

201400762

293,351⁰⁰
(234,680⁰⁰)
\$58,671⁰⁰

BALDWIN COUNTY, ALABAMA
TIM RUSSELL, PROBATE JUDGE
Filed/cert. 12/15/2014 3:57 PM
MORTGAGE TAX \$ 352.05
TOTAL \$ 394.05
12 Pages

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REL 1/10/2017 DOC# 1612183

STATE OF ALABAMA
COUNTY OF BALDWIN



CONSTRUCTION LOAN MORTGAGE AND SECURITY AGREEMENT

THIS INDENTURE is made and entered into this 9th day of December, 2014, by KRISTIAN HOGLUND and REBECCA HOGLUND ("Mortgagors"), and TIDEWATER REAL ESTATE, INC. PROFIT SHARING RETIREMENT PLAN ("Mortgagee").

WHEREAS, pursuant to a Loan Agreement (the "Loan Agreement") of even date herewith between the Mortgagors and the Mortgagee, Mortgagors are justly indebted to the Mortgagee in the principal sum of up to \$234,680.00 as evidenced by that certain promissory note (hereinafter called the "Note") of even date herewith, which bears interest as provided therein, and which is payable in accordance with its terms.

NOW, THEREFORE, in consideration of the premises, and to secure the payment of (a) all advances heretofore, concurrently herewith or from time to time hereafter made by the Mortgagee to the Mortgagors under the Loan Agreement and/or the Note and any extensions, modifications or renewals of either of them, (b) all interest payable from time to time on said advances, or any part thereof, (c) all other fees, charges, costs and expenses now or hereafter owing by the Mortgagors to the Mortgagee under the terms of the Loan Agreement or this Mortgage and Security Agreement and any extensions, modifications or renewals of them (the aggregate amount of all such items described in (a) through (c) above being hereinafter collectively called "Debt"), and the compliance with all the stipulations herein contained, the Mortgagors do hereby grant, bargain, sell and convey unto the Mortgagee:

Lot 80, TimberCreek, Phase Eleven, as recorded on Slide 2509-A, 2509-B and 2509-C, in the Office of the Judge of Probate of Baldwin County, Alabama.

EXCEPTING THEREFROM all oil, gas and other minerals in, on and under said real property, together with all rights in connection therewith, as have not previously been reserved by or conveyed to others, the same being expressly reserved by Grantor herein.

Together with all the rights, privileges, tenements, appurtenances, improvements and fixtures appertaining to the Real Estate and all of Mortgagor's rights, if any, in adjacent roads, ways, streams and alleys, all of which shall be deemed Real Estate and shall be conveyed by this mortgage.

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

As further security for the payment of the Debt, the Mortgagors hereby assign and pledge to the Mortgagee and grants Mortgagee a security interest in the following described property, rights, claims, rents, profits, issues and revenues:

1. all rents, profits, issues, and revenues of the Real Estate from time to time accruing under said leases and tenancies, including without limitation all accounts receivable, bank debts and other forms of obligations belonging or owing to Mortgagors, reserving to the Mortgagors, so long as the Mortgagors are not in default hereunder, the right to receive and retain such rents, profits, issues and revenues;

2. all judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the Real Estate, or any part thereof, under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the Real Estate, or any part thereof, or to any rights appurtenant thereto, including any award for change of grade of streets, and all payments for the voluntary sale of the Real Estate, or any part thereof, in lieu of the exercise of the power of eminent domain. The Mortgagee is hereby authorized on behalf of, and in the name of, the Mortgagors to execute and deliver valid acquittances for, and appeal from, any such judgments or awards. The Mortgagee may apply all such sums so received, or any part thereof, after the payment of all the Mortgagee's expenses in connection with any proceeding or transaction described in this subparagraph 2, including court costs and attorneys' fees, on the Debt in such manner as the Mortgagee elects, or, at the Mortgagee's option, the entire amount, or any part thereof, so received may be released or may be used to rebuild, repair or restore any or all of the improvements located on the Real Estate;

3. all personal property, whether now owned or hereafter acquired by Mortgagors that is now located or that may become located in, upon or under the Real Estate or used or intended to be used in the construction of improvements to the Real Estate or in connection with any present or future use or operation of the Real Estate; and

4. all proceeds, products, and replacements of or accessions to any of the foregoing.

Said property, rights, claims, rents, profits, issues, revenues, and the Real Estate are hereinafter collectively referred to as the "Mortgaged Property".

The lien of this mortgage and security agreement will automatically attach, without further act, to all after acquired property located in or on, or attached to, or used in connection with, the operation of the Real Estate or any of the other foregoing items of Mortgaged Property, and as to any personal property or fixtures, this mortgage and security agreement is a self-operative security agreement with respect to such property, but Mortgagors agree to execute and deliver on demand such other security agreements, financing statements, and other instruments as Mortgagee may request in order to perfect its security interest or to impose the lien hereof more specifically upon any such property. Mortgagee shall have the rights and remedies, in addition to those specified herein, of a secured party under the Uniform Commercial Code of the State of Alabama.

The Mortgagors covenant and warrant with, and represents to the Mortgagee that the Mortgagors are lawfully seized in fee simple of the Real Estate and has a good right to sell and convey the Real Estate as aforesaid, the Real Estate is free of all encumbrances, subject to outstanding oil, gas and other minerals and all rights in connection therewith, and the Mortgagors will warrant and forever defend the title to the Real Estate unto the Mortgagee, against the lawful claims of all persons; that there are not now and shall not in the future be any toxic substances or hazardous wastes on or under the Real Estate; and that the Mortgaged Property and its use and intended use fully comply with the applicable building and zoning codes and other land use regulations, any applicable environmental laws or regulations, and any other applicable laws and regulations.

For the purpose of further securing the payment of the Debt, the Mortgagors agree to: (1) pay all taxes, assessments, and other liens taking priority over this mortgage and security agreement (hereinafter jointly called "Liens"), and if default is made in the payment of the Liens, or any part thereof, the Mortgagee, at its option, may pay the same; and (2) keep the Mortgaged Property continuously insured, in such manner and with such companies as may be satisfactory to the Mortgagee, against loss by fire, vandalism, malicious mischief and other perils usually covered by a fire insurance policy with standard extended coverage endorsement, with loss, if any, payable to the Mortgagee, as its interest may appear; such insurance to be in an amount at least equal to the full insurable value of the improvements and any personal property located on the Real Estate unless the Mortgagee agrees in writing that such insurance may be in a lesser amount. All original insurance policies required hereunder and all replacements therefor shall be delivered to and held by the Mortgagee until the Debt is paid in full. All original insurance policies and all replacements therefor must provide that they may not be cancelled without the insurer giving at least fifteen (15) days prior written notice of such cancellation to the Mortgagee. In the event of foreclosure of this mortgage and security agreement or other transfer of title to the Mortgaged Property in extinguishment of the indebtedness secured hereby, all right, title and interest of the Mortgagors in and to any insurance policies then in force shall pass to the purchaser or grantee.

Mortgagee may, at its option, require Mortgagors to deposit with Mortgagee on the first day of each month, in addition to making any required payments of principal and interest under the Note, an amount equal to one-twelfth (1/12) of the yearly taxes and assessments and premiums for all insurance as estimated by Mortgagee to be sufficient to enable Mortgagee to pay at least thirty (30) days before they become due all taxes, assessments, insurance premiums and other similar charges against the Mortgaged Property or any part thereof. Such deposits shall not be, nor deemed to be, trust funds, but may be commingled with the general funds of Mortgagee, and no interest shall be payable in respect thereof. Upon demand by Mortgagee, Mortgagors shall deliver to Mortgagee such additional monies as are required to make up any deficiencies in the amount necessary to enable Mortgagee to pay such taxes, assessments, insurance premiums and similar charges. In the event of a default under any of the terms, covenants and conditions in the Note, this Mortgage and Security Agreement or any other instrument securing the indebtedness evidenced by the Note to be kept, performed or observed by Mortgagors, Mortgagee may apply to the reduction of the sum secured

hereby, in such manner as Mortgagee shall determine, any amount under this paragraph remaining to Mortgagor's credit. If deposits are collected by Mortgagee hereunder, Mortgagee shall make same available for the purposes intended hereby.

The Mortgagors hereby assign and pledge to the Mortgagee, as further security for the payment of the Debt, each and every policy of hazard insurance now or hereafter in effect which insures said improvements and personal property, or any part thereof, together with all the right, title and interest of the Mortgagors in and to each and every such policy, including but not limited to all of the Mortgagor's right, title and interest in and to any premiums paid on such hazard insurance, including all rights to return premiums. If the Mortgagors fail to keep the Mortgaged Property insured as specified above then, at the election of the Mortgagee and without notice to any person, the Mortgagee may declare the entire Debt due and payable and this mortgage and security agreement subject to foreclosure, and this mortgage and security agreement may be foreclosed as hereinafter provided; and, regardless of whether the Mortgagee declares the entire Debt due and payable and this mortgage and security agreement subject to foreclosure, the Mortgagee may, but shall not be obligated to, insure the Mortgaged Property for its full insurable value (or for such lesser amount as the Mortgagee may wish) against such risks of loss, for its own benefit. The proceeds from any insurance whether provided by Mortgagors or Mortgagee (less cost of collecting same), if collected, shall be credited against the Debt, or, at the election of the Mortgagee, such proceeds may be used in repairing or reconstructing the improvements and personal property located on the Real Estate. All amounts spent by the Mortgagee for insurance or for the payment of Liens shall become a debt due by the Mortgagors to the Mortgagee and at once payable, without demand upon or notice to the Mortgagors, and shall be secured by the lien of this mortgage and security agreement, and shall bear interest from date of payment by the Mortgagee until paid at the rate provided in the Note or any extension, modification or renewal thereof.

As used in this mortgage and security agreement, the term "Hazardous Substances" shall mean and include, without limitation, any asbestos, urea formaldehyde foam insulation, flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related or unrelated substances or materials defined, regulated, controlled, limited or prohibited in any local, state or federal law, rule or regulation, whether now or hereafter in effect and

as may be amended from time to time, pertaining to environmental regulations, contamination, clean-up or disclosure, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, the Superfund Amendments and Reauthorization Act, the Toxic Substances Control Act, the Clean Air Act, the Clean Water Act, and the rules and regulations of the Occupational Safety and Health Administration pertaining to occupational exposure to asbestos. The Mortgagors covenant, warrant and represent and shall be deemed to continually covenant, warrant and represent during the term of this mortgage that, except as has been heretofore disclosed in writing to the Mortgagee with specific reference to this paragraph, (a) there are not now and shall not in the future be any Hazardous Substances on or under the Real Estate or in the improvements on the Real Estate or in or on any of the Mortgaged Property, and no Hazardous Substances have been or will be stored upon or utilized in operations on the Real Estate or utilized in the construction of the improvements on the Real Estate, (b) there are no underground storage tanks, whether in use or not in use, located in, on or under any part of the Mortgaged Property, (c) there are no pending claims or threats of claims by private or governmental or administrative authorities relating to Hazardous Substances, environmental impairment, conditions, or regulatory requirements with respect to the Mortgaged Property, (d) the Mortgaged Property and its use fully complies with all applicable building and zoning codes and other land use regulations, any applicable environmental laws or regulations, and any other applicable laws or regulations, (e) no part of the Real Estate has been artificially filled, and (f) Mortgagors shall give immediate oral and written notice to Mortgagee of its receipt of any notice of a violation of any law, rule or regulation covered by this paragraph, or of any notice of any other claim relating to Hazardous Substances or the environmental condition of the Mortgaged Property, or of its discovery of any matter which would make the representations, warranties and/or covenants herein inaccurate or misleading in any respect; provided that the foregoing shall not prohibit Mortgagors from using motor oils, gasoline, and/or other fuels in the ordinary course of its business but Mortgagors shall ensure that the same is disposed in and otherwise contained in accordance with applicable regulations.

Mortgagors hereby agree to indemnify and hold Mortgagee harmless from all loss, cost, damage, claim and expense incurred by Mortgagee on account of (i) the violation of any representation, warranty or covenant set forth in the preceding paragraph, (ii) Mortgagor's failure to

perform any obligations of the preceding paragraph, (iii) Mortgagor's or the Mortgaged Property's failure to fully comply with all environmental laws, rules and regulations, or with all occupational health and safety laws, rules and regulations, or (iv) any other matter related to environmental conditions or Hazardous Substances on, under or affecting the Mortgaged Property. This indemnification shall survive the closing of the loan secured by this mortgage, payment of the Debt, the exercise of any right or remedy under this mortgage or any other document evidencing or securing such loan, any subsequent sale or transfer of the Mortgaged Property, and all similar or related events or occurrences.

To the extent allowed by law, the Mortgagors hereby waive and relinquish any and all rights the Mortgagors may now or hereafter have to any notice, notification or information from the Mortgagee, other than or different from such as specifically are provided for in this mortgage and security agreement (including in this waiver and relinquishment, without limitation, notification of the Note Maker's financial condition, the status of the Note, or the fact of any renewal(s) or extension(s) of the Note).

Mortgagee may, at Mortgagee's discretion, inspect the Mortgaged Property, or have the Mortgaged Property inspected by Mortgagee's servants, employees, agents or independent contractors, at any time and Mortgagors shall pay all costs incurred by Mortgagee in executing any such inspection.

The Mortgagors agree to take good care of the Real Estate and all improvements and personal property located thereon and not to commit or permit any waste thereon or thereto, and at all times to maintain such improvements and personal property in as good condition as they now are, reasonable wear and tear excepted.

Notwithstanding any other provision of this mortgage and security agreement or the note or notes evidencing the Debt, the Debt shall become immediately due and payable, at the option of the Mortgagee, upon the conveyance of the Mortgaged Property, or any part thereof or any interest therein (except for personal property consumed or worn out in ordinary usage and promptly replaced with property of like kind and quantity at least equal in value to the replaced property and in a

manner to afford Mortgagors with a security interest equal in priority to the security interest it had on the replaced property)), including, without limitation, the granting of any lien upon or security interest in the Mortgaged Property or any part thereof.

The Mortgagors agree that no delay or failure of the Mortgagee to exercise any option to declare the Debt due and payable shall be deemed a waiver of the Mortgagee's right to exercise such option, either as to any past or present default, and it is agreed that no terms or conditions contained in this mortgage and security agreement may be waived, altered, modified or changed except by a written instrument signed by the party against whom such waiver, alteration, modification or change is sought to be enforced.

After default on the part of the Mortgagors, the Mortgagee, upon bill filed or other proper legal proceeding being commenced for the foreclosure of this mortgage and security agreement, shall be entitled to the appointment by any competent court, without notice to any party, of a receiver for the rents, issues, revenues and profits of the Mortgaged Property, with power to lease and control the Mortgaged Property, and with such other powers as may be deemed necessary.

UPON CONDITION, HOWEVER, that if the Mortgagors pay the Debt (which Debt includes (a) all advances heretofore, concurrently herewith or from time to time hereafter made by the Mortgagee to the Mortgagors under the Loan Agreement and/or the Note and any extensions, modifications or renewals of either of them, (b) all interest payable from time to time on said advances, or any part thereof, and (c) all other fees, charges, costs and expenses now or hereafter owing by the Mortgagors to the Mortgagee under the terms of the Loan Agreement or this Mortgage and Security Agreement and any extensions, modifications or renewals of either of them) and reimburses the Mortgagee for any amounts the Mortgagee has paid in payment of Liens or insurance premiums, and interest thereon, and fulfills all of its obligations under this mortgage and security agreement, this conveyance shall be null and void. But if: (1) any warranty or representation made in or with respect to this mortgage and security agreement is breached or proves false in any material respect; (2) default is made in the due performance of any covenant or agreement of the Mortgagors under any of the Loan Documents as defined in the Loan Agreement; (3) default is made in the payment to the Mortgagee of any sum paid by the Mortgagee under the authority of any provision

of this Mortgage and Security Agreement and is not cured within any applicable cure period in such Loan Documents; (4) the Debt, or any part thereof, remains unpaid at maturity, whether by acceleration or otherwise; (5) any installment of principal or interest due on the Debt, or any deposit for taxes and assessments or insurance premiums due hereunder, or any other instrument securing the Debt is not paid, as and when due and payable, or, if a grace period and/or cure period is provided, within such applicable grace period(s); (6) the interest of the Mortgagee, or any part thereof, in the Mortgaged Property becomes endangered by reason of the enforcement of any prior lien or encumbrance thereon; (7) any statement of lien is filed against the Mortgaged Property, or any part thereof, under the statutes of Alabama relating to the liens of mechanics and materialmen (without regard to the existence or nonexistence of the debt or the lien on which such statement is based) and such lien is not removed within thirty (30) days after the filing thereof; (8) any law is passed imposing or authorizing the imposition of any specific tax upon this mortgage and security agreement or the Debt or permitting or authorizing the deduction of any such tax from the principal or interest of the Debt, or by virtue of which any tax, lien or assessment upon the Mortgaged Property shall be chargeable against the owner of this mortgage and security agreement; (9) any of the stipulations contained in this mortgage and security agreement is declared invalid or inoperative by any court of competent jurisdiction; (10) Mortgagors, or any of them, (a) shall apply for or consent to the appointment of a receiver, trustee or liquidator thereof or of the Mortgaged Property, or any part thereof, or of all or a substantial part of Mortgagor's assets, (b) be adjudicated a bankrupt or insolvent or file a voluntary petition in bankruptcy, (c) fail, or admit in writing such Mortgagor's inability generally, to pay such Mortgagor's debts as they come due, (d) make a general assignment for the benefit of creditors, (e) file a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law, or (f) file an answer admitting the material allegations of, or consent to, or default in answering, a petition filed against such Mortgagors in any bankruptcy, reorganization or insolvency proceedings; or (11) an order for relief or other judgment or decree shall be entered by any court of competent jurisdiction, approving a petition seeking liquidation or reorganization of the Mortgagors, or any of them if more than one, or appointing a receiver, trustee or liquidator of any Mortgagors or of the Mortgaged Property, or any part thereof, or of all or a substantial part of the assets of any Mortgagors; or (12) Mortgagors shall convey any of said mortgaged property without Mortgagees prior written consent; then, upon the happening of any one or more of said events, at the option of the Mortgagee, the unpaid balance of the Debt shall

at once become due and payable and this mortgage and security agreement shall be subject to foreclosure and may be foreclosed as now provided by law in case of past-due mortgages; and the Mortgagee shall be authorized to take possession of the Mortgaged Property and, after giving at least twenty-one days notice of the time, place and terms of sale by publication once a week for three consecutive weeks in some newspaper published in the county in which the Real Estate is located, to sell the Real Estate in front of the courthouse door of said county, at public outcry, to the highest bidder for cash, and to apply the proceeds of said sale as follows: first, to the expense of advertising, selling and conveying the Real Estate and foreclosing this mortgage and security agreement, including reasonable attorneys' fees; second, to the payment of any amounts that have been spent, or that it may then be necessary to spend, in paying insurance premiums, Liens or other encumbrances, with interest thereon; third, to the payment in full of the balance of the Debt whether the same shall or shall not have fully matured at the date of said sale but no interest shall be collected beyond the day of sale; and, fourth, the balance, if any, to be paid to the party or parties appearing of record to be the owner of the Real Estate at the time of the sale, after deducting the cost of ascertaining who is such owner. The Mortgagors agree that the Mortgagee may bid at any sale had under the terms of this mortgage and security agreement and may purchase the Mortgaged Property if the highest bidder therefor. At the foreclosure sale the Mortgaged Property may be offered for sale and sold as a whole without first offering it in any other manner or it may be offered for sale and sold in any other manner the Mortgagee may elect.

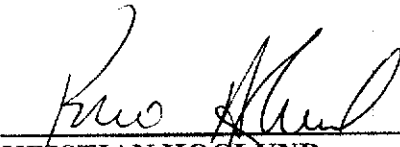
The Mortgagors agree to pay all costs, including reasonable attorneys' fees incurred by the Mortgagee in collecting or securing or attempting to collect or secure the Debt, or any part thereof, or in defending or attempting to defend the priority of this mortgage and security agreement against any lien or encumbrance on the Mortgaged Property unless this Mortgage and Security Agreement is herein expressly made subject to any such lien or encumbrance; and/or all costs incurred in the foreclosure of this mortgage and security agreement, either under the power of sale contained herein, applicable law or by virtue of the decree of any court of competent jurisdiction. The full amount of such costs incurred by the Mortgagee shall be a part of the Debt and shall be secured by this mortgage and security agreement. The purchaser at any such sale shall be under no obligation to see to the proper application of the purchase money. In the event of a sale hereunder, the Mortgagee, or the owner of the Debt and mortgage, or the auctioneer shall execute to the purchaser, for and in

the name of the Mortgagors, a statutory warranty deed to the Real Estate and/or a bill of sale to any personal property covered hereby.


The Mortgagors agree to pay all costs and expenses associated with the release or satisfaction of this Mortgage and Security Agreement.

Plural or singular words used herein to designate the undersigned shall be construed to refer to the maker or makers of this mortgage and security agreement, whether one or more natural persons, corporations, associations, partnerships or other entities. All covenants and agreements herein made by the undersigned shall bind the heirs, personal representatives, successors and assigns of the undersigned; and every option, right and privilege herein reserved or secured to the Mortgagee shall inure to the benefit of the Mortgagee's successors and assigns.

IN WITNESS WHEREOF, the undersigned Mortgagors have hereunto set their hands and seals this 9th day of December, 2014.



KRISTIAN HOGLUND



REBECCA HOGLUND

STATE OF ALABAMA
COUNTY OF BALDWIN

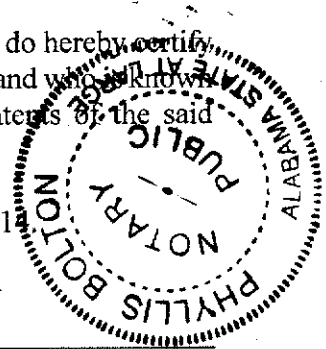
I, the undersigned Notary Public, in and for said County in the said State, do hereby certify that KRISTIAN HOGLUND, whose name is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the said conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal on this 8th day of December, 2014



NOTARY PUBLIC


My commission expires: My Commission Expires 07/29/2017



STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned Notary Public, in and for said County in the said State, do hereby certify that REBECCA HOGLUND, whose name is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the said conveyance, she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal on this 9th day of December, 2014.


NOTARY PUBLIC
My commission expires: My Commission Expires 07/29/2017

MORTGAGEE'S ADDRESS:

32128 Broken Branch Circle
Spanish Fort, Alabama 36527

THIS INSTRUMENT PREPARED BY:

Richard E. Davis, as attorney for Mortgagee
DAVIS & FIELDS, P.C.
Post Office Box 2925
Daphne, Alabama 36526
(251) 621-1555

