

9/16/30

This instrument prepared by
and record and return to:
Haskins Jones
2829 2nd Avenue South, Suite 200
Birmingham AL 35233

STATE OF ALABAMA

)

)

SHELBY COUNTY

)


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Shelby Cnty Judge of Probate, AL
11/12/2015 03:29:11 PM FILED/CERT

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (this “**Mortgage**”) is dated and is effective as of November 12, 2015, from **FAIRWAY - SOUTHLAKE, LLC**, an Alabama limited liability company, whose address is 728 Shades Creek Parkway, Birmingham, AL 35209, (the “**Mortgagor**”), in favor of **OAKWORTH CAPITAL BANK**, an Alabama state banking corporation whose address is 2100A Southbridge Parkway, Suite 445, Birmingham, Alabama 35209 (together with its successors or assigns, the “**Mortgagee**”).

**THIS MORTGAGE IS FILED AS AND SHALL CONSTITUTE A
FIXTURE FILING AS DEFINED IN SECTION 7-9A-102(a)(40) OF THE
CODE OF ALABAMA.**

RECITALS:

WHEREAS, Mortgagor has requested that Mortgagee make a loan to Mortgagor in the original principal amount of up to \$4,500,000.00 (the “**Loan**”), pursuant to that certain Loan Agreement of even date herewith by and between Mortgagor, as Borrower, and Mortgagee, as Lender (the “**Loan Agreement**”; capitalized terms used herein and not otherwise defined shall have the meanings ascribed in the Loan Agreement), and evidenced by that certain Promissory Note of even date herewith executed by Mortgagor and payable to Mortgagee in the amount of the Loan (the “**Note**”).

WHEREAS, Mortgagor has agreed, incurring said indebtedness, that this Mortgage should be given to secure (i) the prompt payment thereof according to the tenor and effect of the Note, and all renewals, extensions and modifications thereof, and all refinancings of any part of the indebtedness evidenced by the Note, and interest thereon, and any and all other additional indebtedness of Mortgagor to Mortgagee, now existing or hereafter arising, whether joint or several, due or to become due, absolute or contingent, direct or indirect, liquidated or unliquidated, whether evidenced by the Note or otherwise, and any renewals, extensions and modifications thereof, whether incurred or given as maker, endorser, guarantor or otherwise, and interest thereon (all such indebtedness, together with interest thereon, collectively, the “**Indebtedness**”), and (ii) compliance by Mortgagor with the covenants, agreements and

requirements of this Mortgage, the Note, the Loan Agreement, any guaranties and any other instrument or agreement secured by this Mortgage (together with the Indebtedness, collectively the **“Loan Obligations”**).

NOW THEREFORE, for and in consideration of the Loan Obligations, and to secure the prompt payment of the same, including future advances, Mortgagor does hereby irrevocably grant, bargain, sell, convey, assign, transfer, mortgage, pledge and set over unto Mortgagee, its successors and assigns, and grant to Mortgagee a security interest in, all of the following described land and interests in land, estates, easements, rights, improvements, personal property, fixtures, equipment, furniture, furnishings, appliances and appurtenances, all whether now owned or hereafter acquired, and including replacements, additions, accessions, substitutions and products thereto (collectively, the **“Mortgaged Property”**; each of which shall have the definitions ascribed in the Loan Agreement):

(a) All the tract(s) or parcel(s) of land located in Shelby County, Alabama, as are more particularly described in Exhibit A attached hereto and incorporated herein (the **“Land”**);

- (b) all Appurtenant Rights;
- (c) all Equipment;
- (d) all Improvements;
- (e) all Fixtures;
- (f) all Accounts;
- (g) all Deposit Accounts;
- (h) all Contracts;
- (i) all General Intangibles;
- (j) all Permits (to the extent assignable);
- (k) all Money;
- (l) all Instruments;
- (m) all Inventory;
- (n) all Rents;
- (o) all Personalty;

- (p) all Leases;
- (q) all Chattel Paper;
- (r) all Supporting Obligations;
- (s) all Investment Property;
- (t) all Stock;
- (u) all Proceeds;

(v) all contracts, options and other agreements for the sale of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property entered into by Mortgagor now or in the future, including cash or securities deposited to secure performance by parties of their obligations;

(w) all Imposition Deposits;

(x) all refunds or rebates of Impositions by any municipal, state or federal authority or insurance company (other than refunds applicable to periods before the real property tax year in which this Mortgage is dated);

(y) all names under or by which any of the above Mortgaged Property may be operated or known, and all trademarks, trade names, and goodwill relating to any of the Mortgaged Property; and

(z) all renewals, replacements and Proceeds of any of the foregoing and any substitutions therefor, whether now owned or hereafter acquired, and including replacements, additions, accessions, substitutions, and products, and all other property which is or hereafter may become subject to a Lien in favor of Lender as security for any of the Loan Obligations.

TO HAVE AND TO HOLD, the Mortgaged Property unto Mortgagee and its successors and assigns forever,

AND, Mortgagor does covenant with Mortgagee that it is lawfully seized in fee simple and possessed of the Mortgaged Property, and has good right to convey the same; that, subject to the "Permitted Exceptions" listed on Exhibit B, the Mortgaged Property is free from all liens, charges, encumbrances, easements and restrictions whatsoever not herein specifically mentioned or of record in said Probate Office as of the date hereof; and that, subject only to exceptions herein specifically mentioned, Mortgagor does warrant and will defend the title to the same unto Mortgagee against the lawful claims of all persons whomsoever.

AND, this Mortgage is also a security agreement under the Uniform Commercial Code as in effect from time to time in the State of Alabama (the "UCC") for any of the Mortgaged Property to the extent owned by Mortgagor, which, under applicable law, may be subject to a

security interest under the UCC, whether acquired now or in the future, and all products and cash and non-cash Proceeds thereof (collectively, the “**UCC Collateral**”), and Mortgagor hereby grants to Mortgagee a security interest in the UCC Collateral. Mortgagor hereby authorizes Mortgagee to file financing statements, continuation statements and financing statement amendments, in such form as Mortgagee may require to perfect or continue the perfection of this security interest and Mortgagor agrees, if Mortgagee so requests, to execute and deliver to Mortgagee such financing statements, continuation statements and amendments. Mortgagor shall pay all filing costs and all costs and expenses of any record searches for financing statements that Mortgagee may require. Without the prior express written consent of Mortgagee, Mortgagor shall not create or permit to exist any other lien or security interest in any of the UCC Collateral. If an Event of Default has occurred and is continuing, Mortgagee shall have the remedies of a secured party under the UCC, in addition to all remedies provided by this Mortgage or existing under applicable law. In exercising any remedies, Mortgagee may exercise its remedies against the UCC Collateral separately or together and in any order, without in any way affecting the availability of Mortgagee’s other remedies hereunder and/or under applicable law. The terms “sign,” “signed” and signatures” shall have their ordinary meanings except that, to the limited extent Mortgagee in an authenticated record expressly agrees otherwise from time to time in the exercise of its sole and absolute discretion, the terms may also include other methods used to authenticate. Without implying any limitation on the foregoing, with respect to the UCC Collateral that may be perfected by control, Mortgagor shall take such steps as Mortgagee may require in order that Mortgagee may have such control. To the extent that the proceeds of any of the Accounts are expected to become subject to the control of, or in the possession of, a party other than Mortgagor or Mortgagee, Mortgagor shall cause all such parties to execute and deliver on the date of this Mortgage and from time to time hereafter security documents, financing statements or other documents as requested by Mortgagee and as may be necessary to evidence and/or perfect the security interest of Mortgagee in those proceeds. Mortgagor agrees that a copy of a fully executed security agreement and/or financing statement shall be sufficient to satisfy for all purposes the requirements of a financing statement as set forth in Article 9 of the UCC. Mortgagor hereby irrevocably appoints Mortgagee as Mortgagor’s attorney-in-fact, with power of substitution, in the name of Mortgagee or in the name of Mortgagor or otherwise, for the use and benefit of Mortgagee, but at the cost and expense of Mortgagor and without notice to Mortgagor, to execute and deliver any and all of the instruments and other documents and take any action which Mortgagee may require pursuant the foregoing provisions of this Section. Further, to the extent permitted by applicable laws, Mortgagee may file, without Mortgagor’s signature, one or more financing statements or other notices disclosing Mortgagee’s liens and other security interests. All financing statements and notices may describe Mortgagee’s collateral as all assets or all personal property of Mortgagor. Mortgagor hereby ratifies and confirms the validity of any and all financing statements filed by Mortgagee prior to the date of this Mortgage.

THIS MORTGAGE IS MADE, however, subject to the following covenants, conditions, and agreements:

1. **Payment of Indebtedness.** Mortgagor shall pay the Indebtedness when and as it becomes due.

2. **Maintenance of Mortgaged Property.** Mortgagor shall keep the Mortgaged Property in good condition and repair, reasonable wear and tear expected; shall not permit nor perform any act which would in any way will increase the risk of fire or other hazard to the Mortgaged Property or any part thereof; shall not remove (other than replacements in the ordinary course of Mortgagor's business) any Fixture nor remove or demolish any building or Improvement located on the Land without the prior express written consent of Mortgagee; and shall neither permit nor intentionally commit physical waste of the Mortgaged Property.

3. **Payment of Taxes.** Mortgagor shall pay and discharge as the same become due (after giving effect to any applicable grace period, if any) all taxes and assessments that may accrue, be levied, or assessed upon the Mortgaged Property or any part thereof, which may be or become a lien prior to the lien of this Mortgage or have priority in payment to the Indebtedness, or upon Mortgagee's interest therein or upon this Mortgage or the Indebtedness or evidence of the Indebtedness, without regard to any law heretofore or hereafter enacted imposing payment of the whole or any part thereof upon Mortgagee. Upon the passage of any law imposing the payment of the whole or any part thereof upon Mortgagee, or upon the rendering by any appellate court of competent jurisdiction that the undertaking by Mortgagor to pay such taxes is legally inoperative, then all Indebtedness hereby secured without deduction shall, at the option of Mortgagee, become due and payable upon ninety (90) days' written notice, notwithstanding anything contained in this Mortgage or any law heretofore or hereafter enacted. Mortgagor shall not suffer or permit any taxes or assessments on the Mortgaged Property to become or remain delinquent or permit any part thereof or any interest therein to be sold for any taxes or assessments; and, further, shall furnish annually to Mortgagee, prior to the date when they would become delinquent, certificates or receipts of the proper officer showing full payment of all such taxes and assessments.

4. **Liens.** Mortgagor shall pay all debts, claims, or other charges that may become liens against the Mortgaged Property or any part thereof for repairs or improvements that may have been, or may hereafter be, made on the Mortgaged Property and shall not permit any lien or encumbrance of any kind which might become superior to the title of Mortgagee or the lien of this Mortgage to accrue or remain on the Mortgaged Property or any part thereof.

5. **Insurance.** Mortgagor shall keep the Mortgaged Property continuously insured and shall provide, maintain, and deliver to Mortgagee policies of fire and such other insurance as Mortgagee may from time to time require in companies, forms, and amounts satisfactory to Mortgagee, with loss, if any, payable to Mortgagee, as Mortgagee's interest may appear, and shall assign and deliver to Mortgagee with mortgagee clauses satisfactory to Mortgagee all insurance policies of any kind or in any amount now or hereafter issued upon the Mortgaged Property. Mortgagor shall give immediate notice in writing to Mortgagee of any loss or damage to the Mortgaged Property caused by any casualty. Full power is hereby conferred on Mortgagee to settle and compromise claims under all policies and to demand and receive all monies becoming payable thereunder and to assign absolutely all policies to any endorsee of the Note or to any grantee of the Mortgaged Property in the event of the foreclosure of this Mortgage or other transfer of title to the Mortgaged Property in extinguishment of the Indebtedness. Except as expressly provided in the Loan Agreement, in the event of loss under any of the policies of insurance herein referred to, the proceeds of such policy shall be paid by the insurer to

Mortgagee who may, in Mortgagee's sole and absolute discretion, apply the same, wholly or partially, after deducting all costs of collection, including reasonable attorneys' fees, either as a payment on account of the Indebtedness, whether or not then due or payable, or toward the alteration, reconstruction, repair, or restoration of the Mortgaged Property either to the portion thereof by which said loss was sustained or any other portion thereof.

6. **Pledge of Rents, Income and Profits.** The rents, income, and profits of all and every part of the Mortgaged Property are hereby specifically pledged to the payment of the Indebtedness and the performance of all Loan Obligations. If default shall be made in the payment of the Indebtedness or any part thereof or in the performance of any Loan Obligation, Mortgagee shall have the right forthwith to enter into and upon the Mortgaged Property, take possession thereof, and collect said rent, income, and profits with or without the appointment of a receiver. All such net income, after payment of collection, management, and reasonable attorneys' fees, shall be applied toward the payment of any advances made by Mortgagee or in reduction of the Indebtedness in such manner or proportion as Mortgagee may elect.

7. **Failure to Insure.** If Mortgagor fails to insure the Mortgaged Property, or to pay and furnish receipts for all taxes and assessments, or to pay debts, claims or other charges for repairs and improvements, or to keep the Mortgaged Property in good condition and repair, all as provided herein, Mortgagee may at its option procure such insurance, pay such taxes and assessments, redeem the Mortgaged Property from any tax sale, procure such receipts, or enter upon the Mortgaged Property and make such repairs as it may deem necessary; and Mortgagor shall immediately pay to Mortgagee all sums which Mortgagee shall have so paid, together with interest at the Default Rate from the date the same was paid, and for payment thereof, this Mortgage shall stand as security in like manner and effect as for the payment of the Indebtedness; but the failure of Mortgagee to procure such insurance, to pay such taxes and assessments, to redeem any Mortgaged Property from any tax sale, or to make repairs shall in no way render Mortgagee liable to Mortgagor. If Mortgagee shall elect to advance insurance premiums, taxes, or assessments, or redeem from tax sale, the receipt of the insurance company or of the proper tax official shall be conclusive evidence of the amount, validity, and the fact of payment thereof.

8. **Deposits for Taxes, Insurance and Other Charges.**

(a) Upon Mortgagee's request after an Event of Default under the Loan Agreement, Mortgagor shall deposit with Mortgagee on the day monthly installments of principal and/or interest, or both, are due under the Note (or on another day designated in writing by Mortgagee), until the Indebtedness is paid in full, an additional amount sufficient to accumulate with Mortgagee the entire sum required to pay, when due (i) the premiums for fire and other hazard insurance, business interruption insurance and such other insurance as Mortgagee may require under the Loan Agreement, (ii) the yearly Taxes, and (iii) amounts for other charges and expenses which Mortgagee at any time reasonably deems necessary to protect the Mortgaged Property, to prevent the imposition of liens on the Mortgaged Property, or otherwise to protect Mortgagee's interests, all as reasonably estimated from time to time by Mortgagee. The amounts deposited under the preceding sentence are collectively referred to in this Mortgage as the "**Imposition Deposits**". The obligations of Mortgagor for which the

Imposition Deposits are required are collectively referred to in this Mortgage as “**Impositions**”. The amount of the Imposition Deposits shall be sufficient to enable Mortgagee to pay each Imposition before the last date upon which such payment may be made without any penalty or interest charge being added. Mortgagee shall maintain records indicating how much of the monthly Imposition Deposits and how much of the aggregate Imposition Deposits held by Mortgagee are held for the purpose of paying property taxes, insurance premiums and each other obligation of Mortgagor for which Imposition Deposits are required and shall make the same available for inspection by Mortgagor upon reasonable advance notice. Any waiver by Mortgagee of the requirement that Mortgagor remit Imposition Deposits to Mortgagee may be revoked by Mortgagee, in Mortgagee’s discretion, so long as such Event of Default is continuing, upon notice to Mortgagor.

(b) Imposition Deposits shall be held by Mortgagee in an institution (which may be Mortgagee, if Mortgagee is such an institution) whose deposits or accounts are insured or guaranteed by a federal agency. Mortgagee shall not be obligated to open additional accounts or deposit Imposition Deposits in additional institutions unless the amount of the Imposition Deposits exceeds the maximum amount of the federal deposit insurance or guaranty. Mortgagee shall apply the Imposition Deposits to pay Impositions so long as no Event of Default has occurred and is continuing. Unless applicable law requires, Mortgagee shall not be required to pay Mortgagor any interest, earnings or profits on the Imposition Deposits. Mortgagor hereby pledges and grants to Mortgagee a security interest in the Imposition Deposits as additional security for all of Mortgagor’s obligations under this Mortgage and the other Loan Documents. Any amounts deposited with Mortgagee under this Section 8 shall not be trust funds, nor shall they operate to reduce the Indebtedness, unless applied by Mortgagee for that purpose under Section 8(e).

(c) If Mortgagee exercises its right to require Taxes or other Impositions to be escrowed, Mortgagor shall direct the applicable Governmental Authority to deliver the invoices and bills for all such Taxes or Impositions to Mortgagee. If Mortgagee receives a bill or invoice for an Imposition, Mortgagee shall pay the Imposition from the Imposition Deposits held by Mortgagee. Mortgagee shall have no obligation to pay any Imposition to the extent it exceeds Imposition Deposits then held by Mortgagee. Mortgagee may pay an Imposition according to any bill, statement or estimate from the appropriate public office or insurance company without inquiring into the accuracy of the bill, statement or estimate or into the validity of the Imposition.

(d) If at any time the amount of the Imposition Deposits held by Mortgagee for payment of a specific Imposition exceeds the amount reasonably deemed necessary by Mortgagee, the excess shall be credited against future installments of Imposition Deposits. If at any time the amount of the Imposition Deposits held by Mortgagee for payment of a specific Imposition is less than the amount reasonably estimated by Mortgagee to be necessary, Mortgagor shall pay to Mortgagee the amount of the deficiency within fifteen (15) days after notice from Mortgagee.

(e) If an Event of Default has occurred and is continuing, Mortgagee may apply any Imposition Deposits, in any amounts and in any order as Mortgagee determines, in Mortgagee’s discretion, to pay any Impositions or as a credit against the Indebtedness. Upon

payment in full of the Indebtedness or upon curing all Events of Default, Mortgagee shall refund to Mortgagor any Imposition Deposits held by Mortgagee.

9. **Costs and Expenses.** Mortgagor shall immediately pay to Mortgagee all sums, including costs, expenses, and agents' and reasonable attorneys' fees, which Mortgagee may expend or become obligated to pay in any proceedings, legal or otherwise, to prevent the commission of waste; to establish or sustain the lien of this Mortgage or Mortgagee's priority, or to defend against liens, claims, rights, estates, easements, or restrictions, asserting priority to this Mortgage; in payment, settlement, discharge, or release of any asserted lien, claim, right, easement, or restriction made upon advice of competent counsel that the same is superior to the lien of this Mortgage; for title insurance, abstract of title, or extension thereof; in connection with any suit to enforce or foreclose this Mortgage, or to recover any sums hereby secured, together with interest on all such sums at the Default Rate until paid, and for payment of such sums and interest this Mortgage shall stand as security in like manner and effect as for the payment of the said principal indebtedness.

10. **Foreclosure; Power of Sale.** If default shall be made in the payment of the Indebtedness or any part thereof in accordance with the terms thereof, or in the performance of any Loan Obligation then the entire Indebtedness shall, at the option of Mortgagee, become immediately due and payable and this Mortgage subject to foreclosure; and Mortgagee shall have the right and is hereby authorized to enter upon and take possession of the Mortgaged Property, and after or without taking possession, to sell the same before the courthouse door in Shelby County, at public outcry for cash, after having given notice of the time, place, and terms of sale by publication once a week for three (3) successive weeks prior to said sale in a newspaper of general circulation published in said county, and, upon payment of the purchase money, Mortgagee or any person conducting said sale for Mortgagee is authorized and empowered to execute to the purchaser at said sale a deed to the Mortgaged Property so purchased. Mortgagee may bid at said sale and purchase said Mortgaged Property, or any part thereof, if the highest bidder therefore. At said foreclosure sale the Mortgaged Property may be offered for sale and sold as a whole or in parcels without first offering it in any other manner, or the Mortgaged Property may be offered for sale and sold in any other manner as Mortgagee may elect.

11. **Proceeds from Sale.** The proceeds of said sale shall be applied: First, to the expense of advertising and selling, including reasonable attorneys' fees; second, to the repayment of any money, with interest thereon, which Mortgagee may have paid, or become liable to pay, or which it may then be necessary to pay, for taxes, assessments insurance or other charges, liens, or debts as hereinabove provided; third, to the payment of the Indebtedness, with interest to date of sale; fourth, the balance, if any, shall be paid to the party or parties appearing of record to be the owner of the Mortgaged Property at the time of the sale after deducting any expense of ascertaining who is such owner. If this Mortgage be foreclosed in a judicial proceeding, reasonable attorneys' fees and expenses incurred by Mortgagee in connection with such proceeding shall be paid out of the proceeds of the sale.

12. **Waiver of Rights.** Mortgagor waives all rights of exemption pertaining to real or personal property as to any Indebtedness, and Mortgagor waives the benefit of any statute regulating the obtaining of a deficiency judgment or requiring that the value of the Mortgaged

Property be set off against any part of the Indebtedness.

13. **Reserved.**

14. **Enforcement.** Any promise made by Mortgagor herein to pay money may be enforced by a suit at law, and the security of this Mortgage shall not be waived thereby, and as to such debts the Mortgagor waives all rights of exemption under the law and agrees to pay the reasonable attorneys' fees for the collection thereof.

15. **Not a Waiver.** No delay or failure of Mortgagee to exercise any option herein given or reserved shall constitute a waiver of such option or estop Mortgagee from afterwards exercising same or any other option at any time and the payment or contracting to pay by Mortgagee of anything Mortgagor has herein agreed to pay shall not constitute a waiver of the default of Mortgagor in failing to make said payments and shall not estop Mortgagee from foreclosing this Mortgage on account of such failure of Mortgagor.

16. **Release of Mortgage.** If Mortgagor shall well and truly pay and discharge all Indebtedness as it shall become due and payable and shall do and perform all Loan Obligations, then this conveyance shall be and become null and void.

17. **Awards, Damages, etc.** All awards of damages in connection with any condemnation for public use of or injury to any of said Mortgaged Property are hereby assigned and shall be paid to Mortgagee, who may apply the same to payment of the installments last due under the Note, and Mortgagee is hereby authorized, in the name of Mortgagor, to execute and deliver valid acquittances thereof and to appeal from any such award.

18. **Terms.** The terms "Mortgagor" wherever used herein, shall mean the party executing this Mortgage, and all the covenants, conditions, and agreements hereof shall bind Mortgagor, its successors and assigns, and shall inure to the benefit of and be available (jointly and severally if more than one) to Mortgagee, and to the successors and assigns of Mortgagee. The rights, options, powers, and remedies herein provided shall be cumulative and no one or more of them shall be exclusive of the other or others, or of any right or remedy now or hereafter given or allowed by law.

19. **Waiver of Jury Trial.** EACH PARTY HEREBY WAIVES ANY RIGHT THAT IT MAY HAVE TO A TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SETOFF, DEMAND, ACTION OR CAUSE OF ACTION (A) ARISING OUT OF OR IN ANY WAY RELATED TO THIS MORTGAGE, THE LOAN AGREEMENT, THE LOAN DOCUMENTS OR THE LOAN, OR (B) IN ANY WAY CONNECTED WITH OR PERTAINING OR RELATED TO OR INCIDENTAL TO ANY DEALINGS OF MORTGAGEE AND/OR MORTGAGOR WITH RESPECT TO THE LOAN DOCUMENTS OR IN CONNECTION WITH THIS AGREEMENT OR THE EXERCISE OF EITHER PARTY'S RIGHTS AND REMEDIES UNDER THIS AGREEMENT OR OTHERWISE, OR THE CONDUCT OR THE RELATIONSHIP OF THE PARTIES HERETO, IN ALL OF THE FOREGOING CASES WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER SOUNDING IN CONTRACT, TORT OR

OTHERWISE. MORTGAGOR AGREES THAT MORTGAGEE MAY FILE A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY, AND BARGAINED AGREEMENT OF MORTGAGOR IRREVOCABLY TO WAIVE ITS RIGHTS TO TRIAL BY JURY AS AN INDUCEMENT OF MORTGAGEE TO MAKE THE LOAN, AND THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY DISPUTE OR CONTROVERSY WHATSOEVER (WHETHER OR NOT MODIFIED HEREIN) BETWEEN MORTGAGOR AND MORTGAGEE SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the undersigned has executed this instrument as of the date and year first above written.

MORTGAGOR:

**FAIRWAY - SOUTHLAKE, LLC, an
Alabama limited liability company**

By: The Thompson Development Company,
Inc., an Alabama corporation, its Manager

By: [Signature]
Name: Guy S. Clifton
Title: E.V.P.

STATE OF ALABAMA)

COUNTY OF Jefferson)

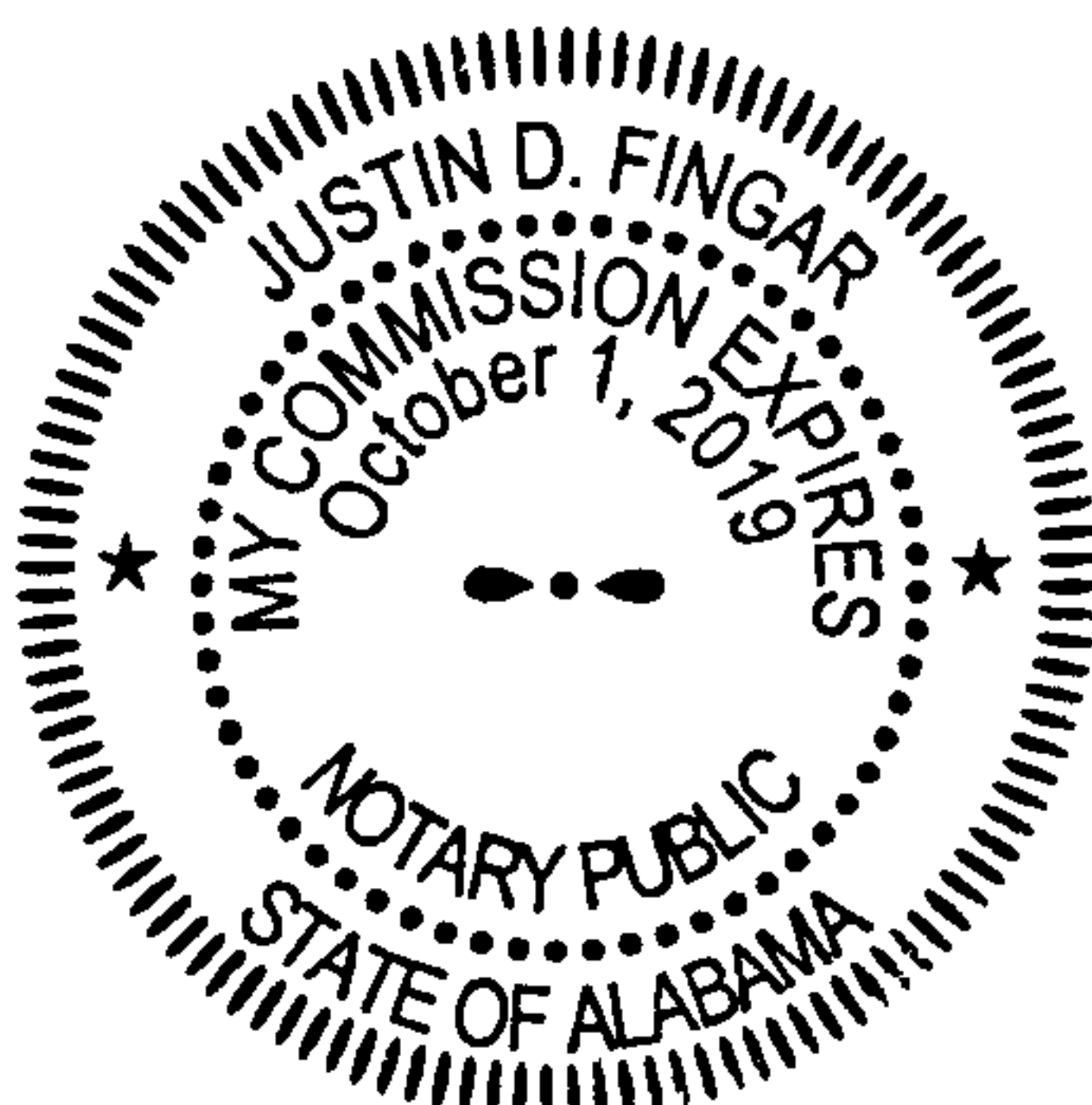
I, the undersigned Notary Public in and for said County, in said State, hereby certify that Guy S. Clifton, whose name as Exec. Vice President of The Thompson Development Company, Inc., an Alabama corporation, as Manager of FAIRWAY - SOUTHLAKE, LLC, an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability company on the day the same bears date.

Given under my hand and official seal, this 11th day of November, 2015.

[Signature]
Notary Public

[AFFIX SEAL]

My commission expires: 10/1/19




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Shelby Cnty Judge of Probate, AL
11/12/2015 03:29:11 PM FILED/CERT

EXHIBIT A

LEGAL DESCRIPTION

Parcel 1

Lot 3, according to the survey of Village on Valleydale at Southlake, as recorded in Map Book 11, Page 84, in the Probate Office of Shelby County, Alabama.

Parcel 2

Easement for the benefit of Parcel 1 as created by Declaration of Restrictions and Grant of Easements dated February 29, 1988 and recorded in Real Volume 173, Page 355 and Indenture of Establishment of Protective Covenants, Conditions and Restrictions, and Grant of Easements dated February 29, 1988 and recorded in Real Volume 173, Page 364 for the purpose described in these Easements over, under and across Lots 1 and 2, with respect to Real Volume 173, Page 355 and Lot 4, with respect to Real Volume 173, Page 364. Subject to terms, provisions and conditions set forth in said instruments.

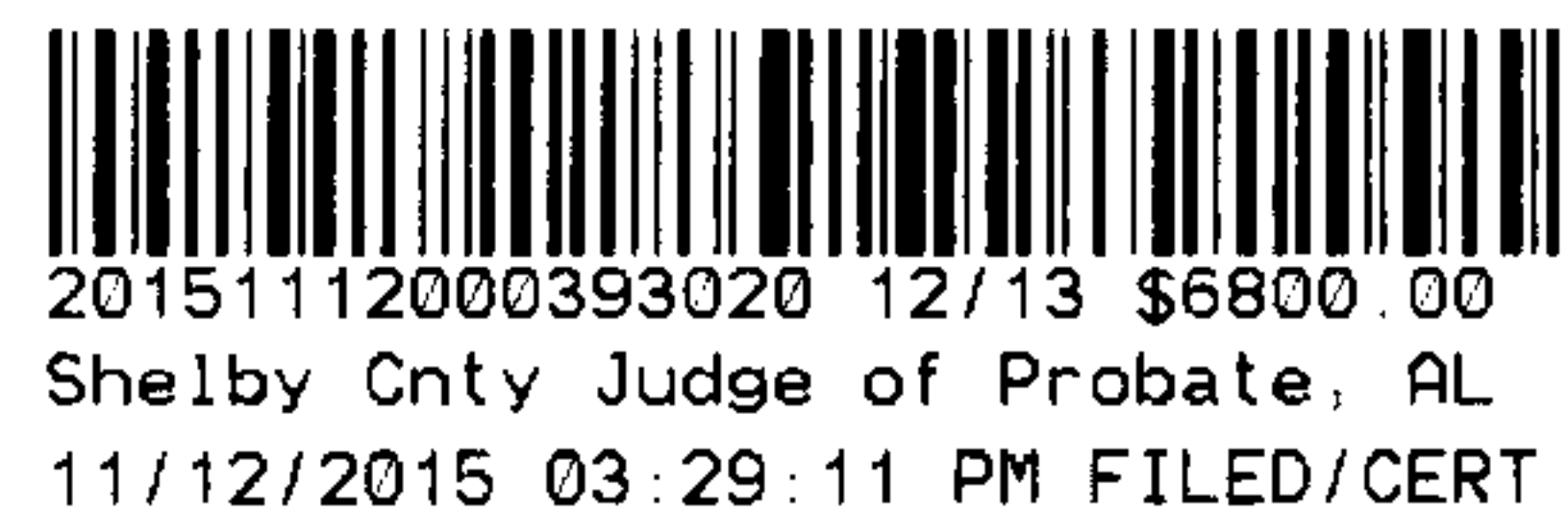


EXHIBIT B

PERMITTED EXCEPTIONS

1. Restrictions appearing of record in Real Volume 182, Page 1.
2. Title to all minerals within and underlying the premises, together with all mining rights and other rights, privileges and immunities relating thereto, together with any release of liability for injury or damage to persons or property as a result of the exercise of such rights as recorded in Deed Book 121, Page 294; Deed Book 127, Page 140; Deed Book 111, Page 265; and Deed Book 4, Page 542.
3. Right of Way granted to Alabama Power Company by instrument(s) recorded in Real Volume 224, Page 644 and Deed Book 219, Page 734.
4. Easement recorded in Real Volume 173, Page 329 and Real Volume 228, Page 590.
5. Easements as shown on recorded map.
6. Declaration of protective covenants and restrictions as recorded in Real Volume 153, Page 395 and Real Volume 173, Page 304.
7. Declaration of restrictions and grant of easements as recorded in Real Volume 173, Page 355.
8. Indenture of establishment of protective covenants, conditions, restrictions and grant of easements as recorded in Real Volume 173, Page 364 and amended in Instrument # 20090803000296300.
9. Rights, if any, of tenants in possession.
10. Cotenancy Agreement recorded in Instrument # 1997-00003.


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