENT OF THE INDEBTEDNESS AND PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THE PROMISSORY NOTE, THE RELATED DOCUMENTS, AND THIS MORTGAGE. THIS MORTGAGE IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

**MORTGAGOR'S WAIVERS:** Mortgagor waives all rights or defenses arising by reason of any "one action" or "anti-deficiency" law, or any other law which may prevent Mortgagee from bringing any action against Mortgagor, including a claim for deficiency to the extent Mortgagee is otherwise entitled to a claim for deficiency, before or after Mortgagee's commencement or completion of any foreclosure action, either judicially or by exercise of a power of sale.

**MORTGAGOR'S REPRESENTATIONS AND WARRANTIES:** Mortgagor warrants that: (a) this Mortgage is executed at Borrower's request and not at the request of Mortgagee; (b) Mortgagor has the full power, right and authority to enter into this Mortgage and to hypothecate the Property; (c) the provisions of this Mortgage do not conflict with, or result in a default under any agreement or other instrument binding upon Mortgagor and do not result in a violation of any law, regulation, court decree or order applicable to Mortgagor; (d) Mortgagor has established adequate means of obtaining from Borrower on a continuing basis information about Borrower's financial condition; and (e) Mortgagee has made no representation to Mortgagor about Borrower (including without limitation the creditworthiness of Borrower).

**PAYMENT AND PERFORMANCE:** Except as otherwise provided in this Mortgage, Borrower shall pay to Mortgagee all Indebtedness secured by this Mortgage as it become due, and Borrower and Mortgagor shall strictly perform all Borrower's and Mortgagor's obligations under this Mortgage.

**POSSESSION AND MAINTENANCE OF THE PROPERTY:** Borrower and Mortgagor agree that Borrower's and Mortgagor's possession and use of the Property shall be governed by the following provisions:

**Possession and Use** - Until the occurrence of an Event of Default, Mortgagor may: (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property.

**Duty to Maintain** - Mortgagor shall maintain the Property in tenant able condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

**Compliance With Environmental Laws** - Mortgagor represents and warrants to Mortgagee that: (1) During the period of Mortgagor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Mortgagor has no knowledge of, or reason to believe, that there has been, except as previously disclosed to and acknowledged by Mortgagee in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owner or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters, and (3) Except as previously disclosed to and acknowledged by Mortgagee in writing, (a) neither Mortgagor nor any tenant, contractor, agent or



other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of, or release Hazardous Substance on, under, about or around the Property, and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation Environmental Laws. Mortgagor authorizes Mortgagee and its agents to enter upon the Property to make such inspections and tests, at Mortgagor's expense, as Mortgagee may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections and tests made by Mortgagee shall be for Mortgagee's purposes only and shall not be construed to create any responsibility or liability on the part of Mortgagee to Mortgagor or to any other person. The representations and warranties contained herein are based on Mortgagor's due diligence in investigating the Property for Hazardous Substances.

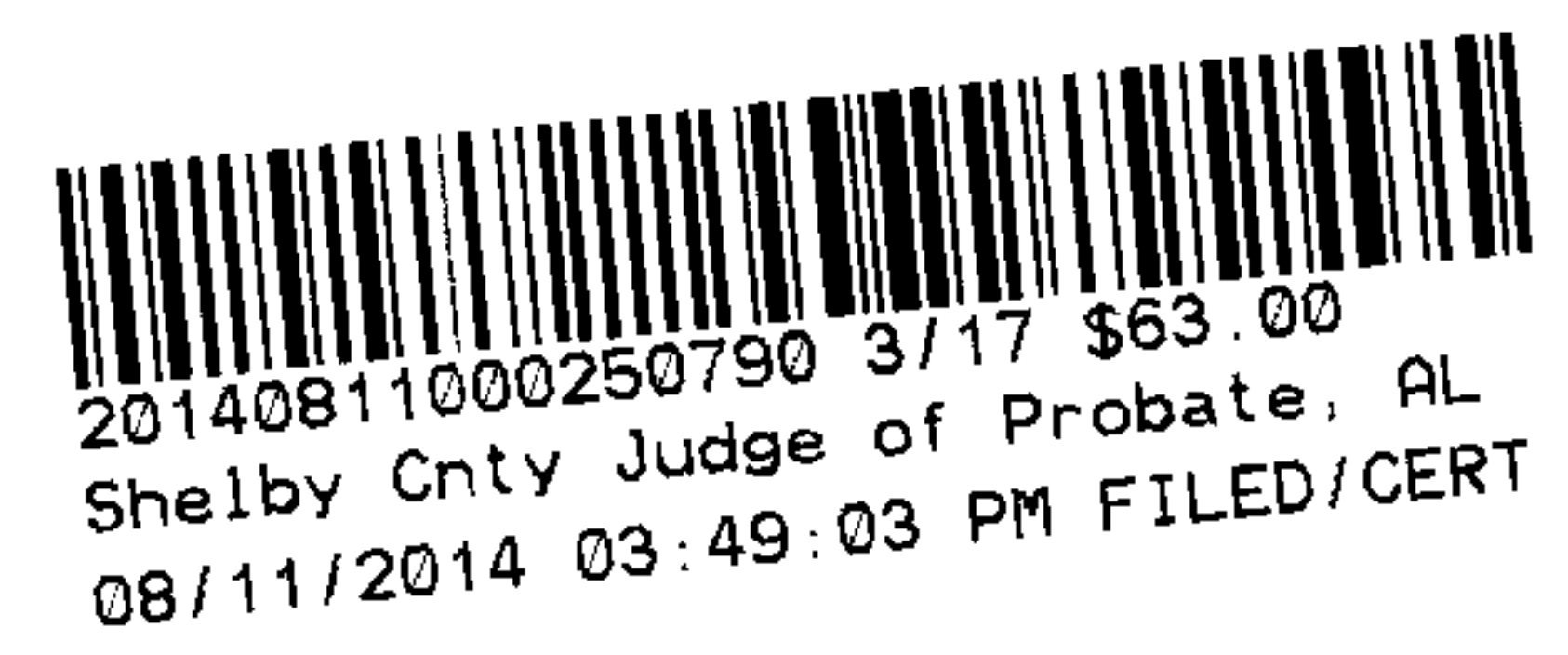
Mortgagor hereby: (1) releases and waives any future claims against Mortgagee for indemnity or contribution in the event Mortgagor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify, defend, and hold harmless Mortgagee against any and all claims, losses, liabilities, damages, penalties, and expenses of which Mortgagee may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Mortgagor's ownership or interest in the Property, whether or not the same was or should have been known to Mortgagor. The provisions of the section of the Mortgage, including the obligation to indemnify and defend, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Mortgagee's acquisition of any interest in the Property, whether by foreclosure or otherwise.

**Nuisance and Waste** - Mortgagor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Mortgagor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), coal, clay, scoria, soil, gravel or rock products without Mortgagee's prior written consent.

**Removal of Improvements**- Mortgagor shall not demolish or remove any Improvements from the Real Property without Mortgagee's prior written consent. As a condition to the removal of any Improvements, Mortgagee may require Mortgagor to make arrangements satisfactory to Mortgagee to replace such improvements with Improvements of at least equal value.

**Mortgagee's Right to Enter** - Mortgagee and Mortgagee's agents and representatives may enter upon the Real Property at all reasonable times to attend to Mortgagee's interests and to inspect the Real Property for purposes of Mortgagor's compliance with the terms and conditions of the Mortgage.

**Compliance with Governmental Requirements** - Mortgagor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans With Disabilities Act. Mortgagor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Mortgagor has notified Mortgagee in writing prior to doing so and so long as, in Mortgagee's sole opinion, Mortgagee's interests to the Property are not jeopardized. Mortgagee may require Mortgagor to post adequate security or a surety bond, reasonably satisfactory to Mortgagee, to protect Mortgagee's Interest.





**Duty to Protect** - Mortgagor agrees neither to abandon or leave unattended the Property. Mortgagor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

**TAXES AND LIENS.**: The following provisions relating to the taxes and liens on the Property are part of this Mortgage:

**Payment** - Mortgagor shall pay when due (and in all events prior to delinquency) all taxes, payroll taxes, special taxes, assessments, water charges and sewer service charges levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Mortgagor shall maintain the Property free of any liens having priority over or equal to the interest of Mortgagee under this Mortgage, except for those liens specifically agreed to in writing by Mortgagee, and except for the lien of taxes and assessments not due as further specified in the Right to Contest paragraph.

**Right to Contest** - Mortgagor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Mortgagee's interest in the Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Mortgagor shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Mortgagor has notice of the filing, secure the discharge of the lien, or if requested by Mortgagee, deposit with Mortgagee cash or a sufficient corporate surety bond or other security satisfactory to Mortgagee in an amount sufficient to discharge the lien plus any costs and attorneys' fees, or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Mortgagor shall defend itself and Mortgagee and shall satisfy any adverse judgment before enforcement against the Property. Mortgagor shall name Mortgagee as an additional obligee under any surety bond furnished in the contest proceedings.

**Evidence of Payment** - Mortgagor shall upon demand furnish to Mortgagee satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Mortgagee at any time a written statement of the taxes and assessments against the Property.

**Notice of Construction** - Mortgagor shall notify Mortgagee at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Property, if any mechanic's lien, materialmen's lien, or other lien could be asserted on account of the work, services, or materials. Mortgagor will upon request of Mortgagee furnish to Mortgagee advance assurances satisfactory to Mortgagee that Mortgagor can and will pay the cost of such improvements.

**PROPERTY DAMAGE INSURANCE:** The following provisions relating to insuring the Property are part of this Mortgage:

**Maintenance of Insurance** - Mortgagor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Mortgagee. Mortgagor shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Mortgagee may request with Mortgagee being named as additional insureds in such liability insurance policies. Additionally, Mortgagor shall maintain such other insurance, including but not limited to, hazard, business interruption and boiler insurance as Mortgagee may require. Policies shall be written by such insurance companies and in such



form as may be reasonably acceptable to Mortgagee. Mortgagor shall deliver to Mortgagee certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' prior written notice to Mortgagee and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Mortgagee will not be impaired in any way by any act, omission or default of Mortgagor or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Mortgagor agrees to obtain and maintain Federal Flood Insurance, if available, within 45 days after notice is given by Mortgagee that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Mortgagee, and to maintain such insurance for the term of the loan.

**Application of Proceeds** - Mortgagor shall promptly notify Mortgagee of any loss or damage to the Property. Mortgagee may make proof of loss if Mortgagor fails to do so within fifteen (15) days of the casualty. Whether or not Mortgagee's security is impaired, Mortgagee may, at Mortgagee's election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Mortgagee elects to apply the proceeds to restoration and repair, Mortgagor shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Mortgagee. Mortgagee shall, upon satisfactory proof of such expenditure, pay or reimburse Mortgagor from the proceeds for the reasonable cost of repair or restoration if Mortgagor is not in default under this Mortgage. Any proceeds which have not been disbursed within 180 days after their receipt and which Mortgagee has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Mortgagee under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Mortgagee holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Mortgagor as Mortgagor's interests may appear.

**Mortgagor's Report on Insurance** - Upon request of Mortgagee, however not more than once a year Mortgagor shall furnish to Mortgagee a report on each existing policy of insurance showing: (1) the name of the insurer; (2) the risks insured; (3) the amount of the policy; (4) the property insured, the then current replacement value of such property, and the manner of determining that value; and (5) the expiration date of the policy. Mortgagor shall upon request of Mortgagee, have an independent appraiser satisfactory to Mortgagee determine the cash value replacement cost of the Property.

**MORTGAGEE'S EXPENDITURES:** If any action or proceeding is commenced that would materially affect Mortgagee's interest in the Property or if Mortgagor fails to comply with any provision of this Mortgage or any Related Documents, including but not limited to Mortgagor's failure to discharge or pay when due any amounts Mortgagor is required to discharge or pay under this Mortgage or any Related documents, Mortgagee on Mortgagor's behalf may (but shall not be obligated to) take any action that Mortgagee deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Lender for



such purposes will then bear interest at the rate charged under the Promissory Note and from the date incurred or paid by Lender to the date of repayment by Mortgagor. All such expenses will become part of the indebtedness and, at Mortgagee's option, will be payable on demand. The Mortgage also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default.

**WARRANTY; DEFENSE OF TITLE:** The following provisions relating to ownership of the Property are a part of this Mortgage:

**Title** - Mortgagor warrants that: (a) Mortgagor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Mortgagee, in connection with this Mortgage, and (b) Mortgagor has the full right, power, and authority to execute and deliver this Mortgage to Mortgagee.

**Defense of Title** - Subject to the exception in the paragraph above, Mortgagor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Mortgagor's title or the interest of Mortgagee under this Mortgage, Mortgagor shall defend the action at Mortgagor's expense. Mortgagor may be the nominal party in such proceeding, but Mortgagee shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Mortgagee's own choice and Mortgagor will deliver, or cause to be delivered, to Mortgagee such instruments as Mortgagee may request from time to time to permit such participation.

**Compliance With Laws** - Mortgagor warrants that the Property and Mortgagor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

**Survival of Representations and Warranties** - All representations, warranties, and agreements made by Mortgagor in this Mortgage shall survive the execution and delivery of this Mortgage, shall be continuing in nature, and shall survive the termination of this Mortgage.

**CONDEMNATION:** The following provisions relating to condemnation proceedings are a part of this Mortgage:

**Proceedings** - If any proceeding in condemnation is filed, Mortgagor shall promptly notify Mortgagee in writing, and Mortgagor shall promptly take such steps as may be necessary to defend the action and obtain the award. Mortgagor may be the nominal party in such proceeding, but Mortgagee shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Mortgagor shall deliver or cause to be delivered to Mortgagee such instruments and documentation as may be requested by Mortgagee from time to time to permit such participation.

**Application of Net Proceeds** - If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Mortgagee may at its election require that all or any portion of the net proceeds of the award be applied to the Indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all



reasonable costs, expenses, and attorneys' fees incurred by Mortgagee in connection with the condemnation.

**IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES:** The following provisions relating to governmental taxes, fees and charges are a part of this Mortgage:

**Current Taxes, Fees and Charges** - Upon request by Mortgagee, Mortgagor shall execute such documents in addition to this Mortgage and take whatever other action is requested by Mortgagee to perfect and continue Mortgagee's lien on the Real Property. Mortgagor shall reimburse Mortgagee for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this

Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

**Taxes** - The following shall constitute taxes to which this section applies: (1) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (2) a specific tax on Borrower which Borrower is authorized or required to deduct from payments on the Indebtedness secured by this type of Mortgage; (3) a tax on this type of Mortgage chargeable against the Mortgagee or the holder of the Promissory Note; and (4) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Borrower.

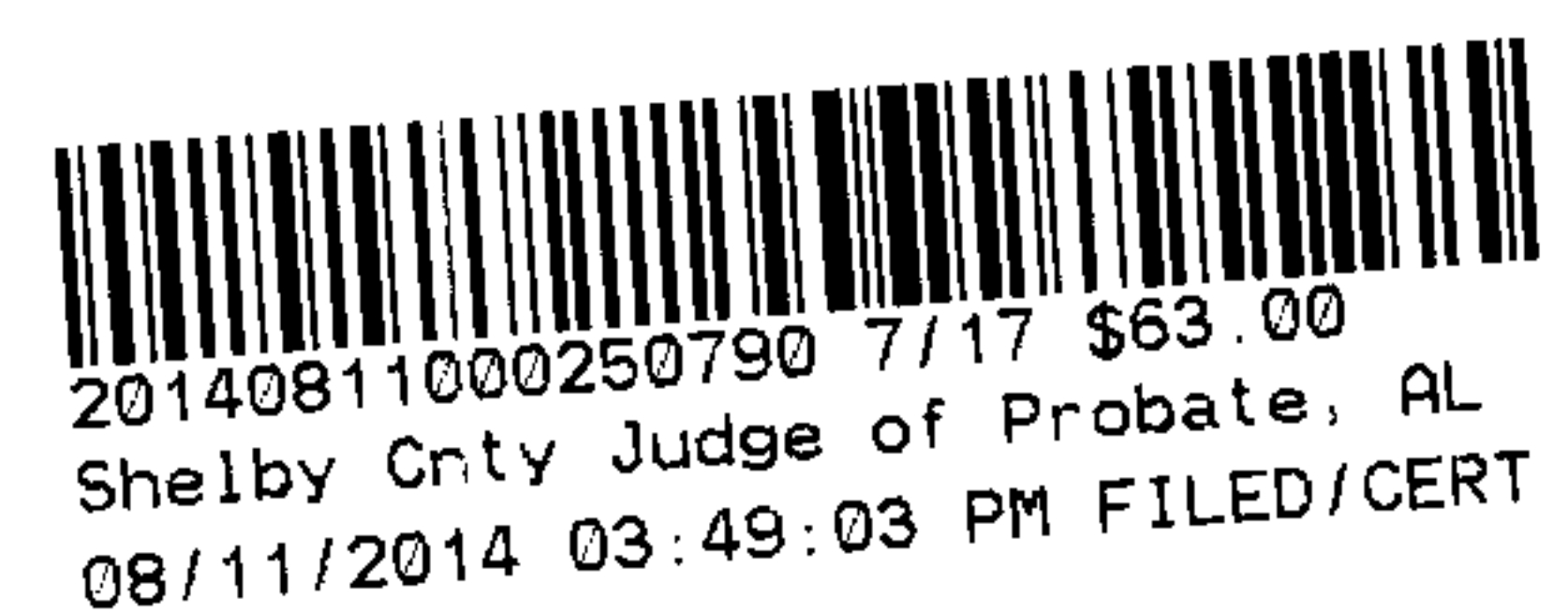
**Subsequent Taxes** - If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Mortgagee may exercise any or all of its available remedies for an Event of Default as provided below unless Mortgagor either: (1) pays the tax before it becomes delinquent; or (2) contests the tax as provided above in the Taxes and Lien section and deposits with Mortgagee cash or a sufficient corporate surety bond or other security satisfactory to Mortgagee.

**SECURITY AGREEMENT AND FINANCING STATEMENTS:** The following provisions relating to this Mortgage as a security agreement are part of this Mortgage:

**Security Agreement** - This Instrument shall constitute a Security Agreement to the extent any of the Property constitutes fixtures, and Mortgagee shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

**Security Interest** - Upon request by Mortgagee, Mortgagor shall take whatever action is requested by Mortgagee to perfect and continue Mortgagee's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Mortgagee may, at any time and without further authorization from Mortgagor, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Mortgagor shall reimburse Mortgagee for all expenses incurred in perfecting or continuing this security interest. Upon default, Mortgagor shall not remove, sever or detach Personal Property from the Property. Upon default, Mortgagor shall assemble any Personal Property not affixed to the Property in a manner and at a place reasonably convenient to Mortgagor and Mortgagee and make it available to Mortgagee within three (3) days after receipt of written demand from Mortgagee to the extent permitted by applicable law.

**Addresses** - The mailing addresses of Mortgagor (debtor) and Mortgagee (secured party) from which information concerning the security interest granted by this Mortgage may be obtained (each as required





by the Uniform Commercial Code) are as stated on the first page of this Mortgage.

**FURTHER ASSURANCES; ATTORNEY-IN-FACT:** The following provisions relating to further assurances and attorney-in-fact are a part of this Mortgage:

**Further Assurances** - At any time, and from time to time, upon request of Mortgagee, Mortgagor will make, execute and deliver, or will cause to be made, executed or delivered to Mortgagee or to Mortgagee's designee, and when requested by Mortgagee, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Mortgagee may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further issuance, certificates, and other documents as may, in the sole opinion of Mortgagee, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve: (1) Borrower's and Mortgagor's obligations under the Promissory Note, this Mortgage, and the Related Documents, and (2) the liens and security interests created by this Mortgage as first and prior liens on the Property, whether now owned or hereafter acquired by Mortgagor. Unless prohibited by law or Mortgagee agrees to the contrary in writing, Mortgagor shall reimburse Mortgagee for all costs and expenses incurred in connection with the matters referred to in this paragraph.

**Attorney-In-Fact** - If Mortgagor fails to do any of the things referred to in the preceding paragraph, Mortgagee may do so for and in the name of Mortgagor and at Mortgagor's expense. For such purposes, Mortgagor hereby irrevocably appoints Mortgagee as Mortgagor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Mortgagee's sole opinion, to accomplish the matters referred to in the preceding paragraph.

**FULL PERFORMANCE:** If Borrower and Mortgagor pay all the indebtedness when due, and Mortgagor otherwise performs all the obligations imposed upon Mortgagor under this Mortgage, Mortgagee shall execute and deliver to Mortgagor a suitable satisfaction of this Mortgage and suitable statements of termination of any financing statements on file evidencing Mortgagee's security interest in the Rents and the Personal Property. Mortgagor will pay, if permitted by applicable law, any reasonable termination fee as determined by Mortgagee from time to time.

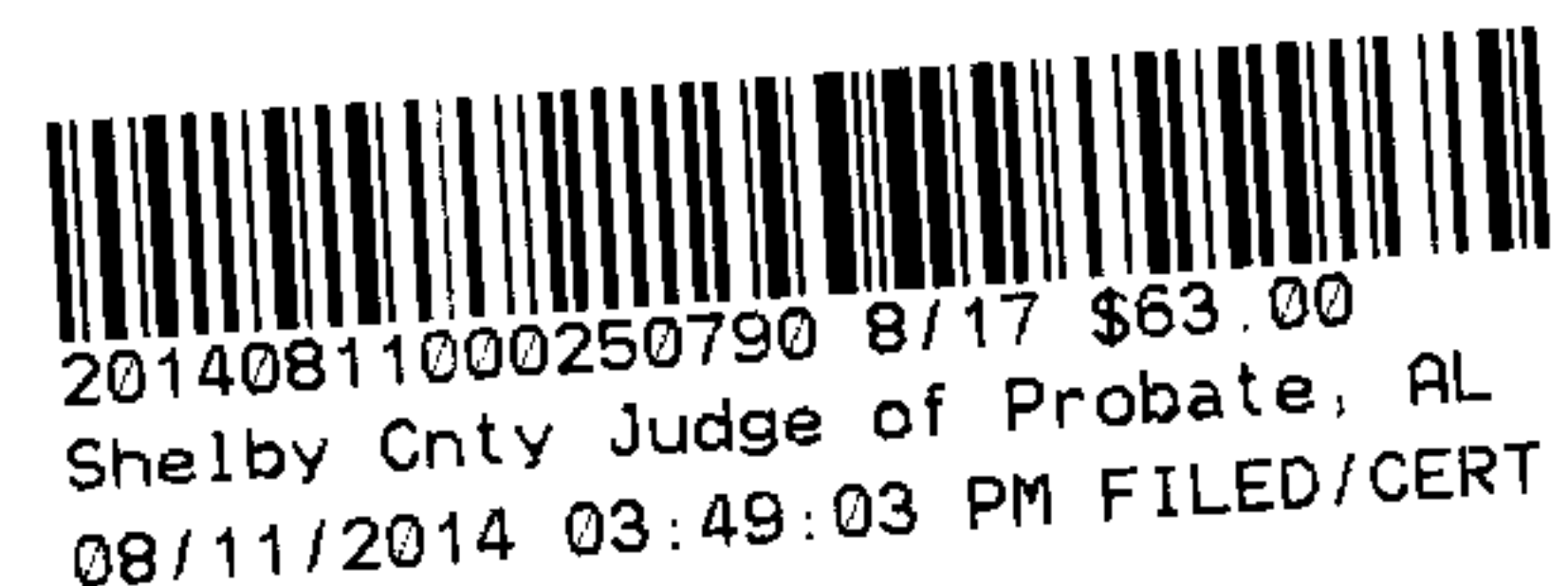
**EVENTS OF DEFAULT:** Each of the following, at Mortgagee's option, shall constitute an Event of Default under this Mortgage:

**Payment Default** - Borrower fails to make any payment when due under the Indebtedness.

**Default on Other Payments** - Failure of Mortgagor within the time required by this Mortgage to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

**Other Defaults** - Borrower or Mortgagor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Mortgagee and Borrower or Mortgagor.

**False Statement** - Any warranty, representation or statement made or furnished to Mortgagee by Borrower, or Mortgagor or on Borrower's or Mortgagor's behalf, that is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at some time thereafter.





**Defective Collateralization** - This Mortgage or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at anytime and for any reason.

**Insolvency and Dissolution** - The dissolution or termination of Borrower's or Mortgagor's existence as an ongoing business, the insolvency of Borrower or Mortgagor, the appointment of a receiver for any part of Borrower's or Mortgagor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Borrower or Mortgagor.

**Death** - The death of Borrower or any Guarantor; if a partnership, the death, withdrawal or replacement of any general partner; or, if corporation, the death or termination from employment of any principal officer; provided however, the death of Borrower or any Guarantor shall not be a default if a substitute guarantor, collateral or security acceptable to the Lender is substituted within 120 days.

**Creditor or Forfeiture Proceedings** - Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Borrower or Mortgagor or by any governmental agency against any property securing the Indebtedness. This includes a garnishment of any of Borrower's or Mortgagor's accounts, including deposit accounts, with Mortgagee. However, this Event of Default shall not apply if there is a good faith dispute by Borrower or Mortgagor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Borrower or Mortgagor gives Mortgagee written notice of the creditor or forfeiture proceeding and deposits with Mortgagee monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Mortgagee, in its sole discretion, as being an adequate reserve or bond for the dispute.

**Breach of Other Agreement** - Any breach by Borrower or Mortgagor under the terms of any other agreement between Borrower or Mortgagor and Mortgagee, that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Borrower or Mortgagor to Mortgagee, whether existing now or later.

**Events Affecting Guarantor** - Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness.

**Adverse Change** - A material adverse change occurs in Mortgagor's financial condition, or Mortgagee believes the prospect of payment or performance of the Indebtedness is impaired.

**Insecurity** - Mortgagee in good faith believes itself insecure with regard to repayment of the Indebtedness.

**Right to Cure** - If any default, other than default in payment, is curable and if Mortgagor has not been given notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured if Mortgagor, after Mortgagee sends written notice to Borrower demanding cure of such default: (1) cures the default within fifteen (15) days; or (2) if the cure requires more than fifteen (15) days, immediately initiates steps which Mortgagee deems in Mortgagee's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

**RIGHTS AND REMEDIES ON DEFAULT:** Upon the occurrence of an Event of Default and at any time thereafter, Mortgagee, at Mortgagee's option, may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:



**Accelerate Indebtedness** - Mortgagee may have the right at its option without notice to Borrower or Mortgagor to declare the entire Indebtedness immediately due and payable, including any prepayment penalty that Borrower would be required to pay.

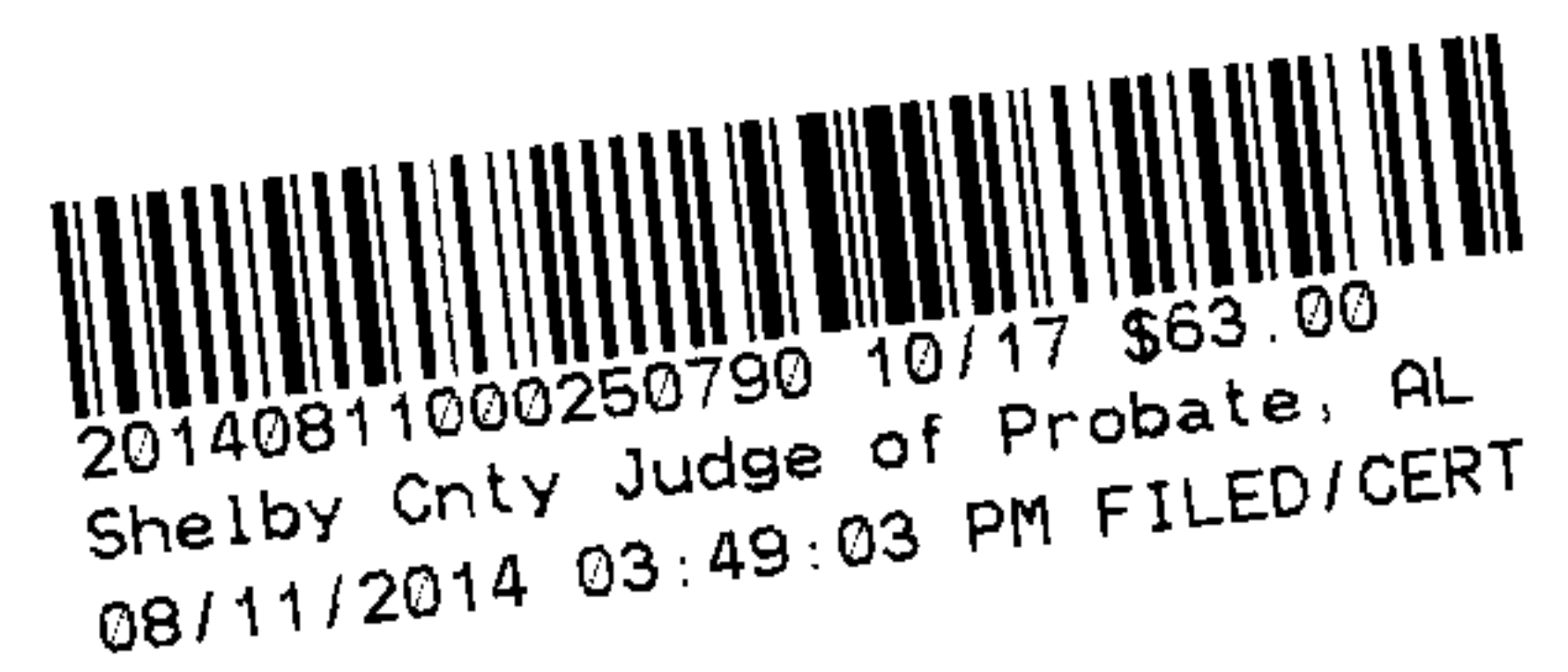
**UCC Remedies** - With respect to all or any part of the Personal Property, Mortgagee shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

**Collect Rents** - Mortgagee shall have the right, without notice to Borrower or Mortgagor, to take possession of the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Mortgagee's costs, against the Indebtedness. In furtherance of this right Mortgagee may require any tenant or other user of the Property to make payments of rent or use fees directly to Mortgagee. If the Rents are collected by Mortgagee, then Mortgagor irrevocably designates Mortgagee as Mortgagor's attorney-in-fact to endorse instruments received in payment thereof in the name of Mortgagor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Mortgagee in response to Mortgagee's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Mortgagee may exercise its rights under this subparagraph either in person by agent, or through a receiver.

**Appoint Receiver** - Mortgagee shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Mortgagee's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Mortgagee shall not disqualify a person from serving as a receiver.

**Judicial Foreclosure** - Mortgagee may obtain a judicial decree foreclosing Mortgagor's interest in all or any part of the Property.

**Nonjudicial Sale** - Mortgagee shall be authorized to take possession of the Property and, with or without taking such possession, after giving notice of the time, place and terms of the sale, together with a description of the Property to be sold, by publication once a week for three (3) successive weeks in some newspaper published in the county or counties in which the Real Property to be sold is located, to sell the Property (or such part or parts thereof as Mortgagee may from time to time elect to sell) in front of the front or main door of the courthouse of the county in which the Property to be sold, or a substantial and material part thereof, is located, at public outcry, to the highest bidder for cash. If there is Real Property to be sold under this Mortgage in more than one county, publication shall be made in all counties where the Real Property to be sold is located. If no newspaper is published in any county in which any Real Property to be sold is located, the notice shall be published in a newspaper published in an adjoining county for three (3) successive weeks. The sale shall be held between the hours of 11:00 a.m. and 4:00 p.m. on the day designated for the exercise of the power of sale under this Mortgage. Mortgagee may bid at any sale had under the terms of this Mortgage and may purchase the Property if the highest bidder therefore. Mortgagor hereby waives any and all rights to have the Property marshalled. In exercising Mortgagee's rights and remedies, Mortgagee shall be free to set all or any part of the Property together or separately, in one sale or by separate sales.





**Deficiency Judgment** - If permitted by applicable law, Mortgagee may obtain a judgment for any deficiency remaining in the Indebtedness due to Mortgagee after application of all amounts received from the exercise of the rights provided in this section.

**Tenancy at Sufferance** - If Mortgagor remains in possession of the Property after the Property is sold as provided above or Mortgagee otherwise becomes entitled to possession of the Property upon default of Borrower or Mortgagor, Mortgagor shall become a tenant at sufferance of Mortgagee or the purchaser of the Property and shall, at Mortgagee's option, either (1) pay a reasonable rental for the use of the Property, or (2) vacate the Property immediately upon the demand of Mortgagee.

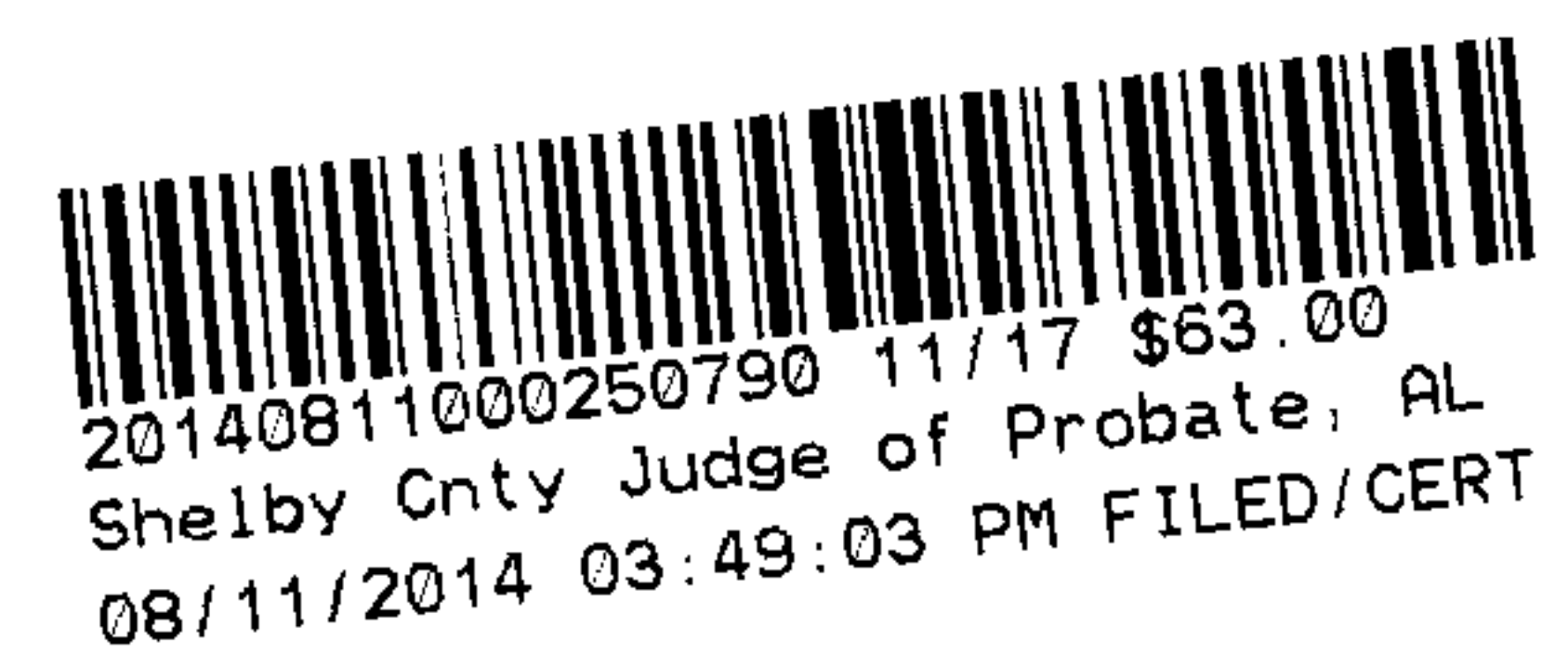
**Other Remedies** - Mortgagee shall have all other rights and remedies provided in this Mortgage or the Promissory Note or available at law or in equity.

**Sale of the Property** - To the extent permitted by applicable law, Borrower and Mortgagor hereby waive any and all rights to have the Property marshalled. In exercising its rights and remedies, Mortgagee shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Mortgagee shall be entitled to bid at any public sale on all or any portion of the Property.

**Notice of Sale** - Mortgagee shall give Mortgagor reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition. Any sale of the Personal Property may be made in conjunction with any sale of the Real Property.

**Election of Remedies** - Election by Mortgagee to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Mortgagor under this Mortgage, after Mortgagor's failure to perform, shall not affect Mortgagee's right to declare a default and exercise its remedies. Nothing under this Mortgage or otherwise shall be construed so as to limit or restrict the rights and remedies available to the Mortgagee following an Event of Default, or in any way limit or restrict the rights and ability of Mortgagee to proceed directly against Mortgagor and/or Borrower and/or against any other co-maker, guarantor, surety or endorser and/or to proceed against any other collateral directly or indirectly securing the Indebtedness.

**Attorneys' Fees and Expenses** - If Mortgagee institutes any suit or action to enforce any of the terms of this Mortgage, Mortgagee shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees equal to 25.000% of the principal balance due on the Indebtedness at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Mortgagee incurs that in Mortgagee's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Promissory Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limitations under applicable law, Mortgagee's attorneys' fees equal to 25.000% of the principal balance due on the Indebtedness and Mortgagee's legal expenses, whether or not there is a lawsuit, including attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees and title





insurance, to the extent permitted by applicable law. Mortgagor also will pay any court costs, in addition to all other sums provided by law.

**NOTICES:** Any notice required to be given under this Mortgage, including without limitation any notice of default and any notice of sale shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Mortgage. All copies of notices of foreclosure from the holder of any lien which has priority over this Mortgage shall be sent to Mortgagee's address, as shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Mortgagor agrees to keep Mortgagee informed at all times of Mortgagor's current address. Unless otherwise provided or requested by law, if there is more than one Mortgagor, any notice given by Mortgagee to any Mortgagor is deemed to be notice given to all Mortgagors.

**MISCELLANEOUS PROVISIONS:** The following miscellaneous provisions are a part of this Mortgage:

**Amendments** - This Mortgage, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Mortgage. No alteration of or amendment to the Mortgage shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

**Annual Reports** - If the Property is used for purposes other than Mortgagee's residence, Mortgagor shall furnish to Mortgagee, upon request, a certified statement of net operating income received from the Property during Mortgagor's previous fiscal year in such form and detail as Mortgagee shall require. "Net operating income" shall mean all cash receipts from the Property less any cash expenditures made in connection with the operation of the Property.

**Caption Headings.** - Caption headings in this Mortgage are for convenience purposes only and are not to be used to interpret or define the provisions of this Mortgage.

**Governing Law** - With respect to procedural matters related to the perfection and enforcement of Mortgagee's rights against the Property, this Mortgage will be governed by federal law applicable to Mortgagee and to the extent not preempted by federal law, the laws of the State of Alabama. In all other respects, this Mortgage shall be governed by federal law applicable to Mortgagee and, to the extent not preempted by federal law, the laws of the State of Louisiana without regard to its conflicts of law provisions. However, if there ever is a question about whether any provision of this Mortgage is valid or enforceable, the provision that is questioned will be governed by whichever state or federal law would find the provision to be valid and enforceable. The loan transaction that is evidenced by the Promissory Note and this Mortgage has been applied for, considered, approved and made, and all necessary loan documents have been accepted by Mortgagee in the State of Louisiana.

**Joint and Several Liability** - All obligations of Borrower and Mortgagor under this Mortgage shall be joint and several, and all references to Mortgagor shall mean each and every Mortgagor, and all references to Borrower shall mean each and every Borrower. This means that each Mortgagor signing below is responsible for all obligations in this Mortgage. Where any one or more of the parties is a corporation, partnership, limited liability company or similar entity, it is not necessary for Mortgagee to inquire into the powers of any of the officers, directors, partners, members, or other agents acting or purporting to act



on the entity's behalf, and any obligations made or created in reliance upon the professed exercise of such powers shall be guaranteed under this Mortgage.

**No Waiver by Mortgagee** - Mortgagee shall not be deemed to have waived any rights under this Mortgage unless such waiver is given in writing and signed by Mortgagee. No delay or omission on the part of Mortgagee in exercising any right shall operate as a waiver of such right or any other rights. A waiver by Mortgagee of a provision of this Mortgage shall not prejudice or constitute a waiver of Mortgagee's right otherwise to demand strict compliance with that provision or any other provision of this Mortgage. No prior waiver by Mortgagee, nor any course of dealing between Mortgagee and Mortgagor, shall constitute a waiver of any of Mortgagee's rights or of any of Mortgagor's obligations as to any future transactions. Whenever the consent of Mortgagee is required under this Mortgage, the granting of such consent by Mortgagee in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Mortgagee.

**Severability** - If a court of competent jurisdiction finds any provision of this Mortgage to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Mortgage. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Mortgage shall not affect the legality, validity or enforceability of any other provision of the Mortgage.

**Merger** - There shall be no merger of the interest or estate created by this Mortgage with any other interest or estate in the Property at any time held by or for the benefit of Mortgagee in any capacity, without the written consent of Mortgagee.

**Successors and Assigns** - Subject to any limitations stated in this Mortgage on transfer of Mortgagor's interest, this Mortgage shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Mortgagor, Mortgagee, without notice to Mortgagor, may deal with Mortgagor's successors with reference to this Mortgage and the Indebtedness by way of forbearance or extension without releasing Mortgagor from the obligations of this Mortgage or liability under the Indebtedness.

**Time is of the Essence** - Time is of the essence in the performance of this Mortgage.

**Waiver of Homestead Exemption** - Mortgagor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Alabama as to all Indebtedness secured by this Mortgage.

**DEFINITIONS:** The following capitalized words and terms shall have the following meanings when used in this Mortgage. Unless specifically stated to the contrary, any references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code:

**Borrower-** The word "Borrower" means SOUTHERN WINGS ONE, INC. and includes all co-signers and co-makers signing the Promissory Note and all their successors and assigns.



**Default** - The word "Default" means the Default set forth in this Mortgage in the section titled Events of Default.

**Environmental Laws** - The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L No. 90-99 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

**Event of Default** - The words "Event of Default" mean any of the events of default set forth in this Mortgage in the events of default section of this Mortgage.

**Mortgagor** - The word "Mortgagor" means SOUTHERN WINGS FOUR, LLC.

**Guarantor** - The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the indebtedness.

**Guaranty** - The word "Guaranty" means the guaranty from Guarantor to Mortgagee, including without limitation a guaranty of all or part of the Promissory Note.

**Hazardous Substances** - The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

**Improvements** - The word "Improvements" means all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness** - The word "Indebtedness" means all principal, interest, and other amounts, costs and expenses payable under the Promissory Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of, and substitutions for the Promissory Note or Related

Documents and any amounts expended or advanced by Mortgagee to discharge Mortgagor's obligations or expenses incurred by Mortgagee to enforce Mortgagor's obligations under this Mortgage, together with interest on such amounts as provided in this Mortgage.

**Mortgagee** - The word "Mortgagee" means COMMUNITY TRUST BANK, its successors and assigns

**Mortgage** - The word "Mortgage" means this Mortgage between Mortgagor and Mortgagee.



**Note** - The word "Note" or "Promissory Note" means the promissory note dated July 29, 2014 in the original principal amount of \$7,575,489.12 from Borrower to Mortgagee, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the Promissory Note or agreement. The maturity date for the Mortgage is July 29, 2019.

**Personal Property** - The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Mortgagor, and now or hereafter attached or affixed to the Real Property; together with all accessions, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

**Property** - The word "Property" means collectively the Real Property and the Personal Property.

**Real Property** - The words "Real Property" mean the real property, interests and rights, as further described in this Mortgage.

**Related Documents** - The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

**Rents** - The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property.

MORTGAGOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE, AND MORTGAGOR AGREES TO ITS TERMS.

THIS MORTGAGE IS GIVEN UNDER SEAL AND IT IS INTENDED THAT THIS MORTGAGE IS AND SHALL CONSTITUTE AND HAVE THE EFFECT OF A SEALED INSTRUMENT ACCORDING TO LAW.

IN WITNESS WHEREOF, the undersigned executed this Mortgage as of July 29, 2014.


**MORTGAGOR:**

**Southern Wings Four, LLC**  
**an Alabama Limited Liability Company**

By: Southern Wings One, Inc.  
a Texas Corporation  
Member of Southern Wings Four, LLC

By: Robert Sterling Barbour  
Robert Sterling Barbour  
President of Southern Wings One, Inc.

By: Charles H. Huff, III  
Charles H. Huff, III  
Secretary of Southern Wings One, Inc.

  
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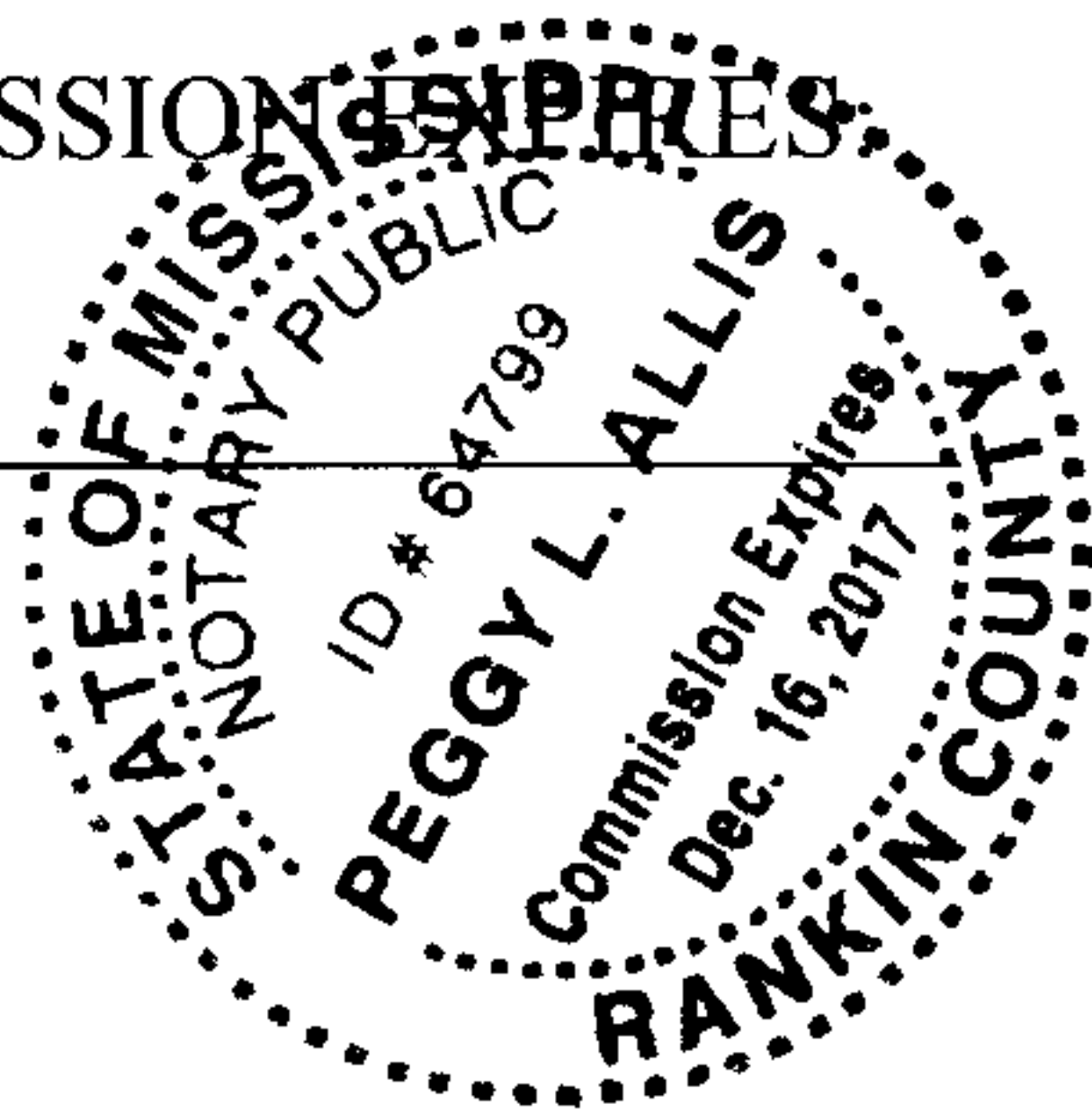


STATE OF MISSISSIPPI  
COUNTY OF MADISON

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for said county and state, on this 29<sup>th</sup> day of July, 2014, the within named Robert Sterling Barbour and Charles H. Huff, III of Southern Wings One, Inc., member of **Southern Wings Four, LLC**, and that, for and on behalf of Southern Wings One, Inc, as member of said limited liability company, they executed the above and foregoing Mortgage as the voluntary act and deed of said corporation and limited liability company, after first having been duly authorized to do so.

  
\_\_\_\_\_  
Notary Public

MY COMMISSION ~~EXPIRES~~



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Shelby Cnty Judge of Probate, AL  
08/11/2014 03:49:03 PM FILED/CERT



LEGAL DESCRIPTION  
EXHIBIT A

**Lot 15, according to the Final Plat of Colonial Promenade Alabaster Survey, as recorded in Map Book 35, Page 102 A & B, in the Probate Office of Shelby County, Alabama.**

\* For Recording Purposes Only, Mortgage also covers the following property located in Tuscaloosa County, Alabama:

Lots 2, 3, 4, and 5 of Willow Trace, a map or plat of which is recorded in Plat Book 18, Page 218 in the Office of the Probate Judge of Tuscaloosa County, Alabama (Willow Trace Subdivision being a resurvey of Lot A and B of Liles Property, a map or plat of said Liles Property being recorded in Plat Book 18, at Page 217 in the Probate Office of Tuscaloosa County, Alabama).

\* For Recording Purposes Only, Mortgage also covers the following property located in Jefferson County, Alabama:

Lot 1, according to the Survey of Gardendale City Center a PUD Subdivision, as recorded in Map Book 235, Page 92, in the Office of the Judge of Probate, Jefferson County, Alabama.

\* The Alabama Mortgage Tax on the total amount of the Mortgage (\$7,575,489.12) is to be allocated as follows:

**33.33% - Tuscaloosa County**  
**33.33% - Shelby County**  
**33.34% - Jefferson County**

