

Credit Line Mortgage

THIS CREDIT LINE MORTGAGE made as of the 27 day of June, 2018, by EMM Auto, LLC, an Alabama limited liability company having his principal office and place of business located at 1497 Secretariat Drive, Helena, AL 35080, for the benefit of Renasant Bank, a federally chartered banking corporation, having an office at 2001 Park Place, Suite 600, Birmingham, AL 35203.

Recital

The Mortgagor is the owner of the premises described in Schedule A annexed hereto. The Mortgagor has borrowed the Mortgage Amount, as evidenced by the Note (as hereinafter defined), obligating the Mortgagor to pay the Mortgage Amount together with all interest accrued thereon.

Certain Definitions

The Mortgagor and the Mortgagee agree that, the following terms shall have the meanings herein specified:

"Chattels" means all fixtures, fittings, appliances, apparatus, equipment, machinery, building materials, inventory and articles of personal property and replacements thereof, other than those owned or rented by service vendors or by lessees (including tenant-shareholders under proprietary leases) which may be removed by such lessee at the expiration of such lease, now or at any time hereafter affixed to, attached to, placed upon, or used in any way in connection with the complete and comfortable use, enjoyment, occupancy or operation of the Premises or the Improvements, together with any proceeds realized from the sale, transfer or conversion of any of the above.

"Default Rate" means at a rate equal to five (5%) percent in excess of the applicable rate specified by the Note, but in no event higher than the maximum rate allowed by applicable law.

"Documents" means the Note, this Mortgage and all other documents further evidencing and/or securing the loan evidenced by the Note together with all modifications or amendments thereto.

"Environmental Law" means any and all present and future federal, state or local laws, statutes, codes, ordinances, rules, regulations, permits, consents, approvals, licenses, judgments, orders, writs, decrees, injunctions or other restrictions or requirements relating to health, the environment, any Hazardous Materials or any use, storage, release, threatened release, emission, discharge, generation, processing, abatement, removal or disposition of any Hazardous Materials from, under, into or on the Mortgaged Property or any handling, transportation or treatment of Hazardous Materials relating to the Mortgaged Property, including but not limited to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C.A. §§ 9601 to 9675), the Resource Conservation and Recovery Act, as amended (42 U.S.C.A. §§ 6921 to 6981), the Hazardous Materials Transportation Act, as amended (49 U.S.C.A. §§ 1801, 1805, 1812), the Clean Air Act, as amended (42 U.S.C.A. §§ 7401 to 7671), the Clean Water Act, as amended (33 U.S.C.A. §§ 1319 to 1387), the Toxic Substances Control Act, as amended (15 U.S.C.A. §§ 2601 to 2692), the Safe Drinking Water Act, as amended (42 U.S.C.A. §§ 300f to 300j-26), the Atomic Energy Act, as amended (42 U.S.C.A. §§ 2011 to 2297q-4), the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C.A. §§ 136 to 136y), the Occupational Safety and Health Act, as amended (29 U.S.C.A. §§ 651 to 678), and the regulations adopted and publications promulgated pursuant thereto.

"Events of Default" means the events and circumstances described as such in Section 2.01 hereof.

"Hazardous Materials" means any substance, material or waste which is regulated by any federal, state or local governmental or quasi-governmental authority, and includes, without being limited to (a) any substance, material or waste defined, used or listed as a "hazardous waste," "extremely hazardous waste," "restricted hazardous waste," "hazardous substance," "hazardous material," "toxic substance" or other similar or related terms as defined, used or listed in any Environmental Law, (b) any petroleum products, asbestos, polychlorinated biphenyls, flammable explosives or radioactive materials, (c) any additional substances or materials which are now or hereafter hazardous or toxic substances under any Environmental Law relating to the Premises, and (d) as of any date of determination, any additional substances or materials which are hereafter incorporated in or added to the definition of "hazardous substance" for purposes of any Environmental Law.

"Improvements" means all improvements, structures or buildings, and replacements and alterations thereof, to be erected or now or hereafter located upon the Premises including all plant, equipment, apparatus, machinery and fixtures of every kind and nature whatsoever forming part of said improvements, structures or buildings.



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"Mortgage Amount" means \$150,000.

"Mortgaged Property" means the property specified as such in the Granting Clause of this Mortgage.

"Mortgagee" means Renasant Bank, its successors and assigns.

"Mortgagor" means Emm Auto, LLC

"Note" means that certain promissory note of even date herewith made by Mortgagor to the order of the Mortgagee in the Mortgage Amount, together with all modifications and amendments thereto.

"Premises or Property" means the Premises described in Schedule A hereto including all of the easements, rights, privileges and appurtenances thereunto belonging or in anyway appertaining, and all of the estate, right, title, interest, claim or demand whatsoever of the Mortgagor therein and in and to the strips and gores, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers adjacent thereto, either at law or in equity, in possession or expectancy, now or hereafter acquired.

Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Mortgage shall be used interchangeably in singular or plural form and the word "Mortgagor" shall mean "each Mortgagor and/or any subsequent owner or owners of the Mortgaged Property or any part thereof or interest therein," the word "Mortgagee" shall mean "Mortgagee or any subsequent holder of the Note," the word "Note" shall mean "the Note or any other evidence of indebtedness secured by this Mortgage," the term "lease" shall include all proprietary leases, occupancy agreements, licenses and any other arrangements by which a person may occupy a portion of the Premises, the term "rent" shall include all impositions, assessments, occupancy charges, maintenance charges, flip taxes and any other fees and charges payable by a tenant-shareholder of Mortgagor, the word "person" shall include an individual, corporation, partnership, trust, unincorporated association, government, governmental authority, or other entity, the words "Mortgaged Property" shall include any portion of the Mortgaged Property or interest therein, and the terms "include," "including" and similar terms shall be construed as if followed by the phrase "without being limited to." Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa. All terms of this Mortgage which are not defined above have the meaning set forth in this Mortgage.

Granting Clause

NOW, THEREFORE, the Mortgagor, in order to secure the payment of both the Mortgage Amount and the interest and any other sums payable on the Note, this Mortgage and the Documents and the performance and observance of all the provisions hereof and of the Note and the Documents including, without limitation, the payment of all sums under the Note and any further sums advanced by the Mortgagee pursuant to this Mortgage to the extent the aggregate of such sums expended pursuant hereto exceed the sum of the Mortgage Amount, hereby gives, grants, bargains, sells, warrants, alienates, demises, releases, conveys, assigns, transfers, mortgages, hypothecates, deposits, pledges, sets over and confirms unto the Mortgagee, with mortgage covenants, all its estate, right, title and interest in, to and under any and all of the following described property (the "Mortgaged Property") whether now owned or held or hereafter acquired:

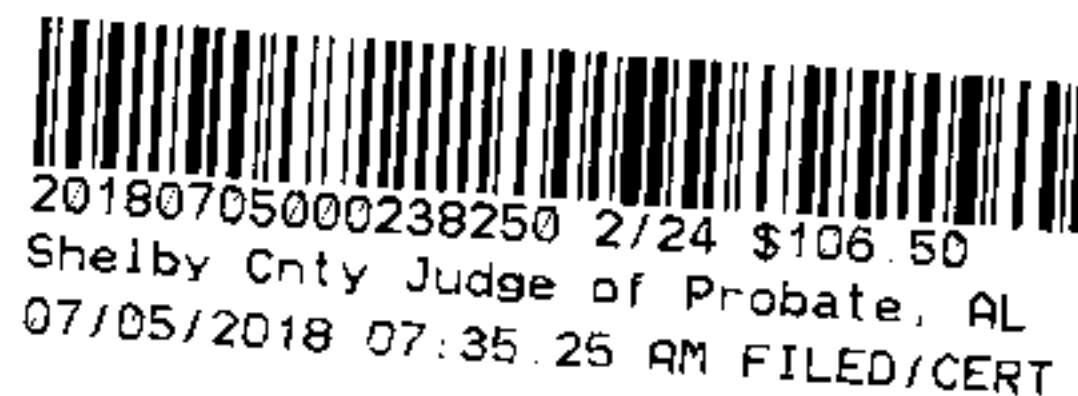
(i) the Premises;

(ii) the Improvements;

(iii) the Chattels;

(iv) all proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including, without limitation, proceeds of insurance and condemnation awards and any unearned premiums accrued, accruing or to accrue under any and all insurance policies now or hereafter obtained by the Mortgagor and real estate tax and assessments; refunds and credits at any time accruing to the benefit of the Mortgagor or the Mortgaged Property, even if relating to taxes; and assessments payable for a period or periods prior to the date hereof;

(v) all leases of the Premises or any part thereof (including but not limited to proprietary leases between Mortgagor and its tenant-shareholders and any leases for commercial space in the Improvements) now or hereafter entered into and all right, title and interest of the Mortgagor thereunder; and including, without limitation, the Mortgagor's right, if any, to cash or securities deposited thereunder whether or not same was deposited to secure performance by the lessees of their obligations thereunder; including, further, the right upon the happening of an Event of Default, to receive and collect the rents and other charges (including all impositions, assessments, occupancy charges, maintenance charges, and other fees and charges payable by a



tenant-shareholder of Mortgagor under a proprietary lease) thereunder (all of which leases are assigned to the Mortgagee as further security hereunder);

(vi) any monies deposited by Mortgagor into one or more bank accounts, and any investments made by Mortgagor for the reserve fund or otherwise for the benefit of Mortgagor;

(vii) all utility or municipal deposits made by or on behalf of Mortgagor or made in connection with the Premises;

(viii) all plans, drawings, specifications, site plans, sketches, samples, contracts and agreements, however characterized from time to time prepared for use in connection with the construction, repair or renovation of the Improvements;

(ix) all contracts, agreements and understandings now or hereafter entered into, relating to or involving the performance of any work, rendering of any services, and supply of any materials or the conduct of operations in and the management of the Premises including, without limitation, construction contracts, architect agreements, management agreements, options and other agreements, however characterized, affecting the Premises and/or the Improvements;

(x) any and all permits, certificates, approvals and authorizations, however characterized, issued or in any way furnished whether necessary or not, for the operation and use of the Premises and/or the Improvements and/or Chattels, including, without limitation, building permits, environmental certificates, certificates of operation, warranties and guarantees; and

(xi) all extensions, improvements, betterments, renewals, substitutes and replacements of, and all additions and appurtenances to, any of the foregoing hereafter acquired by or released to Mortgagor, or constructed, assembled or placed by Mortgagor on the Premises and all conversions of the security constituted thereby, immediately upon such acquisition, release, construction, assemblage, placement or conversion, as the case may be. In each such case, without any further mortgage, deed of trust, conveyance, assignment or other act by Mortgagor, the same shall become subject to the lien of this Mortgage as fully and completely, and with the same effect, as though now owned by Mortgagor and specifically described herein.

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

THIS MORTGAGE IS INTENDED TO BE A "CREDIT LINE MORTGAGE"

NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, THE MAXIMUM AMOUNT OF INDEBTEDNESS SECURED BY THIS MORTGAGE AT EXECUTION OR WHICH UNDER ANY CONTINGENCY MAY BECOME SECURED AT ANY TIME HEREAFTER IS THE PRINCIPAL SUM EQUAL TO THE MORTGAGE AMOUNT PLUS INTEREST THEREON, PLUS AMOUNTS EXPENDED BY THE MORTGAGEE AFTER A DECLARATION OF DEFAULT HEREUNDER TO MAINTAIN THE LIEN OF THIS MORTGAGE, OR TO PROTECT THE PROPERTY SECURED BY THIS MORTGAGE, INCLUDING, WITHOUT LIMITATION, AMOUNTS IN RESPECT OF INSURANCE PREMIUMS, REAL ESTATE TAXES, LITIGATION EXPENSES TO PROSECUTE OR DEFEND THE RIGHTS, REMEDIES AND LIEN OF THIS MORTGAGE OR TITLE TO THE PROPERTY SECURED HEREBY, AND ANY COSTS, CHARGES OR AMOUNTS TO WHICH THE MORTGAGEE BECOMES SUBROGATED UPON PAYMENT, WHETHER UNDER RECOGNIZED PRINCIPLES OF LAW OR EQUITY OR UNDER EXPRESS STATUTORY AUTHORITY, TOGETHER ON ALL THE FOREGOING AMOUNTS AT THE DEFAULT RATE.

ARTICLE I. PARTICULAR COVENANTS, WARRANTIES AND REPRESENTATIONS OF THE MORTGAGOR

The Mortgagor covenants, warrants, represents and agrees as follows:

Section 1.01. Title to Mortgaged Property.

(a) The Mortgagor warrants that it has a good and marketable title to an indefeasible fee estate in the Premises subject in all cases to no lien, charge or encumbrance except such as are listed as exceptions to title in the title policy insuring the lien of this Mortgage. The Mortgagor further warrants that it will own the Chattels free and clear of liens and claims; and that this Mortgage is and will remain a valid and enforceable second lien on the Mortgaged Property subject only to the exceptions to title in the title policy insuring the lien of this Mortgage. The Mortgagor has full power and lawful authority to mortgage the Mortgaged Property in the manner and form herein done or intended hereafter to be done. The Mortgagor will preserve such title, and will forever warrant and defend the validity and priority of the lien hereof against the claims of all persons and parties whomsoever. The Mortgagor is an individual resident of the State of Alabama with the requisite capacity, full power and authority to execute and deliver the Documents and consummate the transactions contemplated hereby.


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(b) Mortgagor will not, without the prior written consent of Mortgagee, (i) initiate or support any zoning reclassification of the Premises or use or permit the use of the Premises in a manner which would result in such use becoming a nonconforming use under applicable zoning ordinances, (ii) impose or consent to the imposition of any restrictive covenants or encumbrances upon the Premises, (iii) execute, file or consent to any subdivision plat affecting the Premises or consent to the annexation of the Premises to any municipality, (iv) combine the tax lot or lots comprising the Premises with any tax lot or lots or any portion thereof which is not subject to the lien of this Mortgage or (v) permit or suffer the Premises to be used by the public or any person in such manner as might make possible a claim of adverse usage or possession or of any implied dedication or easement.

1.02. Further Assurances.

The Mortgagor will, at the cost of the Mortgagor, and without expense to the Mortgagee, promptly correct any defect or error which may be discovered in any of the Documents and shall do, execute, acknowledge; and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignment, transfers and assurances as the Mortgagee shall from time to time reasonably require, for the better assuring, conveying, assigning, transferring and confirming unto the Mortgagee the property and rights hereby conveyed, mortgaged or assigned or intended now or hereafter so to be, or which the Mortgagor may be or may hereafter become bound to convey, mortgage or assign to the Mortgagee, or for carrying out the intention or facilitating the performance of the terms of this Mortgage, and for filing, registering or recording this Mortgage; and, on demand, will execute and deliver, and hereby authorizes the Mortgagee to execute in the name of the Mortgagor to the extent it may lawfully do so, in the event of the failure or refusal of the Mortgagor so to do, one or more financing statements, chattel mortgages or comparable security instruments, and renewals thereof to evidence more effectively the lien hereof upon the Chattels.

Section 1.03. Recording Fees.

(a) The Mortgagor forthwith upon the execution and delivery of this Mortgage, and thereafter from time to time, will cause this Mortgage and any security instrument creating a lien or evidencing the lien hereof upon the Chattels and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien hereof upon, and the interest of the Mortgagee in, the Mortgaged Property.

(b) The Mortgagor will pay all filing, registration and recording fees, and all expenses incident to the execution and acknowledgment of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Chattels and any instrument of further assurance, and all federal, state, county and municipal stamp taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution, delivery and recording of the Note, this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Chattels or any instrument of further assurance.

(c) If a mortgage recording tax is imposed on this Mortgage or any amendment to this Mortgage at any time, Mortgagor shall pay such tax. If applicable law prohibits the Mortgagor from making such payments, Mortgagee may, at its election, declare all sums outstanding under the Note or under this Mortgage immediately due and payable. Mortgagee and/or its assigns shall have no obligation to either participate in any dispute of said tax or to make any payment with respect thereto and the Mortgagor agrees to indemnify Mortgagee and its assigns and hold them harmless from any liability with respect thereto and to reimburse or pay upon demand for the same by Mortgagee and/or its assigns their reasonable costs and expenses (including, but without limitation, reasonable attorney's fees and disbursements) incurred with respect thereto or in connection therewith.

1.04. Payment of Indebtedness.

The Mortgagor will punctually pay the principal and interest and all other sums to become due in respect of the Note at the time and place and in the manner specified in the Note, according to the true intent and meaning thereof and without offset or counterclaim, all in any coin or currency of the United States of America which at the time of such payment shall be legal tender for the payment of public and private debts.

1.05. Good Standing of Mortgagor.

Mortgagor is an individual resident of the State of Alabama, who is of the age of majority, and possess the request capacity necessary to enter into duly enforceable legal agreements. The Mortgagor will not without the prior written consent of Mortgagee, so long as any sums are owed pursuant to the Note or this Mortgage (i) consolidate or merge the Mortgagor into or with any corporation, partnership or other entity, effect any voluntary liquidation or reorganization, or effect any change in its capital structure.

1.06. Lien on Improvements.

All rights, title and interest of the Mortgagor in and to all extensions, improvements, betterments, renewals, substitutes and replacements of, and all additions and appurtenances to, the Mortgaged Property, hereafter acquired by, or released to, the Mortgagor or constructed, assembled or placed by the Mortgagor on the Premises, and all conversions of the security constituted thereby, immediately upon such acquisition, release, construction, assembling, placement or



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conversion, as the case may be, and in each such case, without any further mortgage, conveyance, assignment or other act by the Mortgagor, shall become subject to the lien of this Mortgage as fully and completely, and with the same effect, as though now owned by the Mortgagor and specifically described in the granting clause hereof, but at any and all times the Mortgagor will execute and deliver to the Mortgagee any and all such further assurances, mortgages, conveyances or assignments thereof as the Mortgagee may reasonably require for the purpose of expressly and specifically subjecting the same to the lien of this Mortgage.

Section 1.07. Impositions and Tax Deposits.

(a) The Mortgagor, from time to time when the same shall become due and payable, but without the benefit of any grace period therefore whether or not a penalty or interest charge would be imposed in such grace period, will pay and discharge all taxes of every kind and nature (including real and personal property taxes and income, franchise, withholding, profits and gross receipts taxes), all general and special assessments, levies, permits, inspection and license fees, all water and sewer rents and charges, and all other public charges whether of a like or different nature, imposed upon or assessed against it or the Mortgaged Property or any part thereof or upon the revenues, rents, issues, income and profits of the Mortgaged Property or arising in respect of the occupancy, use or possession thereof (collectively, "Impositions"). The Mortgagor will, upon the request of the Mortgagee, deliver to the Mortgagee receipts evidencing the payment of all such Impositions imposed upon or assessed against it or the Mortgaged Property or the revenues, rents, issues, income or profits thereof.

(b) Mortgagor shall on the first day of each month deposit with Mortgagee or any service or financial institution designated for such purposes by Mortgagee (whichever of the foregoing is applicable being the "Depository") one-twelfth (1/12) of the annual real estate taxes ("Taxes") assessed against the Mortgaged Property (and, if Mortgagee shall so elect, any or all other Impositions) and Mortgagor shall accordingly make such deposits. In addition, if required by Mortgagee, Mortgagor shall also deposit with the Depository a sum of money which, together with the aforesaid monthly installments, will be sufficient to make payments of Taxes (and, if Mortgagee has elected to collect deposits for other Impositions, such other Impositions) at least forty-five (45) days before such payments are due. If the amount of any such payment is not ascertainable at the time any such deposit is required to be made, the deposit shall be made on the basis of Mortgagee's estimate thereof, and when such amount is fixed for the then-current year, Mortgagor shall promptly deposit any deficiency with the Depository.

All funds so deposited, until so applied, shall constitute additional security for the Note; shall be held by the Depository without interest (except to the extent required under applicable laws); and may be commingled with other funds of the Depository. So long as no Event of Default shall exist and be continuing hereunder, and provided that Mortgagor shall have supplied (in the manner set forth in the next sentence of this subsection) the instructions, information and documents necessary for the Depository to make an effective application and payment of such funds, all funds so deposited shall be applied to the payment of Impositions in the order determined by Mortgagee and in accordance with instructions to be furnished to Mortgagee by Mortgagor. Mortgagor shall, at least thirty (30) days before the date on which the Impositions first become payable, furnish the Depository with bills and instructions for the payment of the Impositions and/or such other documents as are necessary for the payment of the same. If Mortgagor has not complied with any of the foregoing or, in any event, during the continuance of an Event of Default hereunder, Mortgagee may apply funds so deposited in the order determined by Mortgagee.

Upon an assignment or transfer of this Mortgage by Mortgagee, Mortgagee shall have the right to assign and/or transfer the unapplied balance of any amounts deposited pursuant to this Section 1.07, if any, to the assignee or transferee (or to a successor Depository designated by such assignee or transferee) and Mortgagee shall thereupon be completely released from all liability with respect thereto. This provision shall apply to every transfer of such deposits to a new assignee or transferee (or a successor Depository). When the loan evidenced by the Note has been paid in full, and all other obligations of Mortgagor under the Documents have been performed and observed in full, Mortgagee shall, and at any prior time, Mortgagee may, at its election, pay over or cause the Depository (if not Mortgagee) to pay over the unapplied balance of the deposits, if any, to the record owner of the Mortgaged Property or its designee and no other person shall have any right or claim thereto.

(c) The Mortgagor will pay all taxes except income, franchise or other similar taxes, inheritance, estate and gift taxes, imposed on the Mortgagee by reason of its ownership of the Note or this Mortgage.

(d) Nothing in this Section 1.07 shall require the payment or discharge of any obligation imposed upon the Mortgagor by this Section so long as the Mortgagor shall in good faith and at its own expense contest the same or the validity thereof by appropriate legal proceedings which shall operate to prevent the collection thereof or other realization thereon and the sale or forfeiture of the Premises or any part thereof to satisfy the same; provided that during such contest the Mortgagor shall, at the option of the Mortgagee, provide security satisfactory to the Mortgagee, assuring the discharge of the Mortgagor's obligation hereunder and of any additional charge, penalty or expense arising from or incurred as a result of such contest; and provided, further, that if at any time payment of any obligation imposed upon the Mortgagor by subsection (a) of this Section shall become necessary to prevent the delivery of a tax deed or other similar instrument conveying the Mortgaged Property or any portion thereof because of nonpayment, then the Mortgagor shall pay the same in sufficient time to prevent the delivery of such tax deed or other similar instrument.

1.08. Mechanics' and Other Liens.

The Mortgagor will pay, from time to time when the same shall become due, all lawful claims and demands of mechanics, materialmen, laborers, and others which, if unpaid, might result in, or permit the creation of, a lien on the Mortgaged Property or any part thereof, or on the revenues, rents, issues, income and profits arising therefrom and in general will do or cause to be done everything necessary so that the lien hereof shall be fully preserved, at the cost of the

Mortgagor, without expense to the Mortgagee. Notwithstanding the foregoing, in the event any lien, charge or order for the payment of money or other encumbrance is filed against the Mortgaged Property, Mortgagor shall cause the same to be discharged of record or bonded within thirty (30) days after Mortgagor's receipt of the filing thereof. All costs and expenses incurred in posting the bond or other security and in defending any lien foreclosure action shall be borne exclusively by Mortgagor. Mortgagor further agrees to reimburse Mortgagee for all reasonable costs and expenses including reasonable attorney's fees and disbursements incurred by Mortgagee in connection with any such lien foreclosure action.

Section 1.09. Insurance and Insurance Deposits.

(a) The Mortgagor will at its expense, provide or cause to be provided in force the following policies of insurance:

(i) insurance with respect to the Improvements and the Chattels against any peril included within the classification "All Risks of Physical Loss or Damage," in amounts at all times sufficient to prevent the Mortgagor from becoming a co-insurer within the terms of the applicable policies, but in any event such insurance shall be maintained in the full insurable value of the Improvements and the Chattels (the term "full insurable value" to mean 100% of the actual replacement cost of the Improvements and the Chattels);

(ii) commercial general liability insurance, including bodily injury and property damage liability against any and all claims, including, without limitation, all legal liability to the extent insurable imposed upon the Mortgagee and all court costs and reasonable attorney's fees arising out of or connected with the possession, use, leasing, operation or condition of the Premises, in such amounts and of such types as Mortgagee may require from time to time;

(iii) statutory workers' compensation insurance with respect to any work on or about the Premises;

(iv) loss of "business income" insurance covering one year of loss;

(v) comprehensive boiler and machinery coverage, in such amount as Mortgagee may require from time to time; and

(vi) such other insurance and increased policy limits with respect to the Mortgaged Property as may be reasonably required from time to time by Mortgagee.

(b) Each policy of insurance maintained by the Mortgagor pursuant to the terms hereof shall

(i) name the Mortgagee (together with its successors and assigns as their interest may appear) as an additional insured, as its interest may appear with respect to liability insurance coverage;

(ii) contain the standard noncontributory, that the mortgagee's coverage will not be invalidated by a foreclosure, a change in ownership, a more hazardous use of the property, or a loss caused by the neglect of the owner, provided that the mortgagee pays any premium demanded should the owner fail to do so, mortgagee clause endorsement in favor of the Mortgagee with respect to hazard insurance coverage;

(iii) except in the case of public liability insurance and workers' compensation insurance, name the Mortgagee as loss payee and provide that all insurance proceeds for losses be adjusted and be payable in accordance with subsection 1.09(f) hereof;

(iv) include effective waivers (whether under the terms of any such policy or otherwise) by the insurer of all claims for insurance premiums against all loss payees and named insureds other than the Mortgagor (provided that the Mortgagee shall have the right to pay premiums and continue any insurance upon the insolvency of the Mortgagor or the foreclosure or other transfer of the Mortgaged Property) and all rights of subrogation against any named insured;

(v) provide that if all or any part of such policy is cancelled, terminated or expires, the insurer will forthwith give notice thereof to each named insured and loss payee and that no cancellation, termination, expiration or reduction in amount or material change in coverage thereof shall be effective until at least thirty (30) days (or, in the case of nonpayment of premiums, ten (10) days) after receipt by each named insured and loss payee of written notice thereof; and

(vi) not be subject to a deductible in excess of amounts as shall be reasonably satisfactory to Mortgagee.



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(c) The Mortgagor shall pay or cause to be paid, as and when the same become due and payable, the premiums for all insurance policies that the Mortgagor is required to maintain hereunder. All such policies shall be nonassessable and shall contain such expiration dates as the Mortgagee may reasonably require. The Mortgagor will deliver to the Mortgagee, concurrently herewith, insurance certificates setting forth in reasonable detail the terms of all insurance policies that the Mortgagor is required to maintain hereunder, together with true and complete copies of such policies. The Mortgagor will deliver to the Mortgagee, concurrently with each change in or renewal of any such insurance policy, a certificate with respect to such changed insurance policy certified by the insurance broker that procured or placed such policies, in the same form and containing the same information as the certificates required to be delivered by the Mortgagor pursuant to the first sentence of this subparagraph; and a certificate of the Mortgagor certifying that all of the insurance policies maintained by the Mortgagor pursuant hereto comply in all respects with the requirements of this Mortgage, that all premiums then due thereon have been paid to the applicable insurers and that the same are in full force and effect.

(d) Not later than twenty (20) days prior to the expiration, termination or cancellation of any insurance policy which the Mortgagor is required to maintain hereunder, the Mortgagor shall obtain a replacement policy or policies (or a binding commitment for such replacement policy or policies), which shall be effective no later than the date of the expiration, termination or cancellation of the previous policy, and shall deliver to the Mortgagee a certificate and a true and complete copy of such policy or policies which comply with the requirements of this Section 1.09 or a copy of the binding commitment for such policy or policies. The Mortgagor shall also provide to the Mortgagee originals of such policies or copies thereof certified by the insurance companies issuing them as soon as reasonably possible after the Mortgagee's request therefor.

(e) All insurers shall be authorized to issue insurance in the State of Alabama and all insurers and reinsurers shall have a rating in Best's Key Rating Guide (Property-Casualty) of at least Policyholder Rating "A-" and Financial Rating "V".

(f) In the event of loss, Mortgagor shall give immediate written notice to the insurance carrier and to Mortgagee. Mortgagor hereby authorizes and empowers Mortgagee as attorney-in-fact for Mortgagor to make proof of loss, to adjust and compromise any claim under insurance policies, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, and to deduct therefrom Mortgagee's expenses incurred in the collection of such proceeds; provided, however, that nothing contained in this subsection 1.09(f) shall require Mortgagee to incur any expense or take any action hereunder.

Any monies received by Mortgagor as payment for any loss under any insurance required to be carried by Mortgagor pursuant to the terms hereof shall be paid over to the Mortgagee to be applied at the option of the Mortgagee either to the prepayment of the Note, without premium, and/or to the reimbursement of the Mortgagor for expenses incurred by it in the restoration of the Improvements. Notwithstanding anything to the contrary contained herein or in Title 35 Section 10 et seq of the Code of Alabama 1975 or any other provision of applicable law, the proceeds of insurance policies coming into the possession of the Mortgagee shall not be deemed trust funds and the Mortgagee shall be entitled to dispose of such funds as hereinafter provided.

(g) The Mortgagor shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained under this Section 1.09 unless the Mortgagee has approved the insurance company and the form and content of the insurance policy, including, without limitation, the naming thereon of the Mortgagee as a named insured with loss payable to the Mortgagee under a standard mortgage endorsement of the character above described. The Mortgagor shall immediately notify the Mortgagee whenever any such separate insurance is taken out and shall promptly deliver to the Mortgagee the policy or policies or certificates of such insurance.

(h) Following the occurrence of an Event of Default, Mortgagee may require that Mortgagor deposit with the Depository one-twelfth (1/12) of the annual premiums for insurance required under subsection 1.09(a) hereof, and Mortgagor shall accordingly make such deposits. Mortgagor shall also deposit with the Depository a sum of money which, together with the aforesaid monthly installments, will be sufficient to pay the insurance premiums for such insurance at least thirty (30) days before such payments are first due. If the amount of any such insurance premiums are not ascertainable at the time any such deposit is required to be made, the deposit shall be made on the basis of Mortgagee's estimate thereof, and when such insurance premiums are fixed for the then-current year, Mortgagor shall promptly deposit any deficiency with the Depository.

All funds so deposited, until so applied, shall constitute additional security for the Note, shall be held by the Depository without interest (except to the extent required under applicable laws), and may be commingled with other funds of the Depository. So long as no Event of Default shall exist and be continuing hereunder, and provided that Mortgagor shall have supplied, in the manner set forth in the next sentence of this subsection, the instructions, information and documents necessary for the Depository to make an effective application and payment of such funds, all funds so deposited shall be applied to the payment of insurance premiums in the order determined by Mortgagee and in accordance with instructions to be furnished to Mortgagee by Mortgagor. Mortgagor shall, at least forty-five (45) days before the date on which any such insurance premiums first become payable, furnish the Depository with bills and instructions for the payment of such insurance premiums and/or such other documents as are necessary for the payment of the same. If Mortgagor has not complied with any of the foregoing or, in any event, during the continuance of an Event of Default hereunder, Mortgagee may apply funds so deposited in the order determined by Mortgagee.

Upon an assignment or transfer of this Mortgage by Mortgagee, Mortgagee shall have the right to assign and/or transfer the unapplied balance of any amounts deposited pursuant to this Section 1.09, if any, to the assignee or transferee (or to a successor Depository designated by such assignee or transferee) and Mortgagee shall thereupon be completely released from all liability with respect thereto. This provision shall apply to every transfer of such deposits to a new assignee or transferee (or a successor Depository). When the loan evidenced by the Note has been paid in full, and all other obligations of Mortgagor under the Documents have been performed and observed in full, Mortgagee shall, and at any prior time, Mortgagee may, at its election, pay over or cause the Depository (if not Mortgagee) to pay over the unapplied balance of the deposits, if any, to the record owner of the Mortgaged Property or its designee and no other person shall have any right or claim thereto.


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1.10. Additional Advances and/or Disbursements.

If the Mortgagor or any party under any of the Documents shall fail to perform any of the covenants contained in this Mortgage, or any covenant contained in the Note, the assignment of leases, or the other Documents, the Mortgagee may make advances and/or disbursements to perform the same. All sums so advanced and/or disbursed shall be a lien upon the Mortgaged Property and shall be secured hereby. The Mortgagor will repay on demand all sums so advanced and/or disbursed with interest at the Default Rate. The provisions of this Section 1.10 shall not prevent any default in the observance of any covenant contained in this Mortgage, or contained in the Note, the assignment of leases, or the other Documents from constituting a default or an Event of Default.

Section 1.11. Financial Statements; Estoppels.

(a) The Mortgagor will keep adequate records and books of account and will permit the Mortgagee, by its agents, accountants and attorneys, to visit and inspect the Mortgaged Property and examine and copy Mortgagor's records, books of account and any plans and drawings pertinent to the Mortgaged Property, and to discuss Mortgagor's affairs, finances and accounts with the Mortgagor, at such reasonable times as may be requested by the Mortgagee. Mortgagee shall have the right to share any information obtained thereby with others in the ongoing course of its ownership or sale, if any, of the loan secured hereby, or any interest therein.

(b) The Mortgagor will at its own cost and expense deliver to the Mortgagee with reasonable promptness, but in no event more than one hundred twenty (120) days after the close of its fiscal year, an annual audited financial statement for the prior fiscal year. This financial statement must be prepared and certified by an independent certified public accountant in accordance with generally accepted accounting principles consistently applied, and must be in a form satisfactory to Mortgagee. The Mortgagor will deliver to the Mortgagee such other financial information with respect to the Mortgagor as the Mortgagee may reasonably request from time to time.

All financial statements of the Mortgagor shall be delivered in duplicate, and shall be accompanied by the certificate of the Mortgagor dated within five (5) days of the delivery of such statements to the Mortgagee, stating that it knows of no Event of Default, nor of any default which after notice or lapse of time or both would constitute an Event of Default, which has occurred and is continuing; or, if any such default or Event of Default has occurred or is continuing, specifying the nature and the period of existence thereof, and what action the Mortgagor has taken or proposes to take with respect thereto, and, except as otherwise specified, stating that the Mortgagor has fulfilled all of its obligations under this Mortgage and the Documents which are required to be fulfilled on or prior to the date of such certificate.

(c) The Mortgagor from time to time, within ten (10) days upon request by the Mortgagee, will furnish a written statement duly acknowledged of the amount due whether for principal or interest on this Mortgage and/or any other financing secured by the Mortgaged Property (information with respect to all such loans shall be set forth separately for each loan) and whether any offsets or defenses exist against the Mortgage Amount and, if any are alleged to exist, the nature of each such offset or defense shall be set forth in full detail.

Section 1.12. Maintenance of Property; Compliance with Law.

(a) The Mortgagor will not threaten, commit, permit or suffer any waste to occur on or to the Mortgaged Property, or any part thereof, or alter the Mortgaged Property or any part thereof in any manner or make any change in its use which will in any way increase any risk of fire or other hazards arising out of construction or operation of the Mortgaged Property. The Mortgagor will, at all times, maintain the Mortgaged Property in good operating order and condition and will promptly make, from time to time, all repairs, renewals, replacements, additions and improvements in connection therewith which are needful or desirable to such end. The Improvements shall not be removed, demolished or substantially altered, nor shall any Chattels be removed without the prior written consent of the Mortgagee, except where appropriate replacements free of superior title, liens and claims are immediately made of value at least equal to the value of the Chattels removed.

(b) The Mortgagor will keep and maintain or cause to be kept and maintained the Mortgaged Property and the sidewalks and curbs abutting the same in good order and condition and in a rentable and tenantable state of repair and will make or cause to be made, as and when the same shall become necessary, all structural and nonstructural, exterior and interior, ordinary and extraordinary, foreseen and unforeseen repairs, renewals and replacements necessary to that end. In the event that the Mortgaged Property shall be damaged or destroyed, in whole or in part, by fire or any other casualty, or in the event of a taking of a portion of the Mortgaged Property as a result of any exercise of the power of eminent domain, the Mortgagor shall promptly restore, replace, rebuild, or alter the same as nearly as possible to the condition they were in immediately prior to such fire, other casualty or taking, and shall take such other additional actions and measures as shall be necessary to avoid any default or forfeiture under any lease or any other applicable agreement. Although damage to or destruction of the Mortgaged Property, or any portion thereof, shall not of itself constitute a default hereunder, the failure of the Mortgagor to restore, replace, rebuild or alter the same, as hereinabove provided, shall constitute a default hereunder regardless of the availability of insurance proceeds or condemnation awards for such purpose.



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(c) The Mortgagor represents that the Mortgaged Property is presently in compliance with all laws, ordinances, rules, regulations and other requirements of all governmental authorities whatsoever having jurisdiction of or with respect to the Mortgaged Property or any portion thereof or the use and occupation thereof. The Mortgagor will promptly comply, or cause compliance with all existing and future laws, ordinances, rules, regulations and other requirements of all governmental authorities whatsoever having jurisdiction of or with respect to the Mortgaged Property or any portion thereof or the use and occupation thereof.

(d) The Mortgagor will not, without the prior written consent of the Mortgagee, initiate, join in, or consent to any change in any private restrictive covenant, zoning ordinance, or other public or private restrictions limiting or defining the uses which may be made of the Premises or any part thereof.

(e) All covenants hereof shall be construed as affording to the Mortgagee rights additional to and not exclusive of the rights conferred under the provisions of Title 35 Section 10 et. sec., of the Code of Alabama 1975, or any other applicable law of the State of Alabama, or any other state. If there is a conflict between any provision of this Mortgage and the provisions of Title 35 Section 10 et. sec. of the Code of Alabama 1975, or any other law of the State of Alabama, or such law of such other state, the Mortgagor agrees that the applicable provision of this Mortgage shall control.

1.13. Condemnation.

No proceeding for the condemnation of all or any portion of the Mortgaged Property has been commenced or threatened. The Mortgagor, immediately upon obtaining knowledge of the institution of any proceedings for the condemnation of the Premises or any portion thereof, will notify the Mortgagee of the pendency of such proceedings. The Mortgagee may participate in any such proceedings and the Mortgagor from time to time will deliver to the Mortgagee all instruments requested by it to permit such participation. In the event of such condemnation proceedings, the award or compensation payable is hereby assigned to and shall be paid to the Mortgagee up to the Mortgage Amount. The Mortgagee shall be under no obligation to question the amount of any such award or compensation and may accept the same in the amount in which the same shall be paid. In any such condemnation proceedings the Mortgagee may be represented by counsel selected by the Mortgagee but the Mortgagor may appear by its counsel to contest the amount of the condemnation award. The proceeds of any award or compensation so received shall, at the option of the Mortgagee, either be applied, without premium, to the prepayment of the Note or be paid over to the Mortgagor for restoration of the Improvements. The Mortgagee shall not be limited to the interest paid on the proceeds of any award or compensation, but shall be entitled to the payment of interest by the Mortgagor at the rates provided for herein or in the Note.

Section 1.14. Leases.

(a) The Mortgagor will not, without the prior written consent and approval of the Mortgagee in each instance,

(i) execute an assignment of the rents from the Mortgaged property or any part thereof that is not for the benefit of the Mortgagee,

(ii) in any other manner impair the value of the Mortgaged Property or the security of the Mortgage. Mortgagor will not without the prior written consent and approval of the Mortgagee, in each instance,

(A) terminate or consent to the cancellation or surrender of any lease of the Mortgaged Property or of any part thereof, that is not within the scope of Mortgagor's ordinary business practices, now existing or hereafter to be made,

(B) modify or vary any such lease, or

(b) The Mortgagor will at all times promptly and faithfully perform, or cause to be performed, all of the covenants, conditions and agreements contained in all leases of the Premises (including all proprietary leases) or any part thereof now or hereafter existing, on the part of the lessor thereunder to be kept and performed, and shall do all things necessary to compel performance by the lessee under each lease of all obligations, covenants, and agreements by such lessee to be performed thereunder. If any of such leases provide for the giving by the lessee of certificates with respect to the status of such leases, the Mortgagor shall exercise its right to request such certificates within five (5) days of any demand therefor by the Mortgagee. The Mortgagor shall promptly notify the Mortgagee of

(i) the commencement of any action or proceeding by any lessee, the purpose of which shall be the cancellation of any lease or diminution or offset against the rent payable under any such lease, or

(ii) the interposition by any lessee of any defense in any action or proceeding brought by the Mortgagor against such lessee, or

(iii) a written notice received by the Mortgagor from any lessee claiming constructive eviction, and will cause a copy of any process, pleading or notice



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received by the Mortgagor in reference to any such action, defense or claim to be promptly delivered to the Mortgagee.

(c) The Mortgagor shall furnish to the Mortgagee, within thirty (30) days after a request by the Mortgagee to do so, a written statement containing a schedule of all leases of all or any part of the Mortgaged Property, the names of the respective lessees, the terms of their respective leases, the space occupied and the rentals payable thereunder, and, if also requested, true copies of all such leases.

1.15. Notices to Mortgagee.

Mortgagor shall give written notice to Mortgagee promptly (but in no event later than ten (10) business days after Mortgagor's discovery thereof) upon the occurrence of:

- (a) any default by Mortgagor under this Mortgage or any other Document;
- (b) any pending or threatened litigation affecting Mortgagor or the Mortgaged Property;
- (c) any claims, disputes, judgments or violations of law, or any breach by Mortgagor of any material agreement to which Mortgagor is a party; and
- (d) any other facts and circumstances which might materially impact the Mortgaged Property, Mortgagor, or the loan secured hereby.

1.16. Attornment.

To the extent not so provided by applicable law, each lease of the Premises or any part thereof shall provide that, in the event of the enforcement by the Mortgagee of the remedies provided for by law or by this Mortgage, the lessee thereunder will, upon request of any person succeeding to the interest of the Mortgagor as a result of such enforcement, automatically become the lessee of said successor in interest, without change in the terms or other provisions of such lease, provided, however, that said successor in interest shall not be bound by

- (i) any payment of rent or additional rent for more than one month in advance, except prepayments in the nature of security for the performance by said lessee of its obligations under said lease,
- (ii) any amendment or modification of the lease made without the consent of the Mortgagee or such successor in interest, or
- (iii) any work required to be done by the Mortgagor pursuant to the terms of said lease. Each such lease shall also provide that, upon request by said successor in interest, such lessee shall execute and deliver an instrument or instruments confirming such attornment.

1.17. Expenses of Mortgagee.

The Mortgagor agrees that if any action or proceeding be commenced, excepting an action to foreclose this Mortgage or to collect the indebtedness hereby secured, to which action or proceeding the Mortgagee is a party by reason of the execution of this Mortgage or the Note which it secures, or in which it becomes necessary to defend or uphold the lien of this Mortgage, all sums paid by the Mortgagee for the expense of any litigation to prosecute or defend the transaction and the rights and lien created hereby (including, without limitation, reasonable attorney's fees) shall be paid by the Mortgagor together with interest thereon from the date of payment by the Mortgagee at the Default Rate. All such sums paid and the interest thereon shall be a lien upon the Mortgaged Property, and shall be secured hereby.

1.18. Change in Law Affecting Mortgages.

The Mortgagor agrees that in the event of the passage after the date of this Mortgage of any law deducting any lien from the value of land for the purpose of taxation, or changing in any way the laws now in force for the taxation of mortgages or debts secured by a mortgage, or the manner of the collection of any such taxes, so as to impose upon Mortgagee any tax that previously would have been payable by Mortgagor, the whole of the principal sum secured by this Mortgage, together with interest due thereon shall, at the option of the Mortgagee, without notice to any party, become immediately due and payable.

1.19. Utilities.



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The Mortgaged Property will be provided with adequate water, sewer and other utility facilities at all times, in compliance with all applicable laws and regulations.

1.20. Restrictions on Transfer or Encumbrance.

The Mortgagor shall not, directly or indirectly, by transfer, mortgage, hypothecation, encumbrance or conveyance, do or suffer the assignment, transfer, sale, conveyance, or encumbrance, junior or senior hereto of the Mortgaged Property or any part thereof or any interest therein or in the Mortgagor (except for transfers of stock of Mortgagor in connection with the assignment of a proprietary lease for an apartment unit in the Improvements, by a tenant-shareholder of Mortgagor to other persons who by virtue of such transfers become tenant-shareholders in Mortgagor) without in each instance the prior written consent of the Mortgagee.

1.21. Hazardous Materials.

Mortgagor represents, warrants and covenants that Mortgagor has not used Hazardous Materials on, from, or affecting the Mortgaged Property in any manner which violates federal, state or local laws, ordinances, rules, regulations, or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials. Mortgagor also represents that no prior owner of the Mortgaged Property or any tenant, subtenant, prior tenant or prior subtenant has used Hazardous Materials on, from, or affecting the Mortgaged Property, in any manner which violates federal, state or local laws, ordinances, rules, regulations, or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials. Mortgagor further represents, warrants and covenants that the Mortgaged Property is in compliance with all environmental laws, rules, regulations, ordinances and orders and that no asbestos or other Hazardous Materials have been, or are incorporated in, stored on, treated on or disposed of on or from the Mortgaged Property, except as set forth in that certain environmental report dated *[date of environment report]* and prepared by *[name of environmental consultant]* (the "Environmental Report"), a true and complete copy of which has been delivered to Mortgagee.

Mortgagor shall keep or cause the Mortgaged Property to be kept free of Hazardous Materials. Without limiting the foregoing, Mortgagor shall not cause or permit the Mortgaged Property to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials, nor shall Mortgagor cause or permit, as a result of any intentional or unintentional act or omission on the part of Mortgagor or any tenant or subtenant, a release of Hazardous Materials onto the Mortgaged Property or onto any other property. Mortgagor shall comply with and ensure compliance by all tenants and subtenants with all applicable federal, state and local laws, ordinances, rules and regulations, whenever and by whomever triggered, and shall obtain and comply with any and all approvals, registrations or permits required thereunder. Mortgagor shall:

(a) 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 Mortgaged Property

(i) in accordance with all applicable, federal, state, and local laws, ordinances, rules, regulations, and policies,

(ii) to the satisfaction of the Mortgagee,

(iii) in accordance with the orders and directions of all federal, state and local governmental authorities and

(iv) within six (6) months from the date of this Mortgage, or sooner if required by law and

(b) defend, indemnify, and hold harmless the Mortgagee and its employees, agents, officers, and directors, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to

(i) the presence, disposal, release, or threatened release of any Hazardous Materials which are on, from, or affecting the soil, water, vegetation, buildings, personal property, persons, animals, or otherwise;

(ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials;

(iii) any lawsuit brought or threatened, settlement reached, or government order relating to such Hazardous Materials; and/or



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(iv) any violation of laws, orders, regulations, requirements, or demands of government authorities, or any policies or requirements of the Mortgagee, which are based upon or in any way related to such Hazardous Materials including, without limitation, attorney and consultant fees, investigation and laboratory fees, court costs, and litigation expenses.

In addition to the requirements set forth in the previous sentence, in the event the Environmental Report recommends asbestos treatment, such treatment shall be certified to Mortgagee by an asbestos hygienist or engineer licensed by the State of Alabama or City of Birmingham. If at any time prior to repayment of all sums secured by this Mortgage, the estimated cost, as reasonably determined by Mortgagee, to remove Hazardous Materials or remedy and condition pertaining to the existence, release or threatened release of Hazardous Materials on or affecting the Mortgaged Property exceeds \$200,000, Mortgagor shall promptly deposit with Mortgagee the estimated cost, as reasonably determined by Mortgagee, to effect such removal or remedy, to secure Mortgagor's prompt compliance with the requirements of the preceding sentence. In the event of Mortgagor's failure to comply with the provisions of this Section 1.21, Mortgagee may apply any or all of such sums so deposited with Mortgagee to cause the removal or other remedy as required pursuant to this Section 1.21. Any sums not so applied shall be returned to Mortgagor by Mortgagee promptly upon completion of the removal or other remedy required hereunder to the satisfaction of Mortgagee. In the event this Mortgage is foreclosed, or Mortgagor tenders a deed in lieu of foreclosure, Mortgagor shall deliver the Mortgaged Property to the Mortgagee free of any and all Hazardous Materials so that the condition of the Mortgaged Property shall conform with all applicable federal, state and local laws, ordinances, rules or regulations affecting the Mortgaged Property. The provisions of this Section 1.21 shall be in addition to any and all obligations and liabilities Mortgagor may have to the Mortgagee at common law and under any Asbestos Removal and Collateral Security Agreement to be entered into between the Mortgagor and Mortgagee, and shall survive the transactions contemplated herein.

1.22. Easements and Instruments of Record.

The Mortgagor will promptly perform and observe, or cause to be performed and observed, all of the terms, covenants and conditions of all instruments of record affecting the Mortgaged Property, noncompliance with which shall affect the security of this Mortgage, or shall impose any duty or obligation upon the Mortgagor or any lessee or other occupant of the Mortgaged Property or any part thereof. The Mortgagor shall do or cause to be done all things necessary to preserve intact and unimpaired any and all easements, appurtenances and other interests and rights in favor of or constituting any portion of the Mortgaged Property.

1.23. Lien Law.

The Mortgagor will, in compliance with Section 13 of the Lien Law, receive the advances secured hereby and will hold the right to receive such advances as a trust fund to be applied first for the purpose of paying the cost of the Improvements and will apply the same first to the payment of the cost of the Improvements before using any part of the total of the same for any other purpose.

1.24. Right of Entry.

The Mortgagee and its authorized representatives and designees shall have the right at all reasonable times during usual business hours or as otherwise required in the event of an emergency to enter upon and inspect all portions of the Mortgaged Property.

1.25. Service Contracts; Additional Liabilities.

Mortgagor shall not, without the prior written consent of Mortgagee in each instance, enter into any service contracts or other agreements or incur any other liability which would be binding upon a successor owner of the Mortgaged Property or which would create a Mortgagor liability in excess of \$200,000 in each instance.

1.26. Operating and Replacement Reserves.

From, and at all times after, the date hereof, Mortgagor shall maintain a general operating and replacement reserve account, in a safe depository as Mortgagee may from time to time direct, in an amount equal to at least ten (10%) percent of the aggregate amount paid the previous year to Mortgagor from its tenant-shareholders pursuant to their proprietary leases. Any reduction in such general operating and replacement reserves shall be replaced within one hundred eighty (180) days.

1.27. Flood Hazard.

The Mortgagor hereby represents that the Premises do not comprise property identified by the Secretary of Housing and Urban Development as an area having special flood hazards. If the Premises at any time are so identified by the Secretary of Housing and Urban Development as having special flood hazards, Mortgagor will keep the Premises insured against loss by flood hazards in an amount at least equal to the outstanding principal balance of the Note secured by this Mortgage, or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood

Insurance Act of 1968, as amended by the Flood Disaster Protection Act of 1973, whichever is less.

1.28. Property Management.

The Mortgaged Property shall be managed by Mortgagor.


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1.29. Certain Representations and Warranties.

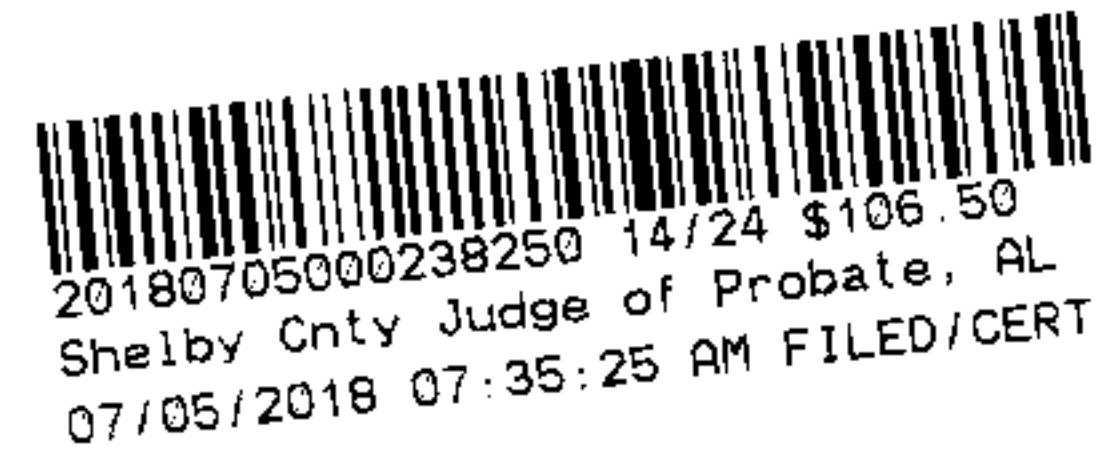
Mortgagor represents and warrants to Mortgagee that:

- (a) The Documents are all valid, binding and enforceable obligations of Mortgagor;
- (b) There is no action, suit or proceeding threatened against or affecting Mortgagor or the Mortgaged Property which could materially adversely affect Mortgagor or the Mortgaged Property;
- (c) All laws and governmental and private restrictions affecting Mortgagor or the Mortgaged Property have been complied with all governmental and private consents necessary to Mortgagor's consummation of the loan secured hereby have been obtained;
- (d) Mortgagor is not in violation of
 - (i) any law, rule, regulation, order, writ, judgment, decree, determination or award applicable to it, or
 - (ii) any indenture, lease, loan or other agreement to which it is a party or by which it or its properties may be bound if such violation of such indenture, lease, loan or other agreement would have an adverse effect upon Mortgagor's ability to perform any of its obligations under the Documents;
- (e) The statements, information and reports furnished to Mortgagee in connection with the loan secured hereby are accurate, correct and complete in all respects;
- (f) There are no delinquent taxes, ground rents, water charges, sewer rents, assessments (including assessments payable in future installments) or other outstanding charges affecting the Mortgaged Property;
- (g) The Mortgaged Property is separately assessed for tax purposes;
- (h) Each party to the Note, the Mortgage, and all other Documents had legal capacity to enter into, execute and deliver the same, and the Note, Mortgage and all other Documents have been duly and properly executed by such parties;
- (i) There are no mechanics' or similar liens or claims which have been filed for work, labor or material, or which relate to the existence or cleanup of any Hazardous Materials affecting the Mortgaged Property which are or may be liens prior to, or equal or coordinate with, the lien of this Mortgage;
- (j) All Improvements are wholly within the boundaries and building restriction lines of the Premises except as described on the title policy and as shown on the surveys delivered to the Mortgagee in connection herewith, and no improvements on adjoining properties encroach upon the Mortgaged Property except as described in the title policy and as shown on the surveys delivered to the Mortgagee in connection herewith, and no covenants, conditions and restrictions, if any, are violated by the Improvements and no future violations could give rise to any rights of reverter or reentry;
- (k) The Mortgagor has no knowledge of any circumstances or condition with respect to the Mortgage, the Mortgaged Property or use thereof, the Mortgagor's credit standing, any Lease, or any tenant's credit standing that can reasonably be expected to cause private institutional investors to regard the loan evidenced by the Note and secured hereby to be an unacceptable investment, cause such loan to become delinquent, or materially adversely affect the value or marketability of such loan;

(l) All leases, licenses or other agreements pursuant to which any person or entity is entitled to use or occupy any portion of the Mortgaged Property are subject and subordinate to this Mortgage; and

(m) No lease contains any option, right of offer or right of refusal to purchase the Mortgaged Property or any portion thereof.

1.30. [Intentionally Deleted]



Section 1.31. Other Mortgages.

(a) Mortgagor shall not, directly or indirectly, mortgage all or any part of the Mortgaged Property, or permit any lien to encumber all or a part of the Mortgaged Property, regardless of whether such mortgage or other lien is superior to, on a parity with, or subordinate to the lien of this Mortgage without the written consent from Mortgagee.

ARTICLE II. EVENTS OF DEFAULT AND REMEDIES

2.01. Events of Default and Remedies.

If one or more of the following Events of Default shall happen:

(a) if a default shall

(i) be made in the payment of any monthly installment due on the Note, when and as the same shall become due and payable, and said default shall have continued for a period of ten (10) days, or

(ii) be made in payment of principal or other sums due under the Note or Mortgage on the date of maturity of the Note, whether at the stated maturity date or by acceleration or otherwise, in each case, as in the Note and this Mortgage provided, or

(iii) be made in the payment of any tax required by Section 1.07 to be paid and said default shall have continued for a period of ten (10) days, or

(iv) be made in the due observance or performance of any covenant or agreement on the part of the Mortgagor contained in Section 1.01, 1.09, 1.14, 1.20, 1.21 or 1.22 hereof (for the purposes of this clause, and for subparagraph (b) below, if any representation made in Section 1.01 shall be incorrect, it shall be deemed to be a default); or

(b) except as set forth in Section 2.01(a) hereof. If default shall be made in the due observance or performance of any covenant or agreement on the part of the Mortgagor contained herein and such default shall have continued for a period of thirty (30) days; or

(c) if (i) any Event of Default shall occur under any of the Documents, or (ii) if any such Documents shall not contain "Events of Default" then default shall be made in the due observance, performance or fulfillment of any other covenant or condition on the part of the Mortgagor contained in any such Document and such default shall have continued for a period of thirty (30) days; or

(d) if by the order of a court of competent jurisdiction, a trustee, receiver or liquidator of the Mortgaged Property or any part thereof, or of the Mortgagor shall be appointed; or

(e) if the Mortgagor shall file a petition in bankruptcy or for an arrangement or for reorganization pursuant to the Federal Bankruptcy Code or any similar law, federal or state, or if, by decree of a court of competent jurisdiction, the Mortgagor shall be adjudicated a bankrupt, or be declared insolvent, or shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due, or shall consent to the appointment of a receiver or receivers of all or any part of the Mortgaged Property; or

(f) if any of the creditors of the Mortgagor shall file a petition in bankruptcy against the Mortgagor or for reorganization of the Mortgagor pursuant to the Federal Bankruptcy Code or any similar law, federal or state, and if such petition shall not be discharged or dismissed within sixty (60) days after the date on which such petition was filed; or

(g) if final judgment for the payment of money shall be rendered against the Mortgagor and the Mortgagor shall not discharge or bond the same or cause it to be discharged or bonded within thirty (30) days from the entry thereof, or shall not appeal therefrom or from the order, decree or process upon which or pursuant to which said judgment was granted, based or entered, and secure a stay of execution pending such appeal or if the financial condition of the Mortgagor shall undergo a materially adverse change; or

(h) if it shall be illegal for the Mortgagor to pay any tax referred to in Section 1.07 hereof or if the payment of such tax by the Mortgagor would result in a violation of the usury laws of the state in which the Premises are located; or

(i) if the holder of a junior or senior mortgage or other lien or encumbrance on the Mortgaged Property, or any part thereof, institutes foreclosure or other proceedings for the enforcement of its remedies thereunder, which foreclosure or other proceedings are not discharged (without affecting the Mortgaged Property) or bonded within thirty (30) days from the institution thereof (this subsection (i) shall not be construed to imply that the Mortgagee consents to any junior or senior lien or encumbrance); or

(j) if any easement over, across or under or otherwise affecting the Mortgaged Property or any portion thereof shall be granted without the Mortgagee's prior written consent; then and in every such case:

(i) The Mortgagee may declare the entire principal of the Note then outstanding (if not then due and payable), and all accrued and unpaid interest thereon, to be due and payable immediately. Upon any such declaration, the principal of the Note and said accrued and unpaid interest shall become and be immediately due and payable, anything in the Note or in this Mortgage to the contrary notwithstanding;

(ii) The Mortgagee personally, or by its agents or attorneys, may enter into and upon all or any part of the Mortgaged Property and each and every part thereof, and may exclude the Mortgagor, its agents and servants wholly therefrom; and having and holding the same, may use, operate, manage and control the Mortgaged Property or any part thereof and conduct the business thereof, either personally or by its superintendents, managers, agents, servants, attorneys or receivers. Upon every such entry, the Mortgagee, at the expense of the Mortgagor, from time to time, either by purchase, repairs or construction, may maintain and restore the Mortgaged Property, whereof it shall become possessed as aforesaid, may complete the construction of the Improvements, if applicable, and in the course of such completion may make such changes in the contemplated Improvements as it may deem desirable and may insure the same; and likewise, from time to time, at the expense of the Mortgagor, the Mortgagee may make all necessary or proper repairs, renewals and replacements and such useful alterations, additions, betterments and improvements thereto and thereon as to it may seem advisable. In every such case the Mortgagee shall have the right to manage and operate the Mortgaged Property and to carry on the business thereof and exercise all rights and powers of the Mortgagor with respect thereto either in the name of the Mortgagor or otherwise as it shall deem best. The Mortgagee shall be entitled to collect and receive all gross receipts, earnings, revenues, rents, issues, profits and income of the Mortgaged Property and every part thereof, all of which shall for all purposes constitute property of the Mortgagee; and after deducting the expenses of conducting the business thereof and of all maintenance, repairs, renewals, replacements, alterations, additions, betterments and improvements and amounts necessary to pay for taxes, assessments, insurance and prior or other proper charges upon the Mortgaged Property or any part thereof, as well as just and reasonable compensation for the services of the Mortgagee and for all attorneys, counsel, agents, clerks, servants and other employees by it properly engaged and employed, the Mortgagee may apply the monies arising as aforesaid in such manner and at such times as the Mortgagee shall determine in its discretion to the payment of the indebtedness secured hereby and the interest thereon, when and as the same shall become payable and/or to the payment of any other sums required to be paid by the Mortgagor under this Mortgage or the Documents; and

(iii) The Mortgagee, with or without entry, personally or by its agents or attorneys, insofar as applicable, may:

(A) sell the Mortgaged Property or any part thereof to the extent permitted and pursuant to the procedures provided by law, and all estate, right, title and interest, claim and demand therein, at one or more sales, as an entity or in parcels, and at such time and place upon such terms and after such notice thereof as may be required or permitted by law; or

(B) institute proceedings for the complete or partial foreclosure of this Mortgage; or

(C) take such steps to protect and enforce its rights whether by action, suit or proceeding in equity or at law for the specific performance of any covenant, condition or agreement in the Note, this Mortgage, or the other Documents or in aid of the execution of any power herein granted, or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy or otherwise as the Mortgagee shall elect.

Section 2.02. Foreclosure Sale.



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(a) **Nonjudicial Sale.** Mortgagee shall be authorized to take possession of the Mortgaged Property and, with or without taking such possession, after giving notice of the time, place and terms of the sale, together with the description of the property 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 parts thereof as Lender 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. The sale shall be held between the hours of 11:00am and 4:00pm 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 therefor. Mortgagor hereby waives any and all rights to have the Property marshalled. In exercising the Mortgagee's rights and remedies, Mortgagee shall be free to sell all or any part of the Property together separately, in one sale or by separate sales. The Mortgagee may adjourn from time to time any sale to be made by it under or by virtue of this Mortgage by announcement at the time and place appointed for such sale or for such adjourned sale or sales; and, except as otherwise provided by any applicable provision of law, the Mortgagee, without further notice or publication, may make such sale at the time and place to which the same shall be so adjourned.

(b) Upon the completion of any sale or sales made by the Mortgagee under or by virtue of this Article II, the Mortgagee, or any officer of any court empowered to do so, shall execute and deliver to the accepted purchaser or purchasers a good and sufficient instrument or instruments, conveying, assigning and transferring all estate, right, title and interest in and to the property and rights sold. The Mortgagee is hereby irrevocably appointed the true and lawful attorney of the Mortgagor, in its name and stead, to make all necessary conveyances, assignments, transfers and deliveries of any part of the Mortgaged Property and rights sold. The Mortgagee may, for such purpose, execute all necessary instruments of conveyance, assignment and transfer, and may substitute one or more persons with like power, the Mortgagor hereby ratifying and confirming all that its said attorney or such substitute or substitutes shall lawfully do by virtue hereof. Nevertheless, the Mortgagor, if so requested by the Mortgagee, shall ratify and confirm any such sale or sales by executing and delivering to the Mortgagee or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of the Mortgagee, for the purpose, and as may be designated in such request. Any such sale or sales made under or by virtue of this Article II, whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, shall operate to divest all the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of the Mortgagor in and to the properties, interests and rights so sold, and shall be a perpetual bar both at law and in equity against the Mortgagor and against any and all persons claiming or who may claim the same, or any part thereof from, through or under the Mortgagor.

(c) In the event of any sale made under or by virtue of this Article II (whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale), the entire principal of, and interest on, the Note, if not previously due and payable, and all other sums required to be paid by the Mortgagor pursuant to this Mortgage, immediately thereupon shall, anything in the Note or in this Mortgage to the contrary notwithstanding, become due and payable.

(d) The purchase money proceeds or avails of any sale made under or by virtue of this Article II, together with any other sums which then may be held by the Mortgagee under this Mortgage, whether under the provisions of this Article II or otherwise, shall be applied as follows:

First: to the payment of the costs and expenses of such sale, including reasonable compensation to the Mortgagee, its agents and attorneys, and of any judicial proceedings wherein the same may be made, and of all expenses, liabilities and advances made or incurred by the Mortgagee under this Mortgage, together with interest at the Default Rate on all advances made by the Mortgagee and all taxes or assessments paid by Mortgagee except any taxes, assessments or other charges subject to which the Mortgaged Property shall have been sold;

Second: to the payment of the whole amount then due, owing or unpaid upon the Note for principal and interest, with interest on the unpaid principal at the Default Rate from and after the happening of any default described in clause (a)(i), (ii) or (iii) of Section 2.01 from the due date of any such payment of principal until the same is paid;

Third: to the payment of any other sums required to be paid by the Mortgagor pursuant to any provision of this Mortgage, the Note, or the other Documents, all with interest at the Default Rate, from the date such sums were or are required to be paid under this Mortgage, the Note or the other Documents; and

Fourth: to the payment of the surplus, if any, to whomsoever may be lawfully entitled to receive the same.

(e) Upon any sale made under or by virtue of this Article II, whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, the Mortgagee may bid for and acquire the Mortgaged Property or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the indebtedness of the Mortgagor secured by this Mortgage the net sales price after deducting therefrom the expenses of the sale and the costs of the action and any other sums which the Mortgagee is authorized to deduct under this Mortgage.

Section 2.03. Payment of Indebtedness After Default.

(a) If an Event of Default shall have occurred, then upon written demand of the Mortgagee, the Mortgagor will pay to the Mortgagee the whole amount which then shall have become due and payable on the Note, for principal and interest or both or any other sums due under any of the Documents, as the case may be. After the happening of said Event of Default, Mortgagor will also pay to the Mortgagee interest at the Default Rate on the then unpaid principal of

the Note, and the sums required to be paid by the Mortgagor pursuant to any provision of this Mortgage and in addition thereto such further amount as shall be sufficient to cover the costs and expenses of collection, including reasonable compensation to the Mortgagee, its agents, and attorneys and any expenses incurred by the Mortgagee hereunder. In the event the Mortgagor shall fail forthwith to pay such amounts upon such demand, the Mortgagee shall be entitled and empowered to institute such action or proceedings at law or in equity as may be advised by its counsel for the collection of the sums so due and unpaid, and may prosecute any such action or proceedings to judgment or final decree and may enforce any such judgment or final decree against the Mortgagor and collect out of the property of the Mortgagor wherever situated, as well as out of the Mortgaged Property, in any manner provided by law, moneys adjudged or decreed to be payable with interest thereon at the Default Rate.

(b) The Mortgagee shall be entitled to recover judgment as aforesaid before, after or during the pendency of any proceedings for the enforcement of the provisions of this Mortgage. The right of the Mortgagee to recover such judgment shall not be affected by any entry or sale hereunder, or by the exercise of any other right, power or remedy for the enforcement of the provisions of this Mortgage, or the foreclosure of the lien hereof. In the event of a sale of the Mortgaged Property or any part thereof and of the application of the proceeds of sale, as in this Mortgage provided, to the payment of the indebtedness hereby secured, the Mortgagee shall be entitled to

(i) enforce payment of, and to receive all amounts then remaining due and unpaid upon, the Note,

(ii) enforce payment of all other charges, payments and costs due under this Mortgage, and

(iii) recover judgment for any portion of the debt remaining unpaid, with interest thereon at the Default Rate.

In case of proceedings against the Mortgagor in insolvency or bankruptcy or any proceedings for its reorganization or involving the liquidation of its assets, then the Mortgagee shall be entitled to prove the whole amount of principal and interest due upon the Note to the full amount thereof, and all other payments, charges and costs due under this Mortgage, without deducting therefrom any proceeds obtained from the sale of the whole or any part of the Mortgaged Property, provided, however, that in no case shall the Mortgagee receive a greater amount than such principal and interest and such other payments, charges and costs from the aggregate amount of the proceeds of the sale of the Mortgaged Property or any part thereof and the distribution from the estate of the Mortgagor.

(c) No recovery of any judgment by the Mortgagee and no levy of any execution under any judgment upon the Mortgaged Property or upon any other property of the Mortgagor shall affect in any manner or to any extent, the lien of this Mortgage upon the Mortgaged Property or any part thereof, or any liens, rights, powers or remedies of the Mortgagee hereunder, but such liens, rights, powers and remedies of the Mortgagee shall continue unimpaired as before.

(d) Any monies thus collected by the Mortgagee under this Section 2.03 shall be applied by the Mortgagee in accordance with the provisions of paragraph (d) of Section 2.02.

2.04. Waiver of Personal Service; Appointment of Receiver.

After the happening of any Event of Default and immediately upon the commencement of any action, suit or other legal proceedings by the Mortgagee to obtain judgment for the principal of, or interest on, the Note and other sums required to be paid by the Mortgagor pursuant to any provisions of this Mortgage, or of the Documents, or of any nature in aid of the enforcement of the Note or of this Mortgage, the Mortgagor does hereby

(a) waive personal service of process and consent to service by certified mail to the address of the Mortgagor set forth on the cover page of this Mortgage (with copies to be sent as provided in Section 3.03), and

(b) if required by the Mortgagee, consent to the appointment of a receiver or receivers of the Mortgaged Property or any part thereof or any business or businesses conducted thereon and of all the earnings, revenues, rents, issues, profits and income thereof.

After the happening of any Event of Default, or upon the commencement of any proceedings to foreclose this Mortgage or to enforce the specific performance hereof or in aid thereof or upon the commencement of any other judicial proceeding to enforce any right of the Mortgagee, the Mortgagee shall be entitled, as a matter of right, if it shall so elect, without the giving of notice to any other party and without regard to the adequacy or inadequacy of any security for the Mortgage indebtedness, forthwith either before or after declaring the unpaid principal of the Note to be due and payable, to the appointment of such receiver or receivers.

2.05. Possession of Premises.


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Notwithstanding the appointment of any receiver, liquidator or trustee of the Mortgagor, or of any of its property, or of the Mortgaged Property or any part thereof, the Mortgagee shall be entitled to retain possession and control of all property now or hereafter held under this Mortgage.

2.06. Remedies Cumulative.

No remedy herein conferred upon or reserved to the Mortgagee is intended to be exclusive of any other remedy or remedies. Each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission of the Mortgagee to exercise any right or power accruing upon any Event of Default shall impair any such rights or power, or shall be construed to be a waiver of any such Event of Default or any acquiescence therein. Every power and remedy given by this Mortgage to the Mortgagee may be exercised from time to time as often as may be deemed expedient by the Mortgagee. Nothing in this Mortgage or in the Note shall affect the obligation of the Mortgagor to pay the principal of, and interest on, the Note in the manner and at the time and place therein respectively expressed.

2.07. No Stay; Exemption or Moratorium.

The Mortgagor will not at any time insist upon, plead, or in any manner whatsoever claim or take any benefit or advantage of any stay or extension or moratorium law, any exemption from execution or sale of the Mortgaged Property or any part thereof, wherever enacted, now or at any time hereafter in force, which may affect the covenants and terms of performance of this Mortgage; nor claim, take or insist upon any benefit or advantage of any law now or hereafter in force providing for the valuation or appraisal of the Mortgaged Property, or any part thereof, prior to any sale or sales thereof which may be made pursuant to any provision herein, or pursuant to the decree, judgment, or order of any court of competent jurisdiction, and covenants not to hinder, delay or impede the execution of any power herein granted or delegated to the Mortgagee, but to suffer and permit the execution of every power as though no such law or laws had been made or enacted. The Mortgagor for itself and all who may claim under it, waives, to the extent that it lawfully may, all right to have the Mortgaged Property or any part thereof marshaled upon any foreclosure hereof.

2.08. Rent During an Event of Default.

During the continuance of any Event of Default, and pending the exercise by the Mortgagee of its right to exclude the Mortgagor from all or any part of the Premises, the Mortgagor agrees to pay the fair and reasonable rental value for the use and occupancy of the Premises or any portion thereof which are in its possession for such period and, upon default of any such payment, will vacate and surrender possession of the Premises to the Mortgagee or to a receiver, if any, and in default thereof may be evicted by any summary action or proceeding for the recovery of possession of premises for nonpayment of rent, however designated.

ARTICLE III. MISCELLANEOUS

3.01. Binding Obligations.

All of the grants, covenants, terms, provisions and conditions herein shall run with the land and shall apply to, bind and inure to the benefit of, the successors and assigns of the Mortgagor and the successors and assigns of the Mortgagee. If there be more than one mortgagor, the covenants and warranties hereof shall be joint and several. As used herein, the singular shall include the plural as the context requires.

3.02. Severability.

In the event any one or more of the provisions contained in this Mortgage or in the Note or in any of the other Documents shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of the Mortgagee, not affect any other provision of this Mortgage, but this Mortgage shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

3.03. Notices.

All notices hereunder shall be in writing and shall be deemed to have been sufficiently given or served for all purposes when presented personally or sent by registered or certified mail as follows:

If to Mortgagor: EMM Auto, LLC C/O Douglas M. Melton, 1497 Secretariat Drive, Helena, AL 35080


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If to Mortgagee: Renasant Bank, 2001 Park Place, Suite 600, Birmingham, AL 35203

with a copy to: Patrick Lavette, Commercial Relationship Officer Renasant Bank, 2001 Park Place, Suite 600, Birmingham, AL 35203

Each party may designate a change of address by notice to the other party, given at least fifteen (15) days before such change of address is to become effective.

Any written notice sent by registered or certified mail shall be deemed to have been served forty-eight (48) hours after the date it was mailed in accordance with the foregoing provisions.

3.04. Waiver of Notice.

Whenever in this Mortgage the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person or persons entitled to receive such notice. Mortgagor shall not be entitled to any notices of any nature whatsoever from Mortgagee except with respect to matters for which this Mortgage specifically and expressly provides for the giving of notice by Mortgagee to Mortgagor, and Mortgagor hereby expressly waives the right to receive any notice from Mortgagee with respect to any matter for which this Mortgage does not specifically and expressly provide for the giving of notice by Mortgagee to Mortgagor.

3.05. Assignment.

This Mortgage, and any instruments made in connection herewith, may be assigned by the Mortgagee without notice to, or the consent of, the Mortgagor or any other party.

3.06. Incorporation of Information.

The information set forth in the attachments hereof is hereby incorporated herein.


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3.07. Default Rate.

The Default Rate provided for herein shall continue to accrue and be paid on any amount to which the Default Rate is applied until said amount is paid in full.

3.08. Applicable Law.

This Mortgage shall be governed by, and construed, enforced and interpreted according to the laws of the State of *[name of state]* without giving effect to the principles of conflicts of law.

3.09. No Oral Modification.

Neither this Mortgage nor any provision hereof may be changed, waived, modified, discharged or terminated, except by an instrument in writing signed by the Mortgagee.

3.10. Security Agreement.

This Mortgage constitutes both a real property mortgage and a "security agreement," within the meaning of the Uniform Commercial Code, and the Mortgaged Property includes both real and personal property and all other rights and interest, whether tangible or intangible in nature of Mortgagor in the Mortgaged Property. Mortgagor by executing and delivering this Mortgage has granted to Mortgagee, as security for the Note, a security interest in the Chattels. If Mortgagor shall default under the Note and/or this Mortgage, Mortgagee, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing, the right to take possession of the Chattels or any part thereof, and to take such other measures as Mortgagee may deem necessary for the care, protection and preservation of the Chattels. Upon request or demand of Mortgagee,

Mortgagor shall at its expense assemble the Chattels and make them available to Mortgagee at a convenient place acceptable to Mortgagee. Mortgagor shall pay to Mortgagee on demand any and all expenses, including legal expenses and attorney's fees, incurred or paid by Mortgagee in protecting its interest in the Chattels and in enforcing its rights hereunder with respect to the Chattels. Any notice of sale, disposition or other intended action by Mortgagee with respect to the Chattels sent to Mortgagor in accordance with the provisions hereof at least five days prior to such action, shall constitute reasonable notice to Mortgagor. The proceeds of any disposition of the Chattels, or any part thereof, may be applied by Mortgagee to the payment of the Note and any other obligations of Mortgagor secured hereby in such priority and proportions as Mortgagee in its discretion shall deem proper.

3.11. attorney's fees.

Wherever "attorneys' or counsel fees" are referred to herein, it shall include disbursements and such fees incurred out of court and in litigation, including, without limitation, appeals and bankruptcy proceedings.

3.12. Mortgagee's Consent and Approval.

If Mortgagor shall request Mortgagee's consent or approval pursuant to any of the provisions of this Mortgage or otherwise, and Mortgagee shall fail or refuse to give, or shall delay in giving, such consent or approval, Mortgagor shall in no event make, or be entitled to make, any claim for damages (nor shall Mortgagor assert, or be entitled to assert, any such claim by way of defense, set-off, or counterclaim) based upon any claim or assertion by Mortgagor that Mortgagee unreasonably withheld or delayed its consent or approval, and Mortgagor hereby waives any and all rights that it may have from whatever source derived, to make or assert any such claim. Mortgagor's sole remedy for any such failure, refusal, or delay shall be an action for a declaratory judgment, specific performance, or injunction, and such remedies shall be available only in those instances where Mortgagee has expressly agreed in writing not to unreasonably withhold or delay its consent or approval or where, as a matter of law, Mortgagee may not unreasonably withhold or delay the same.

3.13. Inclusion of Subtenants.

Whenever reference is made in this Mortgage to a lease, lessee, tenancy or tenant, such reference shall be deemed to include a sublease, sublessee, subtenancy or subtenant, as the case may be.

3.14. Counterparts.

This Mortgage may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts shall together constitute but one and the same Mortgage.

3.15. Default Under Additional Security.

If the payment of the mortgage indebtedness is now or hereafter further secured by assignments of leases or rentals, security agreements, financing statements, mortgages, collateral assignments, pledges, contracts of guaranty, or other additional security documents, any default under the provisions of any such further security documents shall constitute and be a default under this Mortgage; and the Mortgagee may, at its option, exhaust any one or more of the said security documents and the security thereunder as well as the Mortgaged Property covered by this Mortgage either concurrently or independently and in such other and further manner as the Mortgagee may elect; and Mortgagee may apply the proceeds received therefrom upon the mortgage indebtedness without waiving or affecting Mortgagee's rights and remedies under this Mortgage exercised hereunder or whether contained or exercised under any other such security documents.

3.16. Legal Interest Rate.

Nothing herein, nor any transaction related hereto, shall be construed or so operate as to require Mortgagor to pay interest at a greater rate than shall be lawful. Should any interest or other charges paid by Mortgagor in connection with the loan evidenced by the Note result in the computation or earning of interest in excess of the maximum legal rate of interest which is legally permitted under the laws of the State of Alabama, after taking into account all provisions of the Note and the Documents, then any and all such excess shall be, and the same is hereby waived by the Mortgagee, automatically credited against and in reduction of the balance due under the indebtedness secured hereby and any portion which exceeds the balance due under the Note and secured hereby shall be paid by the Mortgagee to the Mortgagor. At the maturity of the Note secured hereby (or prior thereto, in the event of any permitted prepayment, or if the Mortgagee accelerates payment thereof), if the total amount of interest paid, including any service fee and any other charge upon the principal, exceeds the maximum legal contract rate permitted by law, such interest shall be recomputed and any such excess shall be credited to principal or returned to Mortgagor. It is the intent of the parties hereto that the Mortgagor, under no circumstances, shall be required to pay, nor shall the Mortgagee be entitled to collect, any interest which is in excess of maximum legal rate permitted under applicable laws.


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3.17. No Joint Venture.

Nothing contained herein shall create any joint venture, partnership, agency or trust arrangement between Mortgagor and Mortgagee.

3.18. Waiver of Trial By Jury.

To the fullest extent permitted by law, Mortgagor hereby irrevocably waives trial by jury in any judicial proceeding brought by Mortgagor or Mortgagee involving, directly or indirectly, any matter in any way arising out of, related to, or connected with this Mortgage, the Note and/or the transactions contemplated hereby or thereby. To the fullest extent permitted by law, Mortgagor hereby irrevocably waives, in connection with any suit, action or proceeding brought by Mortgagee under this Mortgage or the Note, any and every right it may have to (i) interpose any counterclaim therein and (ii) have the same consolidated with any other or separate suit, action or proceeding. Nothing herein contained shall prevent or prohibit Mortgagor from instituting or maintaining a separate action against Mortgagee with respect to any asserted claim.

3.19. Set-Off.

Upon the occurrence and during the continuance of any Event of Default, Mortgagee is hereby authorized at any time and from time to time, without notice to Mortgagor (any such notice being expressly waived by Mortgagor), to setoff and apply any and all money, credits, stocks, bonds or other securities or property of any nature whatsoever at any time held, and other indebtedness at any time owing, by Mortgagee or any affiliate of Mortgagee to or for the credit or the account of Mortgagor, including patronage dividends which would otherwise be payable to Mortgagor, against any and all of the obligations of Mortgagor, first under any of the Documents, and second under any other agreement with Mortgagor, irrespective of whether or not Mortgagee shall have made any demand under this Mortgage or the Note secured thereby, and although such obligations may be unmatured. Mortgagee agrees promptly to notify Mortgagor after any such setoff and application, provided, however, that the failure to give such notice shall not affect the validity of such setoff and application. The rights of Mortgagee under this Section are in addition to other rights and remedies (including, without limitation, other rights of setoff) that Mortgagee may have.

3.20. Recovery of Sums Required to Be Paid.

Mortgagee shall have the right from time to time to take action to recover any sum or sums which constitute a part of the indebtedness secured hereby as the same becomes due, without regard to whether or not the balance of such indebtedness shall be due, and without prejudice to the right of Mortgagee thereafter to bring an action of foreclosure, or any other action, for a default or defaults by Mortgagor existing at the time such earlier action was commenced.

3.21. Marshaling.

Mortgagor waives and releases, to the fullest extent permitted by law and with awareness of the consequences thereof, any right to have the Mortgaged Property marshaled.

3.22. Headings.

The headings and captions of the various Articles and Sections of this Mortgage, and the table of contents, are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

3.23. Notice of Refinancing.

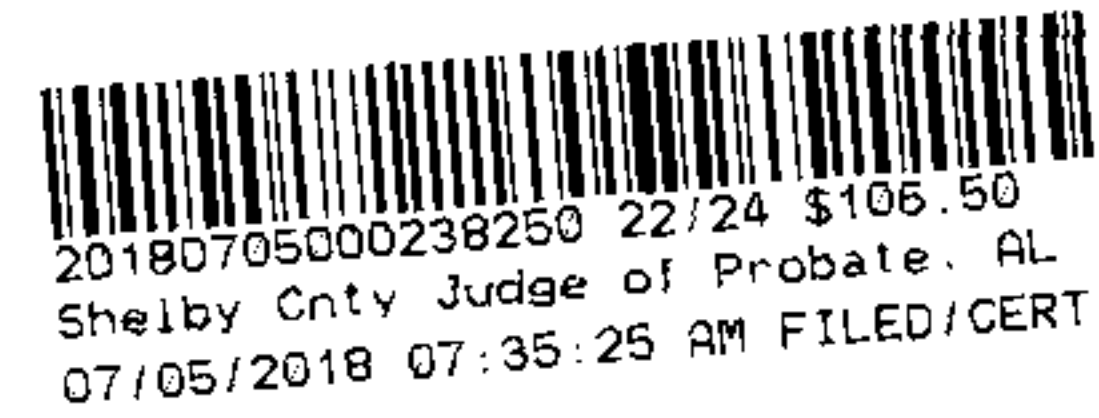
In order to assist the Mortgagee in the proper and efficient administration of the indebtedness secured hereby, if the Mortgagor shall at any time desire to refinance all or any portion of the indebtedness secured hereby or to obtain any subordinate indebtedness, the Mortgagor shall promptly so notify the Mortgagee. The giving of any notice pursuant to this Section shall not obligate the Mortgagor to obtain any such financing or in any way constitute a waiver of any prepayment prohibition contained herein, in the Note or in any other Document. Any such notice given by the Mortgagor shall expressly state whether or not such notice also constitutes a prepayment notice pursuant to the provisions of the Note.

3.24. Multiple Dwelling.

The Mortgaged Property is not principally improved or to be improved by one or more structures containing in the aggregate not more than six (6) residential dwelling units, each dwelling unit having its own separate cooking facilities.



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3.25. No Liability of Shareholders, Officers or Directors.

Notwithstanding any other provision of this Mortgage to the contrary, the obligation of the Mortgagor to pay the indebtedness secured hereby, and to perform, observe and make good the covenants, warranties and agreements contained in this Mortgage shall not be enforced by any action or proceeding whereby damages or any money judgment (including any deficiency judgment) shall be sought against any of the shareholders, officers and/or directors of the Mortgagor. The foregoing shall not limit any liability of the Mortgagor under this Mortgage or any of the other Documents. Nothing contained in this Section shall be deemed to be a release or impairment of (a) the debt evidenced by the Note, the lien of this Mortgage or the obligations of Mortgagor under any of the other Documents, (b) any of the other rights of Mortgagee, or (c) any of the obligations of Mortgagor under any other Document, including, without limitation, the Environmental Indemnity made as of the date hereof by Mortgagor for the benefit of Mortgagee.

Notwithstanding the foregoing, Mortgagee shall have the right to proceed against or recover from Mortgagor or any of the shareholders, officers and or directors of the Mortgagor for damages suffered or incurred by Mortgagee and relating to or arising out of (i) any claim for damages by Mortgagee against Mortgagor arising out or relating to any actions by or on behalf of Mortgagor in misapplying any insurance proceeds or condemnation awards with respect to the Mortgaged Property, including, without limitation, any action taken by any shareholder, officer, director or agent of Mortgagor on behalf of Mortgagor, (ii) any claim by Mortgagee against Mortgagor arising out of or relating to any fraud or misrepresentation by or on behalf of Mortgagor, including, without limitation, any fraud or misrepresentation by any shareholder, officer, director or agent of Mortgagor, (iii) any claim by Mortgagee against Mortgagor arising out of any misappropriation of any reserve accounts, security deposits or rents maintained by Mortgagor, including, without limitation, any misappropriation of any reserve accounts, security deposits or rents by any shareholder, officer, director or agent of Mortgagor, (iv) any failure of Mortgagor to comply with the provisions of this Mortgage governing any transfer, sale, hypothecation, pledge or further encumbering of the Mortgaged Property or any part thereof or (v) any breach by Mortgagor of any of the provisions of Section 1.21 of this Mortgage.

Nothing contained in this Section shall be deemed to be a release or impairment of (a) the debt evidenced by the Note, the lien of this Mortgage or the obligations of Mortgagor under any of the other Documents, (b) any of the other rights of Mortgagee, or (c) any of the obligations of Mortgagor under any other Document, including, without limitation, the Environmental Indemnity made as of the date hereof by Mortgagor for the benefit of Mortgagee.

3.26. Credit Line Mortgage.

This Mortgage is intended to be a "credit line mortgage". Accordingly, this Mortgage shall secure not only the original indebtedness under the Note but also the indebtedness created by future advances made under the Note within twenty (20) years from the date of the recording of the Mortgage to the same extent and with the same priority of lien as if such future advances had been made at the time the Mortgage was recorded, regardless of whether any advance shall be made under the Note on the date hereof and/or any indebtedness shall be outstanding at any time that any advance shall be made under the Note. Further, the total amount of indebtedness that may be secured by this Mortgage may increase or decrease at any time and from time to time, but the amount so secured at any one time shall not exceed the Mortgage Amount plus (a) interest and any other charges or fees which may accrue thereon pursuant to the Note, this Mortgage or any of the other Documents and/or (b) any disbursements made by Mortgagee to protect the security of this Mortgage with interest thereon at the Default Rate.

3.27. Subordination of Mortgage.

This Mortgage, together with any related loan documents, shall in all respects be and remain subject and subordinate to the First Mortgage provided that the principal amount of the note secured by the First Mortgage is not increased. With respect to an action to foreclose this Mortgage

(i) no tenant under any lease of any portion of the Mortgaged Property, other than tenants under proprietary lease, will be made a party defendant in any foreclosure of this Mortgage nor will any other action be taken in connection with such foreclosure which would have the effect of terminating any such lease,

(ii) no portion of the rents, issues and profits of the Mortgaged Property shall be collected in connection with the foreclosure of this Mortgage except through a receiver appointed by the court in which such foreclosure action is brought, after notice of the application of the appointment of such receiver shall have been given to the holder of the First Mortgage,

(iii) the rents, issues and profits collected by any such receiver shall be applied first to the payment of principal, interest or any other amounts due on the indebtedness secured by the First Mortgage at the time of such application, before any portion of such rents, issues and profits shall be applied to the indebtedness secured hereby,

(iv) if during the pendency of any such foreclosure action, an action shall be brought for the foreclosure of the First Mortgage and an application shall be made for an extension of such receivership for the benefit of the holder of the First Mortgage, all such rents, issues and profits held by such receiver as of

the date of such application shall be applied by the receiver solely for the benefit of the holder of the First Mortgage until the indebtedness secured by the First Mortgage is paid in full, and Mortgagee shall not be entitled to any portion thereof until such time, and

(v) due notice of the commencement of any foreclosure of this Mortgage shall be given to the holder of the First Mortgage and copies of all papers served or entered in such action will be delivered to the holder of the First Mortgage.

IN WITNESS WHEREOF, this Mortgage has been duly executed by the Mortgagor as of the day and year first above written.

EMM Auto, LLC

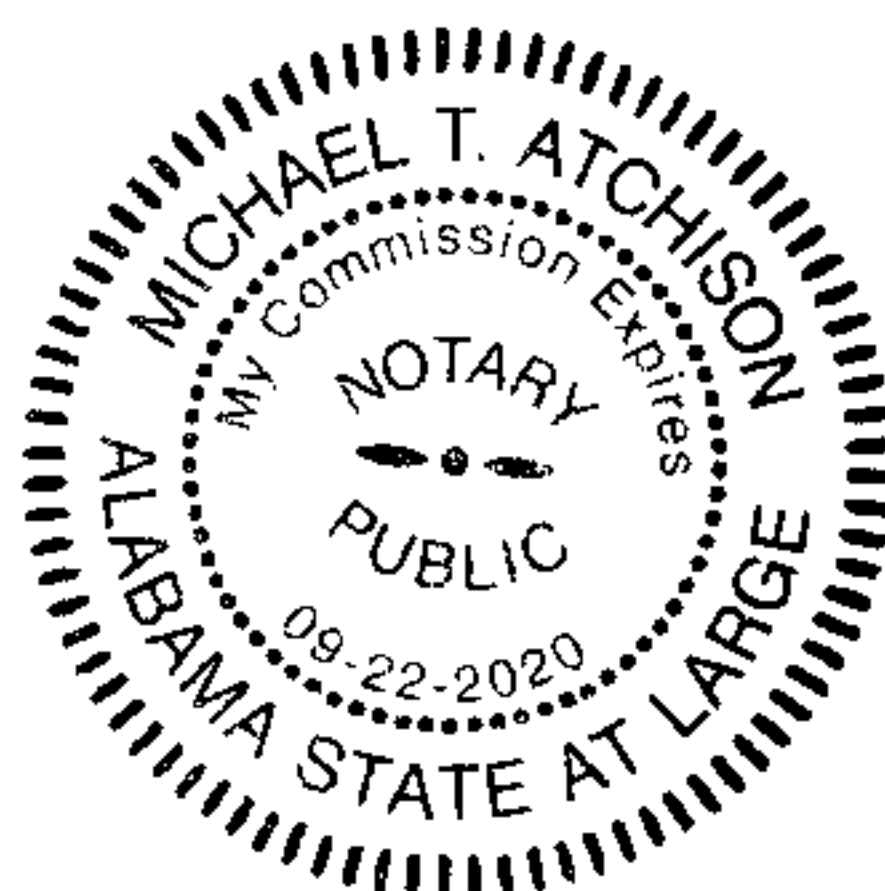
By:

Douglas M. Melton Authorized Member
Douglas M. Melton
Its: Authorized Member

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned authority, a Notary Public in and for said county in said state, hereby certify that Douglas M. Melton, Authorized Officer of EMM Auto, LLC, whose name is signed to the forgoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said Mortgage, the executed the same voluntarily on the day the same bears date.
Given under my hand and seal this 27th day of June, 2018.

This instrument prepared by:
J. Payne Baker, Jr., Esq.
The Law Office of J. Payne Baker, Jr., LLC
408 Hollywood Blvd, Ste 100
Birmingham, AL 35209



Michael T. Atchison
Notary Public
My commission expires 9-22-20

20180705000238250 23/24 \$106.50
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EXHIBIT A

Legal Description:

LOT 1, Graham Fulton Springs Subdivision, as recorded in Map Book. 49, Page 54, in the Probate Office, Shelby County, Alabama.



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