

19692  
36961

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Markley Dennis, Circuit Court Judge

Case No. 2011-CP-10-01550

TD Bank, N.A., Successor by  
merger to Carolina First Bank,

Respondent,

v.

Farm Hill Associates, LLC,  
John H. Hofford, Michael R.  
Bennett, Hofford-Ocean  
Green, LLC and Bennett-  
Ocean Green, LLC,

Appellant.

RECORD OF APPEAL

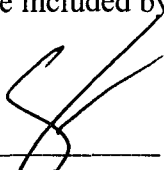
Shawn M. French, Sr.  
Attorney for Appellants  
100 Ellis Ave, St. B  
Lexington, SC 29072  
Attorney for John H. Hofford, Hofford Ocean-  
Green, LLC and Farm Hill Associates, LLC  
(843)461-4141

Nelson Mullins Riley & Scarborough LLP  
PO Box 11070  
Columbia, SC 29211-1070  
ATTN: Bill Wood  
Attorney for Respondent  
(803)255-9534

**RECEIVED**  
MAY 08 2012  
SC Court of Appeals

## CERTIFICATION OF APPELLANT

The below signed, Shawn M. French, Sr., Attorney for the Appellants in this matter hereby certifies pursuant to Rule 210 SCACR that he has included in the Record on Appeal all material proposed to be included by all the parties and not any other material.



---

Shawn M. French, Sr.  
The French Law Firm, LLC  
100 Ellis Ave, Ste. B  
Lexington, SC 29072  
Tele: (843) 606-6440  
Fax: (888) 850-0948

ATTORNEY FOR THE APPELLANTS

## INDEX TO RECORD ON APPEAL

<b>DOCUMENT</b>	<b>PAGE</b>
Order for Reference to Master in Equity	2
Order to Set Aside the Entry of Default	4
Complaint	9
Complaint Exhibit A	25
Complaint Exhibit B	30
Complaint Exhibit C	59
Complaint Exhibit D	64
Complaint Exhibit F	83
Complaint Exhibit G	91
Answer of John Hofford and Hofford Ocean-Green	109
Answer of Michael Bennett	113
Motion for Leave to File an Answer or in the alternative to Set Aside the Entry of Default filed by Bennett-Ocean Greene, LLC	119
Motion for Order of Reference	121
Answer of Bennett Ocean-Green	127
Motion of Farm Hill to Set Aside Entry of Default	132
Notice of Appeal	134
Transcript of Hearing on Motion for Order of Reference	136

STATE OF SOUTH CAROLINA )  
 ) IN THE COURT OF COMMON PLEAS  
COUNTY OF CHARLESTON )

TD Bank, N.A., Successor by merger to ) Civil Action No. 2011-CP-10-1550  
Carolina First Bank, )

Plaintiff, )

vs. )

Farm Hill Associates, LLC, John H. )  
Hofford, Michael R. Bennett, Hofford- )  
Ocean Green, LLC, and Bennett-Ocean )  
Green, LLC )

Defendants. )

ORDER FOR REFERENCE TO  
MASTER IN EQUITY

FILED  
11 AUG -4 PM 2:46  
CLERK OF COURT  
J. J. ARMSTRONG

This matter came before the Court on the Plaintiff's *Motion for Reference to Master in Equity*. The Court held a hearing for this matter on August 1, 2011 at 9:30 a.m. Present was B. Keith Poston, attorney of record for the Plaintiff, W. H. Bundy, Jr., attorney of record for the Defendants Michael R. Bennett and Bennett-Ocean Green, LLC and Shawn M. French, attorney of record for the Defendants John H. Hofford and Hofford-Ocean Green, LLC.

It appearing that pursuant to Rules 71 and 53(b) of the South Carolina Rules of Civil Procedure, as amended September 1, 2002, the herein action is an appropriate action to be referred to the Honorable Mikell R. Scarborough, Master-in-Equity for Charleston County, with authority to enter a final judgment in the case and with authority to return any or all issues triable of right by a jury to the circuit court.

NOW, THEREFORE, IT IS HEREBY ORDERED that this case is referred to the Honorable Mikell R. Scarborough, Master-in-Equity for Charleston County.

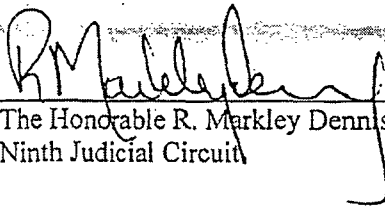
RMS1

IT IS FURTHER ORDERED that the Master-in-Equity, pursuant to Rule 53(b) of the South Carolina Rules of Civil Procedure, shall exercise all power and authority which a circuit judge sitting without a jury would have, including but not limited to, making findings of fact and conclusions of law; directing entry of final judgment in this action under Rule 53(b) of the South Carolina Rules of Civil Procedure; to order a sale on any day, not just the first Monday in the month; to hear any issues, including motions, after sale or judgment; issuing any and all Orders and Supplemental Orders, Writs of Assistance, and hearing any issues involving possession and/or removal of property and appraisal proceedings under Section 29-3-360, *et. seq.* of the South Carolina Code.

IT IS FURTHER ORDERED that the Master-in-Equity, pursuant to Rule 53(b) of the South Carolina Rules of Civil Procedure, may return any or all issues triable of right by a jury to the circuit court.

IT IS FURTHER ORDERED that pursuant to Rule 53(b) of the South Carolina Rules of Civil Procedure, any appeal from the final judgment entered by the Master-in-Equity shall be to the Supreme Court or the Court of Appeals as provided by the South Carolina Appellate Court Rules.

ALL OF WHICH HAS BEEN ORDERED, ADJUDGED, AND DECREED.

  
The Honorable R. Markley Dennis, Jr.  
Ninth Judicial Circuit

Charleston, South Carolina

August 3, 2011

RMD 2

STATE OF SOUTH CAROLINA )  
)  
COUNTY OF CHARLESTON )

IN THE COURT OF COMMON PLEAS

TD Bank, N.A., successor by )  
merger to Carolina First Bank, )  
)  
Plaintiff, )

Civil Action No.: 2011-CP-10-1550

v. )

CERTIFICATE OF SERVICE

Farm Hill Associates, LLC, *et al.* )  
)  
Defendants. )


FILED  
2011 AUG -4 PM 2:46  
JULIE J. ARMSTRONG  
CLERK OF COURT

I, the undersigned administrative assistant of the law offices of Nelson Mullins Riley & Scarborough, LLP, attorneys for TD BANK, NA., successor by merger to Carolina First Bank, do hereby certify that I have served all counsel and/or parties in this action with a copy of the pleading(s) hereinbelow specified via U.S. Mail, postage prepaid, to the following address(es):

PLEADINGS: PROPOSED ORDER FOR REFERENCE TO MASTER IN EQUITY

SERVED: W.H. Bundy, Jr., Esq.  
Smith, Bundy, Bybee & Barnett, P.C.  
PO Box 1542  
Mt. Pleasant, SC 29465

Shawn M. French, Esq.  
The French Law Firm, LLC  
100 Ellis Avenue, Suite B  
Lexington, SC 29072

  
Patty Alexander, Administrative Assistant

August 2, 2011

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

) IN THE COURT OF COMMON PLEAS  
) CASE NO.: 2011-CP-10-1550  
)

TD Bank, N. A., Successor by merger to  
Carolina First Bank,

Plaintiff,

) **ORDER TO SET ASIDE THE ENTRY**  
) **OF DEFAULT**  
)

vs.

Farm Hill Associates, LLC, John H. Hofford,  
Michael R. Bennett, Hofford Ocean Green, LLC,  
and Bennett-Ocean Green, LLC,

Defendants,

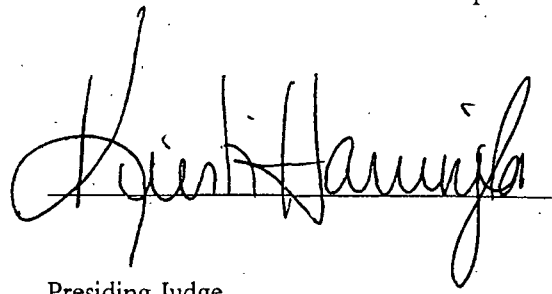
FILED  
2011 JUN 29 PM 12:55  
JULIE J. ARNSTROM  
CLERK OF COURT  
BY \_\_\_\_\_

It appearing unto the Court that, pursuant to Rule 55(c) of the South Carolina Rules of Civil Procedure, the entry of default against Defendant Bennett-Ocean Green, LLC should be set aside for good cause shown.

IT IS ORDERED that the entry of default entered in the above referenced action shall be set aside for good cause shown pursuant to Rule 55(c) of the South Carolina Rules of Civil Procedure.

IT IS FURTHER ORDERED that the Defendant Bennett-Ocean Green, LLC, shall have five (5) days from the date of this Order in which to file an Answer in the above captioned matter.

AND IT IS SO ORDERED.



Presiding Judge

Charleston, South Carolina  
June 13, 2011



STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

IN THE COURT OF COMMON PLEAS

TD Bank, N.A., Successor by merger to )  
Carolina First Bank, )  
 )  
Plaintiff, )

Civil Action No. 2011-CP-10-1550

vs. )

Farm Hill Associates, LLC, John H. )  
Hofford, Michael R. Bennett, Hofford- )  
Ocean Green, LLC, and Bennett-Ocean )  
Green, LLC )  
 )  
Defendants. )

SUMMONS

BY )  
JULIE J. ARMSTRONG )  
CLERK OF COURT )  
2011 MAR -1 PM 2:28 )

FILED

TO: THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is hereby served upon you, and to serve a copy of your Answer to the said Complaint upon the subscribers at 1320 Main Street, Post Office Box 11070, Columbia, South Carolina 29211, within thirty (30) days after service hereof except as to the United States of America, which shall have sixty (60) days, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

YOU WILL ALSO TAKE NOTICE that pursuant to Rule 53(b), of the South Carolina Rules of Civil Procedure, as amended effective September 1, 2002, the Plaintiff will move for a general Order of Reference to the Master-In-Equity for Charleston County, which Order shall, pursuant to Rule 53(b) of the SCRCF, specifically provide that the said Master-In-Equity is authorized and empowered to enter a final judgment in this action.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: B. Keith Poston

John T. Moore  
SC Bar No. 004056  
E-Mail: john.moore@nelsonmullins.com  
B. Keith Poston  
SC Bar No. 78397  
E-Mail: keith.poston@nelsonmullins.com  
1320 Main Street / 17th Floor  
Post Office Box 11070 (29211-1070)  
Columbia, SC 29201  
(803) 799-2000

Attorneys for TD Bank, N.A., Successor by Merger to  
Carolina First Bank

Columbia, South Carolina

February 25, 2011

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

IN THE COURT OF COMMON PLEAS

TD Bank, N.A., Successor by merger to )  
Carolina First Bank, )

Civil Action No. 2011-CP-10-1550

Plaintiff, )

COMPLAINT

vs. )

Foreclosure/Collection on Note and  
Guarantys/ Appointment of Receiver

Farm Hill Associates, LLC, John H. )  
Hofford, Michael R. Bennett, Hofford- )  
Ocean Green, LLC, and Bennett-Ocean )  
Green, LLC )

Deficiency Reserved

(Non-Jury)

Defendants. )

BY  
JULIE J. ARMSTRONG  
CLERK OF COURT  
2011 MAR -1 PM 2:28

FILED

The Plaintiff above-named, complaining of the Defendants herein, would respectfully show:

1. Plaintiff TD Bank, successor by merger to Carolina First Bank, ("Plaintiff"), is a banking corporation organized and existing under and pursuant to the laws of the United States of America.
2. Upon information and belief, the Defendant Farm Hill Associates, LLC ("Farm Hill") is a limited liability company organized and existing pursuant to the laws of the State of South Carolina.
3. Upon information and belief, the Defendant John H. Hofford ("Hofford") is a citizen and resident of the County of Charleston, State of South Carolina.
4. Upon information and belief, the Defendant Michael R. Bennett ("Bennett") is a citizen and resident of the County of Charleston, State of South Carolina.



5. Upon information and belief, the Defendant Hofford-Ocean Green, LLC ("Hofford-Ocean Green") is a limited liability company organized and existing pursuant to the laws of the State of South Carolina.

6. Upon information and belief, the Defendant Bennett-Ocean Green, LLC ("Bennett-Ocean Green") is a limited liability company organized and existing pursuant to the laws of the State of South Carolina.

7. This Court has jurisdiction over this matter.

8. The real property which is the subject of the within mortgage foreclosure action is located in Charleston County, South Carolina.

9. Pursuant to the South Carolina Supreme Court's Administrative Order filed on May 22, 2009, the mortgage loan identified herein is a commercial mortgage loan which is not owned, securitized or guaranteed by Fannie Mae or Freddie Mac, nor is any servicer of the loan participating in the Home Affordable Modification Program ("HAMP"), as referenced in the above Administrative Order. As such, the Administrative Order is not applicable to the loan and mortgages identified herein.

**FOR A FIRST CAUSE OF ACTION**  
**(Foreclosure of Real and Personal Property)**

10. Each and every allegation in the above-numbered paragraphs is repeated and incorporated herein as if stated verbatim.

11. On or about March 29, 2007, the Defendant Farm Hill for value received, executed and delivered to Plaintiff a promissory note in the principal sum of Five Million Six Hundred Thousand and 00/100 (\$5,600,000.00) Dollars, with interest thereon the terms of which are more fully explained by reference thereto ("Original Note"). A copy of said Original Note is attached hereto as **Exhibit A** and is incorporated herein by reference.

12. In order to secure the payment of the Original Note, the Defendants Bennett-Ocean Green and Hofford-Ocean Green executed and delivered to Plaintiff that certain Commercial Mortgage of Real Property and Security Agreement ("Ocean Green Mortgage") dated May 29, 2009 and recorded in the Office of the Register of Mesne Conveyances ("RMC") for Charleston County on June 1, 2009, in Mortgage Book 57 at Page 917, and as authorized by that Hypothecation Agreement between Plaintiff and Bennett-Ocean Green and Hofford-Ocean Green dated May 29, 2009, wherein and whereby said Defendants Bennett-Ocean Green and Hofford-Ocean Green mortgaged to Plaintiff the real and personal property more fully described herein as follows (the "Ocean Green Property"):

ALL that certain piece, parcel or lot of land, together with the buildings and improvements thereon, situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, and shown and designated as Lot 17 on a Plat entitled "A Final Plat of Bennett and Hofford Golf Cottages and a 6.038 Acre Tract, Owned by Kiawah Resorts Associates, Locate in the Town of Kiawah Island, Charleston County, South Carolina" prepared by Mark S. Busey, RLS, dated November 20, 1989, last revised June 19, 1990, recorded in the RMC Office for Charleston County in Plat Book BZ, Page 203. Said lot having such size, shape, dimensions, buttings, and boundings, more or less, as will by reference to said Plat more fully appear.

This being a portion of the property conveyed to Bennett-Ocean Green, LLC by deed of Michael R. Bennett as recorded in the RMC Office for Charleston County on December 31, 2008 in Book 0027 at Page 422 and being a portion of the property conveyed to Hofford-Ocean Green, LLC by deed of John H. Hofford as recorded in the RMC Office for Charleston County on December 31, 2008 in Book 0027 at Page 420. Thereafter transferred by deed of Bennett-Ocean Green, LLC of its undivided 50.0% interest to Hofford-Ocean Green, LLC, recorded on January 12, 2010 in Deed Book 0102 at Page 027 in the Office of the RMC for Charleston County.

TMS # 264-13-00-151

Also to include the following personal property:

(A) THE LAND. [The Ocean Green Property].

(B) THE IMPROVEMENTS. TOGETHER WITH all buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land, and all fixtures, machinery, appliances, equipment, furniture, and personal property of every nature whatsoever now or hereafter owned by Mortgagor and located in or on, or attached to, or used or intended to be used in connection with or with the operation of, the Land, buildings, structures or other improvements, including all extensions, additions, improvements, betterments, renewals and replacements to any of the foregoing and all of the right, title and interest of Mortgagor in and to any such personal property or fixtures subject to any lien, security interest or claim together with the benefit of any deposits or payments now or hereafter made by Mortgagor or on its behalf (the "Improvements").

(C) EASEMENTS OR OTHER INTERESTS. TOGETHER WITH all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way belonging, relating or appertaining to any of the property hereinabove described, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Mortgagor, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, of Mortgagor or, in and to the same, including but not limited to all judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the property described in paragraphs (A), (B) and (C) hereof or any part thereof under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the property described in paragraphs (A), (B) and (C) hereof or any part thereof, or to any rights appurtenant thereto, and all proceeds of any sales or other dispositions of the property described in paragraphs (A), (B) and (C) hereof or any part thereof.

(D) ASSIGNMENTS OF RENTS. TOGETHER WITH all rents, royalties, issues, profits, revenue, income and other benefits from the property described in paragraphs (A), (B) and (C) hereof to be applied against the indebtedness and other sums secured hereby, provided however, that permission is hereby given to Mortgagor so long as no default has occurred hereunder, to collect, receive, take, use and enjoy such rents, royalties, issues, profits, revenue, income and other benefits as they become due and payable, but not in advance thereof. The foregoing assignment shall be fully operative without any further action on the part of either party and specifically Mortgagee shall be entitled, at its option upon the occurrence of a default hereunder, to all rents, royalties, issues, profits, revenue, income and other benefits from the property described in paragraphs (A), (B) and (C) hereof whether or not Mortgagee takes possession of the property described in paragraphs (A), (B) and (C) hereof. Upon any such default hereunder, the permissions hereby given to Mortgagor to collect such

rents, royalties, issues, profits, revenue, income and other benefits from the property described in paragraphs (A), (B) and (C) hereof shall terminate and such permission shall not be reinstated upon a cure of the default without Mortgagee's specific consent. Neither the exercise of any rights under this paragraph by Mortgagee nor the application of any such rents, royalties, issues, profits, revenue, income or other benefits to the indebtedness and other sums secured hereby, shall cure or waive any default or notice of default hereunder or invalidate any act done pursuant hereto or to any such notice, but shall be cumulative of all other rights and remedies.

(E) ASSIGNMENT OF LEASES. TOGETHER WITH all right, title and interest of Mortgagor in and to any and all leases now or hereafter on or affecting the property described in paragraphs (A), (B) and (C) hereof, together with all security therefor and all monies payable thereunder, subject, however, to the conditional permission hereinabove given to Mortgagor to collect the rentals under any such lease. The foregoing assignment of any lease shall not be deemed to impose upon Mortgagee any of the obligations or duties of Mortgagor provided in any such lease, and Mortgagor agrees to fully perform all obligations of the lessor under all such leases. Upon Mortgagee's request, Mortgagor agrees to send to Mortgagee a list of all leases covered by the foregoing assignment and as any such lease shall expire or terminate or as any new lease shall be made, Mortgagor shall so notify Mortgagee in order that at all times Mortgagee shall have a current list of all leases affecting the property described in paragraphs (A), (B) and (C) hereof. Mortgagee shall have the right, at any time and from time to time, to notify any lessee of the rights of Mortgagee as provided by this paragraph. From time to time, upon request of Mortgagee, Mortgagor shall specifically assign to Mortgagee as additional security hereunder, by an instrument in writing in such form as may be approved by Mortgagee, all right, title and interest of Mortgagor in and to any and all leases now or hereafter on or affecting the Property, together with all security therefor and all monies payable thereunder, subject to the conditional permission hereinabove given to Mortgagor to collect the rentals under any such lease. Mortgagor shall also execute and deliver to Mortgagee any notification, financing statement or other document reasonably required by Mortgagee to perfect the foregoing assignment as to any such lease.

This instrument constitutes an absolute and present assignment of the rents, royalties, issues, profits, revenue, income and other benefits from the Property to Mortgagee, subject to the right of Mortgagor to collect, receive, take, use and enjoy the same as provided hereinabove; provided, further, that the existence or exercise of such right of Mortgagor shall not operate to subordinate this assignment to any subsequent assignment, in whole or in part, by Mortgagor, and any such subsequent assignment by Mortgagor shall be subject to the rights of Mortgagee hereunder.

(F) FIXTURES AND PERSONAL PROPERTY. TOGETHER WITH a security interest in (i) all personal property and fixtures now or hereafter

acquired and affixed to or located on the property described in paragraphs (A), (B) and (C) hereof which, to the fullest extent permitted by law shall be deemed fixtures and a part of the real property, (ii) all articles of personal property now or hereafter acquired and all materials delivered to the property described in paragraphs (A), (B) and (C) hereof (including such property for use in any construction being conducted thereon) and owned or leased by Farm Hill, including, but not limited to, all equipment, furniture, furnishings, inventory, apparatus, machinery, motors, elevators, fittings, radiators, ranges, refrigerators, awnings, shades, screens, blinds, carpeting, office equipment and other furnishings and all plumbing, heating, lighting, cooking, laundry, ventilating, refrigerating, incinerating, air conditioning and sprinkler equipment and fixtures and appurtenances thereto and all renewals or replacements thereof or articles in substitution thereof, whether or not the same are or shall be attached to said land and Improvements in any manner, (iii) all leases of personal property, contract rights, general intangibles, actions and rights in action now or hereafter acquired pertaining to the Property, including all rights to insurance proceeds, and (iv) all proceeds, products, replacements, additions, substitutions renewals and accessions of any of the foregoing. Mortgagor (Debtor) hereby grants to Mortgagee (Secured Party) a security interest in all fixtures, rights in action and personal property described herein. This Mortgage is a self-operative security agreement with respect to such property, but Mortgagor agrees to execute and deliver on demand such other security agreements, financing statements and other instruments as Mortgagee may reasonably request in order to perfect its security interest or to impose the lien hereof more specifically upon any of such property. Mortgagor agrees to pay Mortgagee's charge, to the maximum amount permitted by law, for any statement by Mortgagee regarding the obligations secured by this Commercial Mortgage of Real property and Security Agreement requested by Mortgagor or on behalf of Farm Hill. On demand, Mortgagor will promptly pay all costs and expenses of filing financing statements, continuation statements, partial releases, and termination statements deemed necessary or appropriate by Mortgagee to establish and maintain the validity and priority of the security interest of Mortgagee, or any modification thereof, and all costs and expenses of any searches reasonably required by Mortgagee. Mortgagee may exercise any or all of the remedies of a secured party available to it under the Uniform Commercial Code (South Carolina) with respect to such property, and it is expressly agreed in accordance with the provisions of the Uniform Commercial Code (South Carolina), 10 days' notice by Mortgagee to Mortgagor shall be deemed to be reasonable notice under any provision of the Uniform Commercial Code (South Carolina) requiring such notice; provided, however, that Mortgagee may at its option dispose of the collateral in accordance with Mortgagee's rights and remedies in respect to the real property pursuant to the provisions of this Commercial Mortgage of Real Property and Security Agreement, in lieu of proceeding under the Uniform Commercial Code (South Carolina).

Some of the items of property described herein are goods that are or are to become fixtures related to the real estate described herein, and it is intended that,

as to those goods, this Commercial Mortgage of Real Property and Security Agreement shall be effective as a financing statement filed as a fixture filing from the date of its filing for record in the real estate records of the county in which the Land is located. Information concerning the security interest created by this instrument may be obtained from the Mortgagee, as Secured party, or the Mortgagor at the address first shown above.

A copy of said Ocean Green Mortgage and Hypothecation Agreement is attached hereto as **Exhibit B** and is incorporated herein by reference.

13. To further secure the payment of the Original Note, the Ocean Green Mortgage cross-defaulted and cross-collateralized the Original Note and all subsequent modifications made thereto with all collateral securing the same.

14. To further secure the payment of the Original Note, Defendants Bennett-Ocean Green and Hofford-Ocean Green granted to Plaintiff a security interest in the personal property identified as all equipment, furniture, fixtures, contract rights, and general intangibles, including all of Defendants Bennett-Ocean Green and Hofford-Ocean Green's right, title, and interest in and to the following, whether now existing or hereafter acquired (the "Personal Property"):

- a) All fixtures, machinery, equipment and other articles of personal or mixed property, belonging to Debtor, at any time nor or hereafter installed in, attached to or situated in or upon the [Ocean Green Property] (the "Real Estate"), or the building and improvements now or hereafter erected thereon (the "Improvements"), or used or intended to be used in connection with the Real Estate, or in the operation of the buildings and improvements, plant, business or dwelling situate thereon, whether or not such personal or mixed property is or shall be affixed thereto, and all replacements, substitutions and proceeds of the foregoing (collectively, the "Service Equipment"), including without limitation: (i) all appliances, furniture and furnishings; all articles of interior decoration, floor, wall and window coverings; all office, restaurant, bar, kitchen and laundry fixtures, utensils, appliances and equipment; all supplies, tools and accessories; all storm and screen windows, shutters, doors, decorations, awnings, shades, blinds, signs, trees, shrubbery and other plantings; (ii) all building service fixtures, machinery and equipment of any kind whatsoever; all lighting, heating, ventilating, air conditioning, refrigerating, sprinkling, plumbing, security, irrigating, cleaning, incinerating, waste disposal, communications, alarm, fire prevention and extinguishing systems, fixtures, apparatus, machinery and equipment; all elevators,

escalators, lifts, cranes, hoists and platforms; all pipes, conduits, pumps, boilers, tanks, motors, engines, furnaces and compressors; all dynamos, transformers and generators; (iii) all building materials, building machinery and building equipment delivered on site to the Real Estate during the course of, or in connection with any construction or repair or renovation of the buildings and improvements; (iv) all parts, fittings, accessories, accessions, substitutions and replacements therefore and thereof; and (v) all files, books, ledgers, reports and records relating to any of the foregoing.

- b) All leases, subleases, tenancies, licenses, occupancy agreements or agreements to lease all or any portion of the Real Estate, Improvements or Service Equipment and all extensions, renewals, amendments, modifications, and replacements thereof, and any options, rights of first refusal or guarantees relating thereto (collectively, the "Leases"); all rents income, receipts, revenues, security deposits, escrow accounts, reserves, issues, profits, awards and payments of any kind payable under the Leases or otherwise arising from the Real Estate, Improvements or Service Equipment, including, without limitation, minimum rents, additional rents, percentage rents, parking, maintenance and deficiency rents (collectively, the "Rents"); all of the following personal property (collectively the "Contracts"): all accounts, general intangibles and contract rights (including any right to payment thereunder, whether or not earned by performance) of any nature relating to the Real Estate, Improvements or Service Equipment, or the use occupancy, maintenance, construction, repair or operation thereof; all management agreements, franchise agreements, utility agreements and deposits, building service contracts, maintenance contracts, construction contracts and architect's agreements; all maps, plans, surveys and specifications; all warranties and guaranties; all permits, licenses and approvals; and all insurance policies, books of account and other documents, of whatever kind or character, relating to the use, construction upon, occupancy, leasing, sale or operation of the Real Estate, Improvements or Service Equipment.
- c) All awards or payments, including interest thereon, made pursuant to condemnation or eminent domain proceedings with respect to the Real Estate.
- d) All policies of property, hazard, rent loss, risk and all other types of insurance covering the Real Estate and the items described in Paragraphs 1 through 3 above, together with any and all extensions and replacements thereof, and any and all rights thereunder, and any and all rights of subrogation provided by the Mortgage and Security Agreement of even date herewith in favor of Secured Party covering the Real Estate.
- e) All proceeds of any of the items described in Paragraphs [a] through [d] above, which shall include whatever is received upon the use, lease, sale, exchange, transfer collection or other utilization or any disposition or conversion of any of the Real Estate, Improvements, Service Equipment,

Leases, Rents and Contracts, voluntary or involuntary, whether cash or non-cash, including proceeds of insurance and condemnation awards, rental or lease payments, accounts, chattel paper, instruments, documents, contract rights, general intangibles, equipment and inventory.

as more fully described in the UCC-1 Financing Statement filed with the RMC for Charleston County on June 1, 2009 at File Number 2009-11272. A copy of the UCC-1 Financing Statement is attached hereto as **Exhibit C** and incorporated herein by reference.

15. The Ocean Green Property and the Personal Property are collectively referred to as the "Property."

16. The Original Note and Ocean Green Mortgage were modified from time to time up to and including that certain Fourth Note and Mortgage Modification Agreement ("Final Modification") dated December 31, 2009 and recorded in the Office of the RMC for Charleston County on February 16, 2010 in Mortgage Book 0107 at Page 175. Said Final Modification, among other things, amended the Original Note and Ocean Green Mortgage to authorize the transfer by Bennett-Ocean Green of its undivided 50% interest in the Ocean Green Property to Hofford-Ocean Green, with such transfer being recorded on January 12, 2010 in Deed Book 0102 at Page 027 in the Office of the RMC for Charleston County, such that Hofford-Ocean Green became the owner of the undivided 100% interest in the Ocean Green Property. A copy of the Final Modification is attached hereto as **Exhibit D** and is incorporated herein by reference.

17. The Original Note and all modifications made thereto, the Ocean Green Mortgage, the Hypothecation Agreement, and the UCC-1 Financing Statement are collectively referred to as the "Loan Documents."

18. The Loan Documents were acquired by Plaintiff pursuant to the Articles of Merger filed with the South Carolina Secretary of State's Office on September 30, 2010. A copy of the Articles of Merger is attached hereto as **Exhibit E** and is incorporated herein by reference.

19. The Plaintiff is the owner and holder of the Loan Documents.

20. The Ocean Green Mortgage is a valid second priority lien on the Property described herein.

21. The Defendants Farm Hill, Bennett-Ocean Green, and Hofford-Ocean Green have defaulted in the payment of the Loan Documents given to Plaintiff by failing to pay Plaintiff, on demand and upon maturity of the Original Note and all subsequent modifications, the principal and interest due under said documents and all interest due thereon. Said Loan Documents are therefore in default and Plaintiff has declared the entire balance of principal and interest to be immediately due and payable.

22. There is due and unpaid on the Loan Documents, as of February 17, 2011, the principal sum of Four Million Eight Hundred Eighty-One Thousand One Hundred Thirty and 63/100 (\$4,881,130.63) Dollars, plus interest in the amount of Two Hundred Twenty-Nine Thousand Five Hundred Sixty and 76/100 (\$229,560.76) Dollars, and late fees in the amount of Forty-Eight Thousand One Hundred Ninety-Seven and 69/100 (\$48,197.69) Dollars. Demand has been made upon the Defendants Farm Hill, Bennett-Ocean Green, and Hofford-Ocean Green to pay said amounts but said Defendants have refused to pay the same, or any part thereof, and said refusal is continuing, all to Plaintiff's injury and damage in the sum of Five Million One Hundred Fifty-Eight Thousand Eight Hundred Eighty-Nine and 08/100 (\$5,158,889.08) Dollars, plus interest thereon, plus reasonable attorney's fees and the costs and expenses of this action.

23. The Plaintiff expressly reserves its right to enter a deficiency judgment against Defendants Farm Hill Associates, LLC, Hofford-Ocean Green, LLC, and Bennett-Ocean Green, LLC after the sale of the mortgaged Property.

24. The Plaintiff expressly reserves all rights and claims as to all other property securing the Original Note and all modifications thereto.

**FOR A SECOND CAUSE OF ACTION**  
**(Collection on Guarantys)**

25. Each and every allegation in the above-numbered paragraphs is repeated herein as if stated verbatim.

26. In consideration of the above-referenced Original Note and all subsequent modifications thereto, and in consideration of the Ocean Green Mortgage; Defendant Hofford executed an Unconditional Guaranty dated March 29, 2007 and subsequently renewed up through and including the Final Modification ("Hofford Guaranty"), whereby he individually, jointly and severally, absolutely and unconditionally guaranteed the payment of the Original Note and all subsequent modifications and the Ocean Green Mortgage to Plaintiff, and all extensions, renewals and/or modifications thereof. A copy of said Hofford Guaranty is attached hereto as **Exhibit F**, and is incorporated herein by reference.

27. As further consideration of the above-referenced Original Note and all modifications thereto, and in consideration of the Ocean Green Mortgage, Defendant Bennett executed an Unconditional Guaranty dated March 29, 2007 (the "Bennett Original Guaranty") and subsequently amended pursuant to that Amended and Restated Guaranty Agreement ("Bennett Amended Guaranty") (the Bennett Original Guaranty and the Bennett Amended Guaranty are collectively referred to as the "Bennett Guaranty") whereby he individually, jointly and severally, absolutely and unconditionally guaranteed the payment of the Original Note and all subsequent modifications, and the Ocean Green Mortgage to Plaintiff, and all extensions, renewals and/or modifications thereof, provided, however, that Defendant Bennett's liability thereunder shall be limited to seventy-five percent (75%) of the outstanding principal balance

due to Plaintiff. A copy of said Bennett Guaranty is attached hereto as **Exhibit G**, and is incorporated herein by reference.

28. As further consideration for the Original Note and all subsequent modifications, Defendant Hofford and Defendant Bennett agreed to pay all costs of collection, including reasonable attorney's fees.

29. Plaintiff has declared the entire balance of the Original Note and subsequent modifications, the Ocean Green Mortgage, the Hofford Guaranty, and the Bennett Guaranty due and payable and hereby demands payment of the same, but said Defendant Hofford and Defendant Bennett have refused to pay, and therefore are in default under the terms of the Hofford Guaranty and Bennett Guaranty, respectively.

30. There is due and unpaid on the Original Note and its modifications and the Hofford Guaranty, as of February 17, 2011, the principal sum of Four Million Eight Hundred Eighty-One Thousand One Hundred Thirty and 63/100 (\$4,881,130.63) Dollars, plus interest in the amount of Two Hundred Twenty-Nine Thousand Five Hundred Sixty and 76/100 (\$229,560.76) Dollars, and late fees in the amount of Forty-Eight Thousand One Hundred Ninety-Seven and 69/100 (\$48,197.69) Dollars.

31. Demand has been made upon the Defendant John H. Hofford to pay said amounts but said Defendant has refused to pay the same, or any part thereof, and said refusal is continuing, all to Plaintiff's injury and damage in the sum of Five Million One Hundred Fifty-Eight Thousand Eight Hundred Eighty-Nine and 08/100 (\$5,158,889.08) Dollars, plus interest thereon, plus reasonable attorney's fees and the costs and expenses of this action.

32. There is due and unpaid on the Original Note and its modifications and the Bennett Guaranty, as of February 17, 2011, seventy-five percent (75%) of the principal sum of

Four Million Eight Hundred Eighty-One Thousand One Hundred Thirty and 63/100 (\$4,881,130.63) Dollars.

33. Demand has been made upon the Defendant Michael R. Bennett to pay said amounts but said Defendant has refused to pay the same, or any part thereof, and said refusal is continuing, all to Plaintiff's injury and damage in the sum of Three Million Six Hundred Sixty Thousand Eight Hundred Forty-Seven and 97/100 (\$3,660,847.97) Dollars, plus interest thereon, plus reasonable attorney's fees and the costs and expenses of this action.

34. The Plaintiff expressly reserves its right to enter a deficiency judgment against the Defendants John H. Hofford and Michael R. Bennett after the sale of the mortgaged Property.

**FOR A THIRD CAUSE OF ACTION**  
**(Receiver)**

35. Each of the allegations in the above-numbered paragraphs are repeated and incorporated herein as if stated verbatim.

36. By virtue of the default, Plaintiff seeks the appointment of a receiver to protect and preserve the Property and to do all acts necessary or required in connection with the administration and management of the Property, including but not limited to the processing and administering of proceeds as to the Property.

WHEREFORE, the Plaintiff prays as follows:

1. A receiver be appointed for the Property.
2. That the amount due Plaintiff on the above-referenced Loan Documents be ascertained and determined under the direction of this Court, together with attorney's fees and the costs of this action.
3. That Plaintiff recover judgment against the Defendants Farm Hill Associates, LLC, John H. Hofford, Michael R. Bennett, Hofford-Ocean Green, LLC, and Bennett-Ocean

Green, LLC in the amount found to be due, together with attorney's fees and the costs of this action.

4. That the court ascertain which lien or liens, if any, are prior to that of Plaintiff.

5. That Plaintiff's Ocean Green Mortgage be declared to be a valid lien against the above-referenced Property, with the appropriate priority, and that the Plaintiff have judgment of foreclosure against the Defendants subject to the liens of any mortgages found to be prior to the Mortgage held by Plaintiff, for the amount found to be due, together with attorney's fees and costs of this action.

6. That Plaintiff's Mortgage upon the above-referenced Property be foreclosed, subject to the lien of any mortgages found to be superior to that of Plaintiff, the equity of redemption barred, and the Property sold under the direction of this Court.

7. That the proceeds of the sale be applied as follows:

a. to the costs, disbursements, and expenses of this action, including a reasonable attorney's fee for the Plaintiff's attorney;

b. to the amount due Plaintiff; and

c. the surplus, if any, be held subject to the further order of this Court.

8. That the Plaintiff be granted, if necessary, a deficiency judgment against the Defendants Farm Hill Associates, LLC, John H. Hofford, Michael R. Bennett, Hofford-Ocean Green, LLC, and Bennett-Ocean Green, LLC for any deficiency which exists after the sale of said Property.

9. That Plaintiff may proceed with all rights and claims as to all other property securing the Original Note and all modifications thereto.

10. For such other and further relief as the Court may deem just and proper.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: B. Keith Poston

John T. Moore  
SC Bar No. 004056  
E-Mail: john.moore@nelsonmullins.com  
B. Keith Poston  
SC Bar No. 78397  
E-Mail: keith.poston@nelsonmullins.com  
1320 Main Street / 17th Floor  
Post Office Box 11070 (29211-1070)  
Columbia, SC 29201  
(803) 799-2000

Attorneys for TD Bank, N.A., Successor by Merger to  
Carolina First Bank

Columbia, South Carolina

February 25, 2011

STATE OF SOUTH CAROLINA )  
 ) VERIFICATION  
COUNTY OF CHARLESTON )

Re: Farm Hill Associates, et. al

PERSONALLY appeared before me the undersigned, who, being first duly sworn, deposes and says: That he is the authorized representative for TD Bank, N.A., Successor by merger to Carolina First Bank, and as such is authorized to verify the foregoing Complaint, and the matters and things therein stated are true based on his review of the books and records maintained by TD Bank, N.A. in the ordinary course of business, except those matters and things therein stated on information and belief, and those he believes to be true.

TD BANK, N.A., SUCCESSOR BY MERGER TO  
CAROLINA FIRST BANK

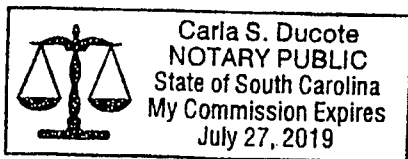
By: B. Roger Jenkins  
Its: SPECIAL ASSETS OFFICER

SWORN to and subscribed before me  
this 22 day of February, 2011

Carla S. Ducote (L.S.)  
Notary Public for North Carolina

My Commission Expires: 7/27/2019

FILED  
2011 MAR -1 PM 2:28  
JULIE J. ARMSTRONG  
CLERK OF COURT  
BY \_\_\_\_\_



## PROMISSORY NOTE

\$5,600,000.00

Charleston, South Carolina  
March 29, 2007

FOR VALUE RECEIVED, FARM HILL ASSOCIATES, LLC, a South Carolina limited liability company (the "Borrower"), promises to pay to the order of CAROLINA FIRST BANK (the "Lender"), at Charleston, South Carolina, or at such other place or to such other party or parties as Lender may from time to time designate, the principal sum of Five Million Six Hundred Thousand and 00/100 (\$5,600,000.00) Dollars, with interest thereon computed from date of each advance at the Prime Rate (as hereinafter defined) of Lender. The interest rate hereunder shall adjust accordingly on each date the Prime Rate changes. The term "Prime Rate" shall mean the rate of interest quoted by Lender, or any successor thereto, as the prime rate (which rate may not be the rate charged by Lender to its preferred customers), as the same may be changed from time to time by it. If for any reason Lender shall at any time no longer quote a prime rate in the manner set forth above, Lender shall, in the exercise of its reasonable judgment, substitute another means of determining the annual lending rate of interest and the rate of interest as thus determined shall thereafter be the Prime Rate as that term is used herein. Interest shall be computed on the actual number of days elapsed divided by a 360-day year and shall be payable monthly, commencing on the first day of May, 2007, and continuing on the first day of each month thereafter.

The entire outstanding principal balance of this Note and any outstanding accrued interest shall be due and payable in full on March 29, 2008 (the "Maturity Date").

Except as otherwise specified herein, each payment or prepayment, if any, made under this Note shall be applied to pay late charges, accrued and unpaid interest, principal, escrows (if any), and any other fees, costs and expenses which Borrower is obligated to pay under this Note, in such order as Lender may elect from time to time in its sole discretion.

All installments of principal and all interest are payable in lawful money of the United States of America, which shall be legal tender in payment of all debts and dues, public and private, at the time of payment; and in the event of (a) failure to pay this Note in full on the Maturity Date, or (b) default in the payment of any other installment of interest or principal or any other sum payable pursuant to the terms of this Note or any lien document securing this Note, not cured within ten (10) days after written notice from Lender, or (c) an "Event of Default" as such term is defined in any other document evidencing or securing this Note, not cured within the cure period (if any) provided therein, then or at any time thereafter, at the option of Lender, the whole of the principal sum then remaining unpaid hereunder together with all interest accrued thereon, shall immediately become due and payable without further notice, and the lien given to secure the payment of this Note may be foreclosed. From and after the maturity of this Note either according to its terms or as the result of a declaration of maturity, the entire principal remaining unpaid hereunder shall bear interest at a rate of three (3%) per cent per annum above the rate otherwise in effect hereunder (the "Default Rate"), or the highest applicable lawful rate, whichever is the lesser; provided that there shall be no automatic reduction to the highest lawful rate as to Borrower or any endorser or guarantor barred by law

CHARLESTON263637v1

(00939295.1)

EXHIBIT

A

from availing itself in any action or proceeding of the defense of usury, or Borrower or any endorser or guarantor barred or exempted from the operation of any law limiting the amount of interest that may be paid for the loan or use of money, or in the event this transaction, because of its amount or purpose or for any other reason is exempt from the operation of any statute limiting the amount of interest that may be paid for the loan or use of money. Failure to exercise such option or any other rights Lender may in the event of any such default be entitled to, shall not constitute a waiver of the right to exercise such option or any other rights in the event of any subsequent default, whether of the same or different nature.

If this Note is placed in the hands of an attorney for collection or is collected through any legal proceedings, Borrower promises to pay all expenses of collection and reasonable attorney's fees incurred by Lender.

In the event the interest provisions hereof or any exactions provided for herein or in the lien documents or any other instruments securing this Note shall result, because of the monthly reduction of principal or any other reason related or unrelated to the interest provisions, at any time during the life of the loan, in an effective rate of interest which, for any period of time, transcends the limit of the usury or any other law applicable to the loan evidenced hereby, all sums in excess of those lawfully collectible as interest for the period in question shall, without further agreement or notice between or by any party hereto, be applied to principal immediately upon receipt of such monies by Lender with the same force and effect as though the payor had specifically designated such and agreed to accept such extra payment(s) as a premium free payment. Notwithstanding the foregoing, however, Lender may at any time and from time to time elect, by notice in writing to the owners of the property affected by the lien document securing this Note, to reduce or limit the collection of any interest to such sums, which, when added to the said first-stated interest, shall not result in any payments toward principal in accordance with the requirement of the preceding sentence. In no event shall any agreed to or actual exaction as consideration for this loan transcend the limits imposed or provided by the law applicable to this transaction or Borrower in the jurisdiction in which the land is located for the use or detention of money or for forbearance in seeking its collection.

This Note is secured by that certain Commercial Mortgage of Real Property and Security Agreement of even date herewith (the "Mortgage"), to which reference is made from the terms thereof, and the same are made a part of this Note.

Lender may collect a late charge of five (5%) per cent of any installment of principal or interest which is not paid within fifteen (15) days of the due date thereof to cover the extra time and expense involved in handling delinquent payments. Such late charge shall apply to late payments prior to maturity or acceleration. Upon maturity or acceleration, no further late charges shall be assessed, but Borrower shall pay the Default Rate of interest on all amounts due from the date of maturity or acceleration until the Note is paid in full. The collection of the late charge shall not be deemed a waiver by Lender of interest accruing after the due date of any installment or of any of Lender's other rights under this Note.

Borrower agrees that the late charge provided above is fair and reasonable compensation to Lender for the additional administrative time and effort incurred in collecting and processing

CHARLESTON263637v1

{00939295.}2

delinquent payments. Borrower further agrees that the Default Rate is a fair and reasonable rate of interest to be charged after maturity or acceleration of this Note in light of the increased risks to Lender inherent in a past due loan and the administrative time and effort incurred in collecting a past due loan.

Borrower and all endorsers, guarantors and all persons liable or to become liable on this Note waive presentment, protest and demand, notice of protest, demand and dishonor and nonpayment of this Note, and consent to any and all renewals and extensions of the time of payment hereof, and agree, further, that at any time and from time to time without notice, the terms of payment herein may be modified or the security described in the lien document securing the Note released in whole or in part, or increased, changed or exchanged by agreement between Lender and any owner of premises affected by said lien document securing this Note without in anywise affecting the liability of any party to this instrument or any person liable with respect to any indebtedness evidenced hereby.

Lender is not required to rely on the collateral for the payment of the Note in the event of default by the maker, but may proceed directly against the maker, endorsers, or guarantors, if any, in such manner as it deems desirable. None of the rights and remedies of Lender hereunder are to be waived or affected by failure or delay to exercise them. All remedies conferred on Lender by this Note or any other instrument or agreement shall be cumulative, and none is exclusive. Such remedies may be exercised concurrently or consecutively at Lender's option.

This Note may be prepaid in whole or in part at any time without penalty.

This Note shall be governed as to validity, interpretation, construction, effect, and in all other respects by the laws and decisions of the State of South Carolina.

Wherever possible each provision of this Note shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Note or portion thereof shall be prohibited by or be invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Note.

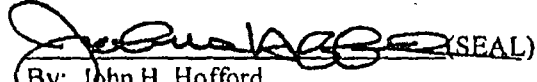
This Note may be assigned by Lender with or without recourse.

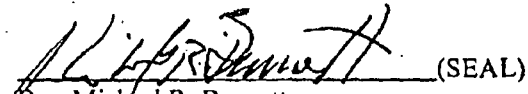
Borrower submits to the jurisdiction of any court of competent jurisdiction within the State of South Carolina. Borrower agrees that any action concerning this Note or any instrument securing this Note, whether initiated by Lender, Borrower or any other party, shall be tried only in a court of competent jurisdiction within the State of South Carolina, and Borrower waives all objections to venue. All matters arising hereunder shall be determined in accordance with the law and practice of such South Carolina court. Borrower further agrees to comply with all requirements necessary to give such court in personam jurisdiction and agrees that service of process may be accomplished by, in addition to any other lawful means, certified mail, return receipt requested.

BORROWER AND LENDER WAIVE, TO THE FULL EXTENT PERMITTED BY  
CHARLESTON\263637v1 (00939295.1)3

LAW, THE RIGHT TO A JURY TRIAL IN ANY LITIGATION CONCERNING THIS PROMISSORY NOTE OR ANY AGREEMENT SECURING THIS PROMISSORY NOTE AND IN ANY LITIGATION CONCERNING ANY DEFENSE, CLAIM, COUNTERCLAIM, CLAIM OF SET-OFF OR SIMILAR CLAIM OF ANY NATURE THAT BORROWER MAY ASSERT AGAINST LENDER.

Farm Hill Associates, LLC

 (SEAL)  
By: John H. Hofford  
Its: Member

 (SEAL)  
By: Michael R. Bennett  
Its: Member

Tax I.D.# 20-2272757

بسم الله الرحمن الرحيم

الحمد لله رب العالمين



WHEREAS, Farm Hill, Bennett Farm Hill, LLC, Hofford Farm Hill, LLC, Michael R. Bennett, John H. Hofford, Mortgagor and Mortgagee have agreed to further modify the Note, the Mortgage, the Note and Mortgage Modification Agreement and all other documents evidencing and securing the repayment of the indebtedness evidenced by the Note as modified by the Note and Mortgage Modification Agreement (the "Modified Loan Documents") the same to remain otherwise of full force and effect, as set forth in the Second Note and Modification Agreement dated simultaneously herewith and to be recorded simultaneously herewith between Farm Hill, Bennett Farm Hill, LLC, Hofford Farm Hill, LLC, Michael R. Bennett, John H. Hofford, Mortgagor and Mortgagee; and \*in Berkeley County

WHEREAS, Mortgagee requires that Mortgagor encumber certain real property as more particularly described in Exhibit A attached to this Ocean Green Mortgage and incorporated herein (the "Ocean Green Property") as additional collateral securing the repayment of the indebtedness evidenced by the Note as modified by the Note and Mortgage Modification Agreement and all obligations of Farm Hill under the Modified Loan Documents; and

WHEREAS, Michael R. Bennett and John H. Hofford executed a Mortgage to First Federal Savings and Loan Association of Charleston encumbering the Ocean Green Property, said mortgage dated October 28, 2004 and recorded in the RMC Office for Charleston County in Book U-514 at Page 254 (the "First Federal Mortgage"); and

WHEREAS, Michael R. Bennett conveyed an undivided one half interest in and to the Ocean Green Property, subject to the First Federal Mortgage, to Bennett-Ocean Green, LLC by deed recorded in the RMC Office for Charleston County in Book 0027 at Page 422; and

WHEREAS, John H. Hofford conveyed an undivided one half interest in and to the Ocean Green Property, subject to the First Federal Mortgage, to Hofford-Ocean Green, LLC by deed recorded in the RMC Office for Charleston County in Book 0027 at Page 420; and

WHEREAS, Mortgagor agrees and by the Ocean Green Mortgage does encumber the Ocean Green Property as additional collateral with a second priority mortgage, second to the First Federal Mortgage, encumbering the Ocean Green Property as additional collateral to secure the repayment of the Loan in the original principal sum of Five Million Six Hundred Thousand and No/100 Dollars (\$5,600,000.00) together with interest thereon evidenced by the Note as modified by the Note and Mortgage Modification Agreement and all obligations of Farm Hill under the Modified Loan Documents.

NOW, THEREFORE, (a) to secure the performance and observance by Farm Hill of all covenants and conditions contained in the Note, the Modified Loan Documents, in any renewal, extension or modification thereof, in this Commercial Mortgage of Real Property and Security Agreement, the Ocean Green Mortgage, and in all other instruments securing the Note and the Modified Loan Documents; and (b) also to secure in accordance with Section 29-3-50, Code of Laws of South Carolina (1976) as amended, all future advances and re-advances that may subsequently be made to Farm Hill by Mortgagee, evidenced by the aforesaid Note, the Modified Loan Documents, or any other promissory notes, and all modifications, renewals and extensions thereof (provided, however, that nothing contained herein shall create an obligation on the part of

Mortgagee to make future advances or re-advances to Farm Hill), the maximum amount of all indebtedness outstanding at any one time secured hereby not to exceed twice the face amount of the Note, plus interest thereon, all charges and expenses of collection incurred by Mortgagee, including court costs, and reasonable attorneys' fees; and (c) also in order to charge the properties, interests and rights hereinafter described with such payment, performance and observance; and (d) for and in consideration of the sum of One and No/100 (\$1.00) Dollar paid by Mortgagee to Mortgagor this date, and for other valuable consideration, the receipt of which is acknowledged, Mortgagor does hereby grant, bargain, sell, alien, remise, release, convey, assign, transfer, mortgage, hypothecate, pledge, deliver, set over, warrant and confirm unto Mortgagee, its successors and assigns forever all right, title and interest of Mortgagor in and to:

---

**TO THE EXTENT PROVIDED IN THE NOTE, INTEREST OR DISCOUNT WILL BE DEFERRED, ACCRUED OR CAPITALIZED. THIS MORTGAGE AND SECURITY AGREEMENT COVERS FIXTURES AND CONSTITUTES A FIXTURE FINANCING STATEMENT.**

## THE PROPERTY

(A) THE LAND. All the land (the "Land") described in Exhibit A attached hereto and made a part hereof.

(B) THE IMPROVEMENTS. TOGETHER WITH all buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land, and all fixtures, machinery, appliances, equipment, furniture, and personal property of every nature whatsoever now or hereafter owned by Mortgagor and located in or on, or attached to, or used or intended to be used in connection with or with the operation of, the Land, buildings, structures or other improvements, including all extensions, additions, improvements, betterments, renewals and replacements to any of the foregoing and all of the right, title and interest of Mortgagor in and to any such personal property or fixtures subject to any lien, security interest or claim together with the benefit of any deposits or payments now or hereafter made by Mortgagor or on its behalf (the "Improvements").

(C) EASEMENTS OR OTHER INTERESTS. TOGETHER WITH all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way belonging, relating or appertaining to any of the property hereinabove described, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Mortgagor, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, of Mortgagor of, in and to the same, including but not limited to all judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the property described in paragraphs (A), (B) and (C) hereof or any part thereof under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the property described in paragraphs (A), (B) and (C) hereof or any part thereof, or to any rights appurtenant thereto, and all proceeds of any sales or other dispositions of the property described in paragraphs (A), (B) and (C) hereof or any part thereof.

(D) ASSIGNMENTS OF RENTS. TOGETHER WITH all rents, royalties, issues, profits, revenue, income and other benefits from the property described in paragraphs (A), (B) and (C) hereof to be applied against the indebtedness and other sums secured hereby, provided however, that permission is hereby given to Mortgagor so long as no default has occurred hereunder, to collect, receive, take, use and enjoy such rents, royalties, issues, profits, revenue, income and other benefits as they become due and payable, but not in advance thereof. The foregoing assignment shall be fully operative without any further action on the part of either party and specifically Mortgagee shall be entitled, at its option upon the occurrence of a default hereunder, to all rents, royalties, issues, profits, revenue, income and other benefits from the property described in paragraphs (A), (B) and (C) hereof whether or not Mortgagee takes possession of the property described in paragraphs (A), (B) and (C) hereof. Upon any such default hereunder, the permission hereby given to Mortgagor to collect such rents, royalties, issues, profits, revenue, income and other benefits from the property described in paragraphs (A), (B) and (C) hereof shall terminate and such permission shall not be reinstated upon a cure of the

default without Mortgagee's specific consent. Neither the exercise of any rights under this paragraph by Mortgagee nor the application of any such rents, royalties, issues, profits, revenue, income or other benefits to the indebtedness and other sums secured hereby, shall cure or waive any default or notice of default hereunder or invalidate any act done pursuant hereto or to any such notice, but shall be cumulative of all other rights and remedies.

(E) ASSIGNMENT OF LEASES. TOGETHER WITH all right, title and interest of Mortgagor in and to any and all leases now or hereafter on or affecting the property described in paragraphs (A), (B) and (C) hereof, together with all security therefor and all monies payable thereunder, subject, however, to the conditional permission hereinabove given to Mortgagor to collect the rentals under any such lease. The foregoing assignment of any lease shall not be deemed to impose upon Mortgagee any of the obligations or duties of Mortgagor provided in any such lease, and Mortgagor agrees to fully perform all obligations of the lessor under all such leases. Upon Mortgagee's request, Mortgagor agrees to send to Mortgagee a list of all leases covered by the foregoing assignment and as any such lease shall expire or terminate or as any new lease shall be made, Mortgagor shall so notify Mortgagee in order that at all times Mortgagee shall have a current list of all leases affecting the property described in paragraphs (A), (B) and (C) hereof. Mortgagee shall have the right, at any time and from time to time, to notify any lessee of the rights of Mortgagee as provided by this paragraph. From time to time, upon request of Mortgagee, Mortgagor shall specifically assign to Mortgagee as additional security hereunder, by an instrument in writing in such form as may be approved by Mortgagee, all right, title and interest of Mortgagor in and to any and all leases now or hereafter on or affecting the Property, together with all security therefor and all monies payable thereunder, subject to the conditional permission hereinabove given to Mortgagor to collect the rentals under any such lease. Mortgagor shall also execute and deliver to Mortgagee any notification, financing statement or other document reasonably required by Mortgagee to perfect the foregoing assignment as to any such lease.

This instrument constitutes an absolute and present assignment of the rents, royalties, issues, profits, revenue, income and other benefits from the Property to Mortgagee, subject to the right of Mortgagor to collect, receive, take, use and enjoy the same as provided hereinabove; provided, further, that the existence or exercise of such right of Mortgagor shall not operate to subordinate this assignment to any subsequent assignment, in whole or in part, by Mortgagor, and any such subsequent assignment by Mortgagor shall be subject to the rights of Mortgagee hereunder.

(F) FIXTURES AND PERSONAL PROPERTY. TOGETHER WITH a security interest in (i) all personal property and fixtures now or hereafter acquired and affixed to or located on the property described in paragraphs (A), (B) and (C) hereof which, to the fullest extent permitted by law shall be deemed fixtures and a part of the real property, (ii) all articles of personal property now or hereafter acquired and all materials delivered to the property described in paragraphs (A), (B) and (C) hereof (including such property for use in any construction being conducted thereon) and owned or leased by Farm Hill, including, but not limited to, all equipment, furniture, furnishings, inventory, apparatus, machinery, motors, elevators, fittings, radiators, ranges, refrigerators, awnings, shades, screens, blinds, carpeting, office equipment and other furnishings and all plumbing, heating, lighting, cooking, laundry, ventilating, refrigerating,

incinerating, air conditioning and sprinkler equipment and fixtures and appurtenances thereto and all renewals or replacements thereof or articles in substitution thereof, whether or not the same are or shall be attached to said Land and Improvements in any manner, (iii) all leases of personal property, contract rights, general intangibles, actions and rights in action now or hereafter acquired pertaining to the Property, including all rights to insurance proceeds, and (iv) all proceeds, products, replacements, additions, substitutions renewals and accessions of any of the foregoing. Mortgagor (Debtor) hereby grants to Mortgagee (Secured Party) a security interest in all fixtures, rights in action and personal property described herein. This Mortgage is a self-operative security agreement with respect to such property, but Mortgagor agrees to execute and deliver on demand such other security agreements, financing statements and other instruments as Mortgagee may reasonably request in order to perfect its security interest or to impose the lien hereof more specifically upon any of such property. Mortgagor agrees to pay Mortgagee's charge, to the maximum amount permitted by law, for any statement by Mortgagee regarding the obligations secured by this Commercial Mortgage of Real Property and Security Agreement requested by Mortgagor or on behalf of Farm Hill. On demand, Mortgagor will promptly pay all costs and expenses of filing financing statements, continuation statements, partial releases, and termination statements deemed necessary or appropriate by Mortgagee to establish and maintain the validity and priority of the security interest of Mortgagee, or any modification thereof, and all costs and expenses of any searches reasonably required by Mortgagee. Mortgagee may exercise any or all of the remedies of a secured party available to it under the Uniform Commercial Code (South Carolina) with respect to such property, and it is expressly agreed in accordance with the provisions of the Uniform Commercial Code (South Carolina), 10 days' notice by Mortgagee to Mortgagor shall be deemed to be reasonable notice under any provision of the Uniform Commercial Code (South Carolina) requiring such notice; provided, however, that Mortgagee may at its option dispose of the collateral in accordance with Mortgagee's rights and remedies in respect to the real property pursuant to the provisions of this Commercial Mortgage of Real Property and Security Agreement, in lieu of proceeding under the Uniform Commercial Code (South Carolina).

Some of the items of property described herein are goods that are or are to become fixtures related to the real estate described herein, and it is intended that, as to those goods, this Commercial Mortgage of Real Property and Security Agreement shall be effective as a financing statement filed as a fixture filing from the date of its filing for record in the real estate records of the county in which the Land is located. Information concerning the security interest created by this instrument may be obtained from the Mortgagee, as Secured Party, or the Mortgagor at the address first shown above.

Everything referred to in paragraphs (A), (B), (C), (D), (E), and (F) hereof and any additional property hereafter acquired by Mortgagor and subject to the lien of this Mortgage or intended to be so is herein referred to as the "Property."

TO HAVE AND TO HOLD the Property and all parts thereof unto Mortgagee, its successors and assigns, to its own proper use and benefit forever, subject, however, to the terms and conditions herein:

PROVIDED, HOWEVER, that if Farm Hill shall promptly pay or cause to be paid to Mortgagee the principal and interest payable under the Note and the Modified Loan Documents at the times and in the manner stipulated therein, herein, and in all other instruments securing the Note, all without any deduction or credit for taxes or other similar charges paid by Farm Hill, and shall keep, perform and observe all the covenants and promises in the Note and the Modified Loan Documents, and any renewal, extension or modification thereof, and in all other instruments securing the Note and the Modified Loan documents, to be kept, performed or observed by Farm Hill, and as to Mortgagor in this Mortgage, then this Ocean Green Mortgage, and all the properties, interest and rights hereby granted, conveyed and assigned shall cease and be void, but shall otherwise remain in full force and effect.

Mortgagor covenants and agrees with Mortgagee as follows:

## ARTICLE I

### REPRESENTATIONS AND WARRANTIES OF MORTGAGOR

Mortgagor represents and warrants to Mortgagee as follows (which warranties and representations survive the delivery of the Note and shall be continuing until the Note is paid in full):

1.01. No Litigation Against Mortgagor. There is no litigation or proceeding pending against the Mortgagor nor to the knowledge of the Mortgagor threatened which, if decided adversely to the Mortgagor would have a material adverse effect upon the financial condition or businesses of Mortgagor.

1.02. Binding Effect of Obligation. This Ocean Green Mortgage constitutes a legal, valid and binding obligation of the Mortgagor and is enforceable against the Mortgagor in accordance with the terms hereof.

1.03. Injury to Properties. Neither the business nor the properties of Mortgagor are affected by any prior or existing fire, explosion, accident, strike, lock-out or other labor disputes, storm, act of God or other casualty (whether or not covered by insurance), adversely affecting such business or the properties or operations of Mortgagor.

1.04. Inducement for Loan. No information, exhibit or report furnished by the Mortgagor to the Mortgagee contains any material misstatement of fact or omits to state any material fact or facts necessary to make the statements contained therein not misleading.

1.05. Organizational Standing and Powers. Each Mortgagor is a duly organized limited liability company, validly existing and in good standing under the laws of the State of South Carolina and is therefore qualified to do business in South Carolina. The Mortgagor has all requisite power and authority to conduct its businesses, to own its properties, and to execute and deliver and perform all of its obligations under this Ocean Green Mortgage, the Modified Loan Documents to which Mortgagor is a party and all other documentation delivered herewith or provided for herein.

1.06. Validity and Enforceability of Documents; No Conflicts; No Defaults.

(a) The execution, delivery and performance by the Mortgagor of this Ocean Green Mortgage have been duly authorized by all requisite limited liability company, corporate, partnership or other action, and does not and will not (1) require any further consent or approval of the members or directors or shareholders or partners (as applicable) of the Mortgagor; (2) violate any provision of law, rule, regulations, order, writ, judgment, injunction, decree, determination or award presently in effect having applicability to the Mortgagor; (3) result in a breach or constitute default under any indenture, loan or credit agreement, or any other agreement to which the Mortgagor is a party or by which they or the properties or entities with which they are involved may be bound or affected; or (4) result in or require the creation or imposition of any mortgage, deed of trust, pledge of liens, security interest or other charge or encumbrance of any nature other than that contemplated hereunder. To the extent approvals of any kind are required, the Mortgagor has obtained: (i) all governmental approvals and authorizations, together with any required registrations or filings with the appropriate governmental authorities; and (ii) all necessary consents, approvals, waivers, notifications of tenants, creditors, lessors, and other nongovernmental persons required in connection with the indebtedness secured hereby.

(b) The Mortgagor is not in material default under any law, rule, regulation or writ, judgment, injunction, decree, determination or warrant or any indenture agreement, lease or instrument.

(c) Except as provided above, no authorization, consent, approval, license, exemption of or filing or a registration with any court, governmental department, commission, board, bureau, agency or instrumentality, is or will be necessary for the valid execution, delivery or performance by the Mortgagor this Ocean Green Mortgage.

ARTICLE II

COVENANTS OF MORTGAGOR

2.01. Performance of Mortgage. Mortgagor shall perform, observe and comply with all provisions hereof.

2.02. Warranty of Title. Mortgagor covenants and warrants that, subject to the First Federal Mortgage, it is seized of an indefeasible estate in fee simple in the Land and real property hereby mortgaged, has good and absolute title to all existing personal property hereby mortgaged or made subject to the security interest hereby created and has good right, full power and lawful authority to convey, mortgage and encumber the same as provided herein; that Mortgagee may at all times peaceably and quietly enter upon, hold, occupy and enjoy the Land and real property hereby mortgaged and every part thereof; that the Land, real property and all existing personal property hereby mortgaged or made subject to the security interest hereby created is free and clear of all liens, security interests, charges and encumbrances whatsoever,

except for the First Federal Mortgage, the lien for property taxes not yet due and payable and those permitted encumbrances, if any, described in the title insurance commitment/policy insuring this Ocean Green Mortgage. Mortgagor shall and will make such further assurances to perfect Mortgagee's fee simple title to the Land and the real property hereby mortgaged, and the title to the personal property hereby mortgaged or made subject to the security interest hereby created as may reasonably be required. Subject to the First Federal Mortgage, Mortgagor fully warrants the title to the Land, real property and all existing personal property hereby mortgaged or made subject to the security interest hereby created and every part thereof, and will forever defend the same against the claims of all persons whomsoever.

2.03. Zoning and Environmental Laws.

(a) Except as disclosed to Mortgagee in writing, Mortgagor covenants and warrants that all applicable zoning laws, ordinances and regulations affecting the Land permit the use and occupancy of the Improvements and further covenants and warrants to comply with all such laws, ordinances and regulations, including, but not limited to, all environmental and ecological laws, ordinances and regulations affecting the Property or the use thereof. Without limiting the generality of the foregoing, Mortgagor warrants and represents to Mortgagee after thorough investigation that: (a) the Property described herein is now and at all times hereafter will continue to be in full compliance with all federal, state and local environmental laws and regulations, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), Public Law No. 96-510, 94 Stat. 2767, 42 USC 9601 *et seq.*, and the Superfund Amendments and Reauthorization Act of 1986 (SARA), Public Law No. 99-499, 100 Stat. 1613, and any amendments thereto, and (b)(i) as of the date hereof there are no hazardous materials, substances, wastes or other environmentally regulated substances (including without limitation, any materials containing asbestos) located on, in or under the Property or used in connection therewith, or (ii) Mortgagor has fully disclosed to Mortgagee in writing the existence, extent and nature of any such hazardous materials, substances, wastes or other environmentally regulated substances, which Mortgagor is legally authorized and empowered to maintain on, in or under the Property or use in connection therewith, and Mortgagor has obtained and will maintain all licenses, permits and approvals required with respect thereto, and is in full compliance with all of the terms, conditions and requirements of such licenses, permits and approvals. Mortgagor further warrants and represents that it will promptly notify Mortgagee of any change in the nature or extent of any hazardous materials, substances or wastes maintained on, in or under the Property or used in connection therewith, and will transmit to Mortgagee copies of any citations, orders, notices or other material governmental or other communication received with respect to any other hazardous materials, substances, wastes or other environmentally regulated substances affecting the Property.

(b) Mortgagor shall indemnify and hold Mortgagee harmless from and against any and all damages, penalties, fines, claims, liens, suits, liabilities, costs (including clean-up costs), judgments and expenses (including attorneys' consultants' or experts' fees and expenses) of every kind and nature suffered by or asserted against Mortgagee as a direct or indirect result of any warranty or representation made by Mortgagor in the preceding paragraph being false or untrue in any material respect or any requirement under any law, regulation or ordinance, local,

state or federal, which requires the elimination or removal of any hazardous materials, substances, wastes or other environmentally regulated substances by Mortgagee, Mortgagor or any transferee of Mortgagor or Mortgagee.

(c) Mortgagor's obligations hereunder shall not be limited to any extent by the term of the Note secured hereby, and, as to any act or occurrence prior to payment in full and satisfaction of said Note which gives rise to liability hereunder, shall continue, survive and remain in full force and effect notwithstanding payment in full and satisfaction of said Note and this Mortgage or foreclosure under this Mortgage, or delivery of a deed in lieu of foreclosure.

#### 2.04. Taxes and Liens.

(a) Mortgagor shall pay or bond promptly, when and as due, and shall promptly exhibit to Mortgagee receipts for the payment of all taxes, assessments, rates, dues, charges, fees, levies, fines, impositions, liabilities, obligations and encumbrances of every kind whatsoever now or hereafter imposed, levied or assessed upon or against the Property or any part thereof, or upon or against this Ocean Green Mortgage or the indebtedness or other sums secured hereby, or upon or against the interest of Mortgagee in the Property, as well as all income taxes, assessments and other governmental charges levied and imposed by the United States of America or any state, county, municipality, borough or other taxing authority upon or against Mortgagor or in respect of the Property or any part thereof, and any charge which, if unpaid, would become a lien or charge upon the Property prior to or equal to the lien of this Mortgage before they become delinquent and before any interest attaches or any penalty is incurred.

(b) Mortgagor shall not permit or suffer more than thirty (30) days any mechanics', laborers', materialmen's, statutory or other lien upon any of the Property.

(c) Mortgagee may, if it deems in its reasonable judgment that its security for the Note and the Modified Loan Documents is impaired, require Mortgagor to deposit with Mortgagee on the first day of each month, in addition to making any required payments of principal and interest, until the Note is fully paid, an amount equal to one-twelfth (1/12) of the yearly taxes and assessments as estimated by Mortgagee to be sufficient to enable Mortgagee to pay at least thirty (30) days before they become due all taxes, assessments and other similar charges against the Property or any part thereof. Such deposits shall not be, nor be 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, Mortgagor shall deliver to Mortgagee such additional monies as are required to make up any deficiencies in the amounts necessary to enable Mortgagee to pay such taxes, assessments and similar charges. In the event of a default under any of the terms covenants and conditions of the Note, the Modified Loan Documents, and this Mortgage or any other instruments securing the Note and the Modified Loan Documents to be kept, performed or observed by Mortgagee or Farm Hill, as applicable, Mortgagee may apply to the reduction of the sums secured hereby, in such manner as Mortgagee shall determine, any amount under this paragraph remaining to Farm Hill's credit.

(d) In the event of the enactment of any law by the State of South Carolina, except for a change only in state income tax rates applicable to Mortgagee generally, after the date of this

Mortgage, deducting from the value of the Property for the purpose of taxation any lien thereon, or imposing any liability upon Mortgagee, in respect of the indebtedness secured hereby, or changing in any way the laws now in force for the taxation of mortgages, or debts secured by mortgages, or the manner of collection of any such taxes, so as to affect this Mortgage, Mortgagee shall pay any such obligation imposed on Mortgagee thereby (unless payment of such by Mortgagor is prohibited by law), and in the event Mortgagor fails to pay such obligation within thirty (30) days after written notice by Mortgagee, the whole of the indebtedness secured by this mortgage, together with the interest due thereon, shall, at the option of Mortgagee, become immediately due and payable.

2.05. Insurance.

(a) Mortgagor shall at its sole expense obtain for, deliver to and maintain for the benefit of Mortgagee, during the life of this Ocean Green Mortgage, liability insurance policies relating to the Property, in such amounts, with such companies and in such form as may be reasonably required by Mortgagee. Mortgagee may require such policies to contain an endorsement, in form satisfactory to Mortgagee, naming Mortgagee as an additional insured thereunder. Mortgagor shall pay promptly, when due, any premiums on such insurance policies and renewals thereof. Mortgagor shall deliver to Mortgagee receipts evidencing the payment of all premiums on such insurance policies and renewals.

(b) Mortgagee may, in its sole discretion, require Mortgagor to deposit with Mortgagee on the first day of each month, in addition to making payments of regular installments of principal and interest, until the Note is fully paid, an amount equal to one-twelfth (1/12) of the yearly premiums for all insurance. Such deposits shall not be, nor be 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, Mortgagor shall deliver to Mortgagee such additional monies as are necessary to make up any deficiencies in the amounts necessary to enable Mortgagee to pay such premiums when due. In the event of a default under any of the terms, covenants and conditions in the Note, the Modified Loan Documents, this Mortgage or any other instrument securing the Note and the Modified loan Documents to be kept, performed or observed by Mortgagee or Farm Hill, as applicable, Mortgagee may apply to the reduction of the sums secured hereby, in such manner as Mortgagee shall determine, any amount under this paragraph remaining to Farm Hill's credit and any refund of premium received from cancellation of any insurance policy by Mortgagee upon foreclosure of this Mortgage.

2.06. Condemnation. In the event that by, or pursuant to, proper authority there is taken or condemned the entire Property or any part thereof, under power of eminent domain exercised by any actual or quasi governmental authority or public utility, the Mortgagor hereby assigns to the Mortgagee any and all awards that may be given, made or due the Mortgagor in any proceedings in connection therewith, and the amounts of such awards shall be applied by the Mortgagee to the reduction of the indebtedness secured hereby, and the Mortgagor agrees to execute any and all such further instruments of assignment of any and all such condemnation awards as may be required by the Mortgagee to carry out the purposes of this Section. The Mortgagor shall give written notice of such condemnation proceeding within ten (10) days of receipt of any service or process in connection therewith. In any condemnation proceedings

against the Property, the Mortgagee hereby reserves, and the Mortgagor hereby acknowledges, the Mortgagee's right to institute or intervene in any such condemnation proceedings to assert said interest. In the event the entire Property is taken or so much thereof that the contemplated development of the Property will in the opinion of Mortgagee not be feasible, all condemnation proceeds shall, at the option of Mortgagee, be applied to the Note (first to expenses, then interest, and then principal) and the Note and all other amounts secured thereby shall, at the option of Mortgagee, become immediately due and payable.

2.07. Care of Property.

(a) Mortgagor shall preserve and maintain the Property in good condition and repair. Mortgagor shall not remove, demolish, materially alter or materially change the use of any building, structure or other improvement presently or hereafter on the Land without the prior written consent of Mortgagee, except as provided in the Modified Loan Documents. Mortgagor shall not permit, commit or suffer any waste, impairment or deterioration of the Property or of any part thereof, and will not take any action which will increase the risk of fire or other hazard to the Property or to any part thereof.

(b) Except as otherwise provided in this Ocean Green Mortgage, or the Modified Loan Documents, no fixture, personal property or other part of the Property shall be removed, demolished or altered, without the prior written consent of Mortgagee. Mortgagor may sell or otherwise dispose of, free from the lien of this Ocean Green Mortgage, furniture, furnishings, equipment, tools, appliances, machinery, fixtures or appurtenances, subject to the lien hereof, which may become worn out, undesirable or obsolete only if they are replaced immediately with similar items of at least equal value which shall, without further action, become subject to the lien of this Ocean Green Mortgage, except as otherwise provided in this Ocean Green Mortgage.

(c) Mortgagee may enter upon and inspect the Property at any reasonable time during the life of this Ocean Green Mortgage.

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

2.08. Transfer of Property. Mortgagor shall not sell, convey, transfer, mortgage, lease (except for the sale of parcels in the ordinary course of business, subject to Mortgagee's prior review and approval) or further encumber any interest in or any part of the Property, without the prior written consent of Mortgagee in its sole discretion. If any person should obtain any interest in all or any part of the Property pursuant to the execution or enforcement of any lien, security interest or other right, whether superior, equal or subordinate to this Ocean Green Mortgage or the lien hereof, such event shall be deemed to be a transfer by Mortgagee. Mortgagor shall not, without the prior written consent of Mortgagee in its sole discretion, further assign the rents from the Property, nor enter into any agreement or do any act to amend, modify, extend, terminate or cancel, accept the surrender, subordinate, accelerate the payment of rent, or change the terms of any renewal option of any lease now or hereafter covering such property or any part thereof. Mortgagor further covenants that no member shall transfer any membership interest in the Mortgagor without the prior written consent of Mortgagee in its sole discretion. This prohibition

also applies to any transfer of interest by any member owning an interest in an entity that owns an interest, as a member, in Mortgagee. Any such transfer shall be an Event of Default hereunder. This prohibition shall not apply to the transfer of stock between existing shareholders or members or to the transfer of stock by shareholders or membership interest by members for estate planning purposes.

2.099. Further Assurances. At any time and from time to time, upon Mortgagee's request Mortgagor shall make, execute and deliver or cause to be made, executed and delivered to Mortgagee and, where appropriate, shall cause to be recorded or filed and from time to time thereafter to be rerecorded or refiled at such time and in such offices and places as shall be deemed desirable by Mortgagee any and all such further mortgages, instruments of further assurance, certificates and other documents as Mortgagee may consider necessary or desirable in order to effectuate, complete, enlarge in accordance with the Modified Loan Documents or perfect, or to continue and preserve the obligations of Mortgagor under this Ocean Green Mortgage, and the lien of this Ocean Green Mortgage as a second and subordinate lien to an existing lien held by Mortgagee under another mortgage upon all of the real property, whether now owned or hereafter acquired by Mortgagor. Upon any failure by Mortgagor to do so, Mortgagee may make, execute, record, file, re-record or refile any and all such mortgages, instruments, financing statements, certificates and documents for and in the name of Mortgagor, and Mortgagor hereby irrevocably appoints Mortgagee the agent and attorney-in-fact of Mortgagor to do so.

2.10. Expenses. Mortgagor shall pay or reimburse Mortgagee for all costs, charges and expenses, including reasonable attorney's fees and disbursements, and costs incurred or paid by Mortgagee in any action which is threatened, pending or completed or in any proceeding or dispute in which Mortgagee is or might be made a party or appears as a party plaintiff or party defendant and which affects or might affect the Note, the Modified Loan Documents, or the Property or any part thereof, or the interests of Mortgagor or Mortgagee therein, including but not limited to the foreclosure of this Ocean Green Mortgage, condemnation involving all or part of the Property or any action to protect the security hereof. All costs, charges and expenses so incurred or paid by Mortgagee shall become due and payable immediately, whether or not there be notice, demand, attempt to collect or suit pending. The amounts so incurred or paid by Mortgagee, together with interest thereon at the Default Rate as hereinafter defined from the date incurred until paid by Farm Hill, shall be added to the indebtedness and secured by the lien of this Ocean Green Mortgage.

2.11. Mortgagee's Performance of Defaults. If Mortgagor defaults in the payment of any tax, assessment, encumbrance or other imposition, in its obligation to furnish insurance hereunder or in the performance or observance of any other covenant, condition or term in this Ocean Green Mortgage or in any other instrument securing the Note, Mortgagee may at its option perform or observe the same, and all payments made (whether such payments are regular or accelerated payments) and costs and expenses incurred or paid by Mortgagee in connection therewith shall become due and payable immediately by Mortgagor. The amounts so incurred or paid by Mortgagee, together with interest thereon at the Default Rate as hereinafter defined from the date incurred until paid by Mortgagor, shall be added to the indebtedness and secured by the lien of this Ocean Green Mortgage. Nothing contained herein shall be construed as requiring

Mortgagee to advance or expend monies for any purposes mentioned in this paragraph, or for any other purpose. Mortgagee is hereby empowered to enter and to authorize others to enter upon the Property or any part thereof for the purpose of performing or observing any such defaulted covenant, condition or terms, without thereby becoming liable to Mortgagor or any person in possession holding under Mortgagor.

2.12. Books and Records. Mortgagor shall keep and maintain at all times complete, true and accurate books of accounts and records reflecting the results of the operation of the Property. Mortgagor shall furnish to Mortgagee a balance sheet and a statement of income and expenses. Mortgagor shall permit Mortgagee to inspect said books and records upon request.

### ARTICLE III

#### DEFAULTS

3.01. Event of Default. The term Event of Default, wherever used in this Ocean Green Mortgage, shall mean any one or more of the following events:

(a) Failure of Farm Hill to pay the Note in full on its maturity date.

(b) Failure to pay any other payment due on the Note, which failure shall continue for ten (10) days after written notice provided in accordance with the Modified Loan Documents (if any).

(c) An "Event of Default" as such term is defined in any document securing or evidencing the Note or the Modified Loan Documents not cured within any applicable cure period provided therein.

3.02. Acceleration of Maturity. If an Event of Default shall have occurred, Mortgagee may declare the outstanding principal amount of the Note and the interest accrued thereon, and all other sums secured hereby, to be due and payable immediately, and upon such declaration such principal and interest and other sums shall immediately become and be due and payable without demand or notice.

3.03. Mortgagee's Power of Enforcement. If an Event of Default shall have occurred, Mortgagee may, either with or without entry or taking possession as hereinabove provided or otherwise, proceed by suit or suits at law or in equity or by any other appropriate proceeding or remedy: (a) to enforce payment of the Note or the performance of any term hereof or any other right; (b) to foreclose this Ocean Green Mortgage and to sell, as an entirety or in separate lots or parcels, the Property, under the judgment or decree of a court or courts of competent jurisdiction; and (c) to pursue any other remedy available to it. Mortgagee shall take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, or both, as the Mortgagee may determine.

3.04. Mortgagee's Right to Enter and Take Possession, Operate and Apply Income.

(a) If an Event of Default shall have occurred, Mortgagee, upon demand of Mortgagee, shall forthwith surrender to Mortgagee the actual possession, and if and to the extent permitted by law, Mortgagee itself, or by such officers or agents as it may appoint, may enter and take possession of all the Property, and may exclude Mortgagor and its agents and employees wholly therefrom.

(b) If Mortgagor shall for any reason fail to surrender or deliver the Property or any part thereof after Mortgagee's demand, Mortgagee may obtain a judgment or decree conferring on Mortgagee the right to immediate possession or requiring Mortgagor to deliver immediate possession of all or part of the Property to Mortgagee to the entry of which judgment or decree Mortgagor hereby specifically consents.

(c) Mortgagor shall pay to Mortgagee, upon demand, all reasonable costs and expenses of obtaining such judgment or decree and reasonable compensation to Mortgagee, its attorneys and agents, and all such costs, expenses and compensation shall, until paid, be secured by the lien of this Ocean Green Mortgage.

(d) Upon every such entering upon or taking of possession, Mortgagee may hold, store, use, operate, manage and control the Property and conduct the business thereof, and, from time to time:

(i) make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon and purchase or otherwise acquire additional fixtures, personalty and other property;

(ii) insure or keep the Property insured;

(iii) manage and operate the Property and exercise all the rights and powers of Mortgagor in its name or otherwise, with respect to the same;

(iv) enter into agreements with others to exercise the powers herein granted Mortgagee:

all as Mortgagee in its reasonable judgment from time to time may determine; and Mortgagee may collect and receive all the income, revenues, rents, issues and profits of the same, including those past due as well as those accruing thereafter; and shall apply the monies so received by Mortgagee in such priority as Mortgagee may determine to (1) the cost of insurance, taxes, assessments and other proper charges upon the Property or any part thereof; (2) the deposits for taxes and assessments and insurance premiums due; (3) the payment of accrued interest on the Note; and (4) the reasonable compensation, expenses and disbursements of the agents and attorneys.

3.05. Contracts. Mortgagee, at its option, is authorized to foreclose this Mortgage subject to the rights of any purchasers of any portion of the Property, and the failure to make any

such purchasers parties defendant to any such foreclosure proceedings and to foreclose their rights will not be, nor be asserted by Mortgagor to be, a defense to any proceedings instituted by Mortgagee to collect the sums secured hereby or to collect any deficiency remaining unpaid after the foreclosure sale of the Property.

3.06. Purchase by Mortgagee. Upon any such foreclosure sale, Mortgagee may bid for and purchase the Property and, upon compliance with the terms of sale, may hold, retain and possess and dispose of such property in its own absolute right without further accountability.

3.07. Application of Indebtedness Toward Purchase Price. Upon any such foreclosure sale, Mortgagee may, if permitted by law, after allowing for the proportion of the total purchase price required to be paid in cash and for the costs and expenses of the sale, compensation and other charges, in paying the purchase price apply any portion of or all sums due to Mortgagee under the Note, the Modified Loan Documents, this Ocean Green Mortgage or any other instrument securing the Note or the Modified Loan Documents, in lieu of cash, to the amount which shall, upon distribution of the net proceeds of such sale, be payable thereon.

3.08. Waiver of Valuation, Stay, Extension, and Redemption Laws. Mortgagor agrees to the full extent permitted by law that in case of a default on its part hereunder, neither Mortgagor nor anyone claiming through or under it shall or will set up, claim or seek to take advantage of any appraisement, valuation, stay, extension or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, or the absolute sale of the Property or the final and absolute putting into possession thereof, immediately after such sale, of the purchasers thereat, and Mortgagor, for itself and all who may at any time claim through or under it, hereby waives, to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the assets comprising the Property marshaled upon any foreclosure of the lien hereof and agrees that Mortgagee or any court having jurisdiction to foreclose such lien may sell the Property in part or as an entirety.

3.09. Receiver. If an Event of Default shall have occurred, Mortgagee, to the extent permitted by law and without regard to the value or occupancy of the security, shall be entitled as a matter of right if it so elects to the appointment of a receiver to enter upon and take possession of the Property and to collect all rents, revenues, issues, income, products and profits thereof and apply the same as the court may direct. The receiver shall have all rights and powers permitted under the laws of the state where the Land is located and such other powers as the court making such appointment shall confer. The expenses, including receiver's fees, attorney's fees, costs and agent's compensation, incurred pursuant to the powers herein contained shall be secured by this Ocean Green Mortgage. The right to enter and take possession of and to manage and operate the Property, and to collect the rents, issues and profits thereof, whether by a receiver or otherwise, shall be cumulative to any other right or remedy hereunder or afforded by law, and may be exercised concurrently therewith or independently thereof. Mortgagee shall be liable to account only for such rents, issues and profits actually received by Mortgagee, whether received pursuant to this paragraph or paragraph 3.04. Notwithstanding the appointment of any receiver or other custodian, Mortgagee shall be entitled as secured party hereunder to the possession and control of any cash, deposits, or instruments at the time held by, or payable or deliverable under the terms of this Mortgage to, Mortgagee.

3.10. Suits to Protect the Property. Mortgagee shall have the power and authority to institute and maintain any suits and proceedings as Mortgagee may deem advisable (a) to prevent any impairment of the Property by any acts which may be unlawful or any violation of this Ocean Green Mortgage, (b) to preserve or protect its interest in the Property, and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order might impair the security hereunder or be prejudicial to Mortgagee's interest.

3.11. Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceedings affecting Farm Hill, any person, partnership or corporation guaranteeing or endorsing any of Farm Hill's obligations, its creditors or its property, Mortgagee, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have its claims allowed in such proceedings for the entire amount due and payable by Mortgagor under the Note the Modified Loan Documents, this Ocean Green Mortgage and any other instrument securing the Note or the Modified Loan Documents, at the date of the institution of such proceedings, and for any additional amounts which may become due and payable by Mortgagor after such date.

3.12. Default in Payment of the Note; Exculpation of Mortgagor; Application of Monies by Mortgagee.

(a) Notwithstanding anything in this Ocean Green Mortgage, the Loan Documents or the Modified Loan Documents to the contrary, Mortgagee agrees that (i) Mortgagor shall be liable under the Note to the full extent (but only to the extent) of the Property, (ii) if default occurs in the timely and proper payment of all or any part of the indebtedness evidenced by the Note or in the timely and proper performance of the obligations of Farm Hill under the Loan Documents or the Modified Loan Documents, any judicial proceedings brought by Mortgagee against Mortgagor shall be limited to the preservation, enforcement and foreclosure of the lien granted hereby, and no attachment execution or other writ of process shall be sought, issues or levied upon any assets, properties or funds of Mortgagor other than the Property, and (iii) in the event of foreclosure no judgment for any deficiency upon the indebtedness evidenced by the Note shall be sought or obtained by Mortgagee against Mortgagor.

(b) Any monies collected or received by Mortgagee under this paragraph shall be applied as follows:

(i) First, to payment of amounts due and unpaid under the Note, this Ocean Green Mortgage and all other instruments securing the Note and the Modified Loan Documents; and

(ii) Second, to the payment of reasonable compensation, expenses and disbursements of the agents and attorneys.

3.13. Delay or Omission No Waiver. No delay or omission of Mortgagee or of any holder of the Note to exercise any right, power or remedy accruing upon any Event of Default shall exhaust or impair any such right, power or remedy or shall be construed to waive any such Event of Default or to constitute acquiescence therein. Every right, power and remedy given to Mortgagee may be exercised from time to time and as often as may be deemed expedient by Mortgagee.

3.14. No Waiver of One Default to Affect Another. No waiver of any Event of Default hereunder shall extend to or affect any subsequent or any other Event of Default then existing, or impair any rights, powers or remedies consequent thereon. If Mortgagee (a) grants forbearance or an extension of time for the payment of any sums secured hereby; (b) takes other or additional security for the payment thereof; (c) waives or does not exercise any right granted in the Note, this Ocean Green Mortgage or any other instrument securing the Note; (d) releases any part of the Property from the lien of this Ocean Green Mortgage or any other instrument securing the Note or the Modified Loan Documents; (e) consents to the filing of any map, plat or replat of the Land; (f) consents to the granting of any easement on the Land; or (g) makes or consents to any agreement changing the terms of this Ocean Green Mortgage or subordinating the lien or any charge hereof, no such act or omission shall release, discharge, modify, change or affect the original liability under the Note, this Ocean Green Mortgage or otherwise of Farm Hill, or any subsequent purchaser of the Property or any part thereof or any maker, cosigner, endorser, surety or guarantor. No such act or omission shall preclude Mortgagee from exercising any right, power or privilege herein granted or intended to be granted in case of any Event of Default then existing or of any subsequent Event of Default nor, except as otherwise expressly provided in an instrument or instruments executed by Mortgagee, shall the lien of this Ocean Green Mortgage be altered thereby. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Property, Mortgagee, without notice to any person, firm or corporation, is hereby authorized and empowered to deal with any such vendee or transferee with reference to the Property or the indebtedness secured hereby, or with reference to any of the terms or conditions hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any of the liabilities or undertakings hereunder.

3.15. Discontinuance of Proceedings; Position of Parties Restored. If Mortgagee shall have proceeded to enforce any right or remedy under this Ocean Green Mortgage by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to Mortgagee, then and in every such case Mortgagor and Mortgagee shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Mortgagee shall continue as if no such proceeding had occurred or had been taken.

3.16. Remedies Cumulative. No right, power or remedy conferred upon or reserved to Mortgagee by the Note, the Modified Loan Documents, this Ocean Green Mortgage or any other instrument securing the Note or the Modified Loan Documents is exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or under the Note or the Modified Loan Documents or any other instrument securing the Note or the Modified Loan Documents, or now or hereafter existing at law, in equity or by statute.

## ARTICLE IV

MISCELLANEOUS PROVISIONS

4.01. Breach of Other Documents. Notwithstanding anything to the contrary contained in this Mortgage or in the Note or the Modified Loan Documents, or in any other instrument securing the loan evidenced by such Note or the Modified Loan Documents, upon an Event of Default, Mortgagee may at its option declare the entire indebtedness secured hereby, and all interest thereon and all advances made by Mortgagee hereunder, immediately due and payable and/or exercise all additional rights accruing to it under this Ocean Green Mortgage in the event of a breach by Mortgagor of any covenant contained in this Ocean Green Mortgage, the Note, or in any other document evidencing or securing the Note.

4.02. Partial Foreclosure. In the event the Property is comprised of more than one parcel of real property, Mortgagor hereby waives any right to require Mortgagee to foreclose or exercise any of its other remedies against all of the Property as a whole or to require Mortgagee to foreclose or exercise such remedies against one portion of the Property prior to the foreclosure or exercise of said remedies against other portions of the Property.

4.03. Future Advances. Mortgagee, at its option, may make future advances to Farm Hill, provided, however, that nothing contained herein shall constitute an obligation to do so. Such future advances, with interest at the rate payable from time to time on the outstanding principal under the Note, shall be secured by this Ocean Green Mortgage when evidenced by the Note or by any other instrument indicating that such advances are secured by this Ocean Green Mortgage or when advanced under the terms of this Ocean Green Mortgage. Mortgagee may make such future advances (a) at the request of Farm Hill, whether or not there is any obligation to make future advances, or (b) to pay, with or without the consent or request of Mortgagee, any amounts which may be due under this Ocean Green Mortgage or under any other mortgage or lien affecting the Property.

4.04. Default Rate. The Default Rate shall be the rate of interest after default as provided in the Note and the Modified Loan Documents.

4.05. Heirs, Successors, and Assigns Included in Parties. Whenever one of the parties hereto is named or referred to herein, the heirs, successors and assigns of such party shall be included and all covenants and agreements contained in this Ocean Green Mortgage, by or on behalf of Mortgagor or Mortgagee, shall bind and inure to the benefit of their respective heirs, successors and assigns, whether so expressed or not.

4.06. Addresses for Notices, Etc. Any notice, report, demand or other instrument authorized or required to be given or furnished under this Ocean Green Mortgage to Mortgagor or Mortgagee shall be deemed given or furnished when mailed certified mail, return receipt requested, to that party at the address first shown above. Any party hereto may change the address for said notice by appropriately notifying the other parties in writing.

4.07. Headings. The headings of the articles, sections, paragraphs and subdivisions of this Mortgage are for convenience of reference only, are not to be considered a part hereof, and shall not limit or expand or otherwise affect any of the terms hereof.

4.08. Invalid Provisions to Affect No Others. In the event that any of the covenants, agreements, terms or provisions contained in the Note, the Modified Loan Documents, this Ocean Green Mortgage or any other instrument securing the Note or the modified Loan Documents shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein and in the Note, the Modified loan Documents and any other instrument securing the Note or the Modified Loan Documents shall be in no way affected, prejudiced or disturbed thereby.

4.09. Changes, etc. Neither this Ocean Green Mortgage nor any term hereof may be changed, waived, discharged or terminated orally, or by any action or inaction, but only by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought. Any agreement hereafter made by Mortgagor and Mortgagee relating to this Ocean Green Mortgage shall be superior to the rights of the holder of any intervening lien or encumbrance, with the exception of the mortgage lien currently of record superior hereto also held by Mortgagee.

4.09. Governing Law. This Ocean Green Mortgage is made by Mortgagor and accepted by Mortgagee in the State of South Carolina, with reference to the laws of such State, and shall be construed, interpreted, enforced and governed by and in accordance with such laws (excluding the principles thereof governing conflicts of law).

4.10. Jurisdiction. Mortgagor submits to the jurisdiction of any court of competent jurisdiction within the State of South Carolina. Mortgagor agrees that any action concerning this Mortgage, the Note or any other loan document, whether initiated by Mortgagee, Mortgagor or any other party, shall be tried only in a court of competent jurisdiction within the State of South Carolina, and Mortgagor waives all objections to venue. All matters arising hereunder shall be determined in accordance with the law and practice of such South Carolina court. Mortgagor further agrees to comply with all requirements necessary to give such court in personam jurisdiction and agrees that service of process may be accomplished by, in addition to any other lawful means, certified mail, return receipt requested, to the Mortgagor at Mortgagor's address set forth above or any new address of which Mortgagee has been notified by Mortgagor in writing.

4.12. WAIVER OF JURY TRIAL. MORTGAGOR AND MORTGAGEE WAIVE, TO THE FULL EXTENT PERMITTED BY LAW, THE RIGHT TO A JURY TRIAL IN ANY LITIGATION CONCERNING THIS OCEAN GREEN MORTGAGE AND IN ANY LITIGATION CONCERNING ANY DEFENSE, CLAIM, COUNTERCLAIM, CLAIM OF SET-OFF OR SIMILAR CLAIM OF ANY NATURE THAT MORTGAGOR MAY ASSERT AGAINST MORTGAGEE.

IN WITNESS WHEREOF, the undersigned have executed this instrument the day and year above first written.

Signed, sealed and delivered in the presence of:

Hofford-Ocean Green, LLC

*[Handwritten signatures]*

By: *[Signature]* (L.S.)  
Name: John H. Hofford  
Its: Manager/Member

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF CHARLESTON    )

Before me, Heidi L. Hoepfner, the undersigned Notary Public, personally appeared, Hofford-Ocean Green, LLC, by John H. Hofford, its Manager/Member executed the foregoing instrument this 29<sup>th</sup> day of May, 2009, and acknowledged that (s)he executed the same.

*[Signature]* (L.S.)  
Notary Public for South Carolina  
My Commission Expires: 2/6/2014



NOTARY PUBLIC FOR SOUTH CAROLINA  
MY COMMISSION EXPIRES FEBRUARY 6, 2014

RHC BK 0057 Pg 917 : Pg 22

Signed, sealed and delivered  
in the presence of:

*[Handwritten signatures]*

Bennett-Ocean Green, LLC

By: *[Signature]* (L.S.)  
Name: Michael R. Bennett  
Its: Manager/Member

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF CHARLESTON     )

Before me, Heidi L. Hoshner, the undersigned Notary Public, personally  
appeared, Bennett-Ocean Green, LLC, by Michael R. Bennett, its Manager/Member executed the  
foregoing instrument this \_\_\_ day of May, 2009, and acknowledged that (s)he ex  
same.

*[Signature]* (L.S.)  
Notary Public for South Carolina  
My Commission Expires: FEB 6<sup>th</sup> 2014



NOTARY PUBLIC FOR SOUTH CAROLINA  
MY COMMISSION EXPIRES FEBRUARY 6, 2014



Exhibit A  
Legal Description of the Ocean Green Property

ALL that certain piece, parcel or lot of land, together with the buildings and improvements thereon, situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, and shown and designated as Lot 17 on a Plat entitled "A Final Plat of Bennett and Hofford Golf Cottages and a 6.038 Acre Tract, Owned by Kiawah Resort Associates, Locate in the Town of Kiawah Island, Charleston County, South Carolina" prepared by Mark S. Busey, RLS, dated November 20, 1989, last revised June 19, 1990, recorded in the RMC Office for Charleston County in Plat Book BZ, Page 203. Said lot having such size shape, dimensions, buttings and boundings, more or less, as will by reference to said Plat more fully appear.

BEING a portion of the property conveyed to Bennett-Ocean Green, LLC by deed of Michael R. Bennett as recorded in the RMC Office for Charleston County in Book 0027 at Page 422 and being a portion of the property conveyed to Hofford-Ocean Green, LLC by deed of John H. Hofford as recorded in the RMC Office for Charleston County in Book 0027 at Page 420.

TMS No. 264-13-00-151

# RECORDER'S PAGE

**NOTE:** This page **MUST** remain with the original document



*[Handwritten signature]*

**Filed By:**

BUIST, MOORE, SMYTHE & MCGEE P.A.  
ATTORNEYS AT LAW  
POST OFFICE BOX 999  
CHARLESTON SC 29402

RECORDED		
Date:	June 1, 2009	
Time:	2:45:32 PM	
Book	Page	DocType
0057	917	Mtg
Charlie Lybrand, Register Charleston County, SC		

RMC BK 0057 Pg 917: pg 24 \*

**MAKER:**

BENNETT-OCEAN GREEN AL

# of Pages: 24  
# of Sats:  # of References:

**RECIPIENT:**

CAROLINA FIRST BANK

Note:

Recording Fee	\$ 10.00
Extra Reference Cost	\$ -
Extra Pages	\$ 19.00
Postage	\$ -
Chattel	\$ -
<b>TOTAL</b>	<b>\$ 29.00</b>

Original Book:

Original Page:

DRAWER   
CLERK



0057  
Book



917  
Page



06/01/2009  
Recorded Date



24  
# Pgs



Original Book



Original Page



M  
Doc Type



14:45:32  
Recorded Time

HYPOTHECATION AGREEMENT

This Agreement is made and entered into this 29<sup>th</sup> day of May, 2009, by and between Bennett-Ocean Green, LLC and Hofford-Ocean Green, LLC and Carolina First Bank ("Bank").

RECITALS:

WHEREAS, Bank has agreed to modify a loan to Farm Hill Associates, LLC (hereinafter "Borrower") to be secured by real property owned by Bennett-Ocean Green, LLC, having as its member and manager Michael R. Bennett, and Hofford-Ocean Green, LLC, having as its member and manager John H. Hofford; and

WHEREAS the loan from Bank to Farm Hill Associates, LLC. is in the sum of Five Million Six Hundred Thousand and No/100ths Dollars (\$5,600,000.00), (the "Loan"); and

WHEREAS, the Bank requires that the Loan be secured by a second mortgage lien on property owned by Bennett-Ocean Green, LLC and Hofford-Ocean Green, LLC; and

WHEREAS, pursuant to the terms of the Operating Agreement of Bennett-Ocean Green, LLC, the Member, Michael R. Bennett can mortgage, pledge or otherwise encumber the property of Bennett-Ocean Green, LLC, and Hofford-Ocean Green, LLC the Member, John H. Hofford can mortgage, pledge or otherwise encumber the property of Hofford-Ocean Green, LLC.

NOW, THEREFORE, in consideration of the Bank making the Loan to Borrower, Bennett-Ocean Green, LLC and Hofford-Ocean Green, LLC does hereby authorize and certify that the property more particularly described in Exhibit "A" attached hereto (the "Property") shall be encumbered by a mortgage lien to be given to the Bank in order to secure the loan given to Borrower and all renewals, extensions and modifications thereof, and also for any all other indebtedness of the Borrower to Bank, and all renewals and extensions thereof, and Bennett-Ocean Green, LLC and Hofford-Ocean Green, LLC has hereby waived notice of all or any such indebtedness or extension or renewal thereof. Bennett-Ocean Green, LLC and Hofford-Ocean Green, LLC does hereby acknowledge and agree that it has received good and valuable consideration for its execution of this Hypothecation Agreement and its execution and delivery of a mortgage lien on the Property for the purpose of securing the Loan, without which the Bank would not be willing to make the Loan to the Borrower.

Bennett-Ocean Green, LLC and Hofford-Ocean Green, LLC in consideration of all or any such credit so granted by the Bank to the Borrower, does hereby agree that all or any property pledged or hypothecated, as aforesaid, shall be subject, in the Bank's hands or those of the Bank's assignees, to all powers which would apply thereto by contract or otherwise if said property so pledged or hypothecated stood in the name of said Borrower and not in the name of Bennett-Ocean Green, LLC and Hofford-Ocean Green, LLC . The proceeds of the Loan shall be accounted for and paid over to the Borrower and the pledged Property may be disposed of and/or paid over to or upon the direction of the Bank in accordance with the Note of Borrower and the Mortgage to be given to Bank by Bennett-Ocean Green, LLC and Hofford-Ocean Green, LLC encumbering the Property as security for the Loan.

This Agreement shall be binding upon an inure to the benefit of the parties hereto, their successors and assigns.

IN WITNESS WHEREOF, the parties have affixed their hands and seals to be effective as of the date first above written.

WITNESSES:

*[Handwritten signature]*  
\_\_\_\_\_  
*[Handwritten signature]*  
\_\_\_\_\_

Bennett-Ocean Green, LLC, a South Carolina limited liability company

By: *[Handwritten signature]*  
Michael R. Bennett, Member/Manager

*[Handwritten signature]*  
\_\_\_\_\_  
*[Handwritten signature]*  
\_\_\_\_\_

Hofford-Ocean Green, LLC, a South Carolina limited liability company

By: *[Handwritten signature]*  
John H. Hofford, Member/Manager

*[Handwritten signature]*  
\_\_\_\_\_  
*[Handwritten signature]*  
\_\_\_\_\_

Farm Hill Associates, LLC

By: *[Handwritten signature]*  
Michael R. Bennett, its Member

*[Handwritten signature]*  
\_\_\_\_\_  
*[Handwritten signature]*  
\_\_\_\_\_

By: *[Handwritten signature]*  
John H. Hofford, its Member

(01518912.)  
00326403.

*Ashley B*  
*[Signature]*

Carolina First Bank

By: *B. Roger Jones III*  
Its: *Vice President*

{01518912.}.  
00326403.

SCHEDULE "A"  
Property Description

ALL that certain piece, parcel or lot of land, together with the buildings and improvements thereon, situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, and shown and designated as Lot 17 on a Plat entitled "A Final Plat of Bennett and Hofford Golf Cottages and a 6.038 Acre Tract, Owned by Kiawah Resort Associates; Locate in the Town of Kiawah Island, Charleston County, South Carolina" prepared by Mark S. Busey, RLS, dated November 20, 1989, last revised June 19, 1990, recorded in the RMC Office for Charleston County in Plat Book BZ, Page 203. Said lot having such size shape, dimensions, buttings and boundings, more or less, as will by reference to said Plat more fully appear.

BEING a portion of the property conveyed to Bennett-Ocean Green, LLC by deed of Michael R. Bennett as recorded in the RMC Office for Charleston County in Book 0027 at Page 422 and being a portion of the property conveyed to Hofford-Ocean Green, LLC by deed of John H. Hofford as recorded in the RMC Office for Charleston County in Book 0027 at Page 420.

TMS No. 264-13-00-151

(01518912.)  
00326403.



UCCI

Farm Hill Assoc. LLC 5121022399  
5121036802  
5120881428

RMC Yr 2009 No 11272 : pg 1

STATE OF SOUTH CAROLINA FILING FEES:

- \$ 8.00 - For the FIRST TWO pages \$20.00 - Public Finance Transaction
- \$ 2.00 - For THIRD page \$20.00 - Manufactured Home Transaction
- \$ 1.00 - Each ADDITIONAL page after the THIRD page.

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS CAREFULLY

For each additional Debtor more than two (2), add \$2.00 for each additional Debtor.

John Hank Hofface

A. NAME & PHONE OF CONTACT AT FILER [optional]  
**David H. Crawford**

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

**Buist Moore Smythe McGee P.A.**  
P.O. Box 999  
Charleston, SC 29402



X0911272

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME  
**Bennett-Ocean Green, LLC**

OR

1b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

2c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY  
**17 Lockwood Drive 4th Floor Charleston SC 29401 USA**

1d. TAX ID #: (Organizations) (Optional) ADDL INFO RE ORGANIZATION DEBTOR / TYPE OF ORGANIZATION **LLC** JURISDICTION OF ORGANIZATION **South Carolina** 1g. ORGANIZATIONAL ID #, if any  NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME  
**Hofford-Ocean Green, LLC**

OR

2b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

2c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY  
**17 Lockwood Drive 4th Floor Charleston SC 29401 USA**

2d. TAX ID #: (Organizations) (Optional) ADDL INFO RE ORGANIZATION DEBTOR / TYPE OF ORGANIZATION **LLC** JURISDICTION OF ORGANIZATION **South Carolina** 2g. ORGANIZATIONAL ID #, if any  NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME  
**CAROLINA FIRST BANK**

OR

3b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

3c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

4. This FINANCING STATEMENT covers the following collateral:

**All equipment, furniture, fixtures, contract rights and general intangibles as further described on Schedule A attached hereto.**

*Handwritten signature/initials*

6. ALTERNATIVE DESIGNATION (if applicable) LESSEE/LESSOR CONSIGNEE/CONSIGNOR BAILEE/BALOR SELLER/BUYER A.G. LIEN NON-UCC FILING

7. REQUEST SEARCH REPORT(S) ON UCC 11 FORM  All Debtors  Debtor 1  Debtor 2

8. OPTIONAL FILER REFERENCE DATA

12892.0019-DHC/sjc (2009) - Filed in the RMC Office for Charleston County

FILING OFFICE COPY - SC SECRETARY OF STATE'S OFFICE (FORM UCCI) (7/1/2001)



# UCC-1Ad

## UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

### 9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

9a. ORGANIZATION'S NAME <b>Bennett-Ocean Green, LLC</b>		
OR	9b. INDIVIDUAL'S LAST NAME	
	FIRST NAME	MIDDLE NAME, SUFFIX

10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

### 11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only org name (11a or 11b) - do not abbreviate or combine names

11a. ORGANIZATION'S NAME			
OR	11b. INDIVIDUAL'S LAST NAME		SUFFIX
	FIRST NAME	MIDDLE NAME	
11c. MAILING ADDRESS		CITY	STATE POSTAL CODE COUNTRY
11d. TAX ID #: (Organizations)	ADD'L INFO RE ORGANIZATION DEBTOR	11e. TYPE OF ORGANIZATION	11f. JURISDICTION OF ORGANIZATION
			11g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE

### 12. ADDITIONAL SECURED PARTY'S or ASSIGNOR S/P'S NAME - insert only org name (12a or 12b)

12a. ORGANIZATION'S NAME			
OR	12b. INDIVIDUAL'S LAST NAME		SUFFIX
	FIRST NAME	MIDDLE NAME	
12c. MAILING ADDRESS		CITY	STATE POSTAL CODE COUNTRY

13. This FINANCING STATEMENT covers  timber to be cut or  as-extracted collateral, or is filed as a  fixture filing.

14. Description of real estate.  
**See Exhibit "A" Attached Hereto and Incorporated Herein by Reference**

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest):

16. Additional collateral description.

17. Check only if applicable and check only one box.  
Debtor is a  Trust or  Trustee acting with respect to property held in trust or  Decedent's Estate

18. Check only if applicable and check only one box.  
 Debtor is a TRANSMITTING UTILITY  
 Filed in connection with a Manufactured-Home Transaction — effective 30 years  
 Filed in connection with a PUBLIC-FINANCE TRANSACTION — effective 30 years

Exhibit A  
Legal Description of the Ocean Green Property

ALL that certain piece, parcel or lot of land, together with the buildings and improvements thereon, situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, and shown and designated as Lot 17 on a Plat entitled "A Final Plat of Bennett and Hofford Golf Cottages and a 6.038 Acre Tract, Owned by Kiawah Resort Associates, Locate in the Town of Kiawah Island, Charleston County, South Carolina" prepared by Mark S. Busey, RLS, dated November 20, 1989, last revised June 19, 1990, recorded in the RMC Office for Charleston County in Plat Book BZ, Page 203. Said lot having such size shape, dimensions, buttings and boundings, more or less, as will by reference to said Plat more fully appear.

BEING a portion of the property conveyed to Bennett-Ocean Green, LLC by deed of Michael R. Bennett as recorded in the RMC Office for Charleston County in Book 0027 at Page 422 and being a portion of the property conveyed to Hofford-Ocean Green, LLC by deed of John H. Hofford as recorded in the RMC Office for Charleston County in Book 0027 at Page 420.

TMS No. 264-13-00-151

**SCHEDULE "A"**  
**DESCRIPTION OF COLLATERAL**

**ALL OF DEBTOR's** right, title and interest in and to the following, whether now existing or hereafter acquired:

1. All fixtures, machinery, equipment and other articles of personal or mixed property, belonging to Debtor, at any time now or hereafter installed in, attached to or situated in or upon the real property described on Schedule "A" hereto (the "Real Estate"), or the buildings and improvements now or hereafter erected thereon (the "Improvements"), or used or intended to be used in connection with the Real Estate, or in the operation of the buildings and improvements, plant, business or dwelling situate thereon, whether or not such personal or mixed property is or shall be affixed thereto, and all replacements, substitutions and proceeds of the foregoing (collectively, the "Service Equipment"), including without limitation: (i) all appliances, furniture and furnishings; all articles of interior decoration, floor, wall and window coverings; all office, restaurant, bar, kitchen and laundry fixtures; utensils, appliances and equipment; all supplies, tools and accessories; all storm and screen windows, shutters, doors, decorations, awnings, shades, blinds, signs, trees, shrubbery and other plantings; (ii) all building service fixtures, machinery and equipment of any kind whatsoever; all lighting, heating, ventilating, air conditioning, refrigerating, sprinkling, plumbing, security, irrigating, cleaning, incinerating, waste disposal, communications, alarm, fire prevention and extinguishing systems, fixtures, apparatus, machinery and equipment; all elevators, escalators, lifts, cranes, hoists and platforms; all pipes, conduits, pumps, boilers, tanks, motors, engines, furnaces and compressors; all dynamos, transformers and generators; (iii) all building materials, building machinery and building equipment delivered on site to the Real Estate during the course of, or in connection with any construction or repair or renovation of the buildings and improvements; (iv) all parts, fittings, accessories, accessions, substitutions and replacements therefor and thereof; and (v) all files, books, ledgers, reports and records relating to any of the foregoing.

2. All leases, subleases, tenancies, licenses, occupancy agreements or agreements to lease all or any portion of the Real Estate, Improvements or Service Equipment and all extensions, renewals, amendments, modifications and replacements thereof, and any options, rights of first refusal or guarantees relating thereto (collectively, the "Leases"); all rents, income, receipts, revenues, security deposits, escrow accounts, reserves, issues, profits, awards and payments of any kind payable under the Leases or otherwise arising from the Real Estate, Improvements or Service Equipment, including, without limitation, minimum rents, additional rents, percentage rents, parking, maintenance and deficiency rents (collectively, the "Rents"); all of the following personal property (collectively, the "Contracts"): all accounts, general intangibles and contract rights (including any right to payment thereunder, whether or not earned by performance) of any nature relating to the Real Estate, Improvements or Service Equipment, or the use, occupancy, maintenance, construction, repair or operation thereof; all management agreements, franchise agreements, utility agreements and deposits, building service contracts, maintenance contracts, construction contracts and architect's agreements; all maps, plans, surveys and specifications; all warranties and guaranties; all permits, licenses and approvals; and all insurance policies, books of account and other documents, of whatever kind or character, relating to the use, construction upon, occupancy, leasing, sale or operation of the Real Estate, Improvements or Service Equipment.

3. All awards or payments, including interest thereon, made pursuant to condemnation or eminent domain proceedings with respect to the Real Estate.

4. All policies of property, hazard, rent loss, risk and all other types of insurance covering the Real Estate and the items described in Paragraphs 1 through 3 above, together with any and all extensions and replacements thereof, and any and all rights thereunder, and any and all rights of subrogation provided by the Mortgage and Security Agreement of even date herewith in favor of Secured Party covering the Real Estate.

5. All proceeds of any of the items described in Paragraphs 1 through 4 above, which shall include whatever is received upon the use, lease, sale, exchange, transfer, collection or other utilization or any disposition or conversion of any of the Real Estate, Improvements, Service Equipment, Leases, Rents and Contracts, voluntary or involuntary, whether cash or non-cash, including proceeds of insurance and condemnation awards, rental or lease payments, accounts, chattel paper, instruments, documents, contract rights, general intangibles, equipment and inventory.

RMC Yr 2009 No 11272 : PG 5

# RECORDER'S PAGE

*ok*  
*Amie*  
**NOTE: This page MUST remain with the original document**



<b>RECORDED</b>	
June 1, 2009 2:49:37 PM	
File Year	File Number
2009	11272
Charlie Lybrand, Register Charleston County, SC	

**Filed By:**  
 BUIST, MOORE, SMYTHE & MCGEE P.A.  
 ATTORNEYS AT LAW  
 POST OFFICE BOX 999  
 CHARLESTON SC 29402

**MAKER:**  
 BENNETT-OCEAN GREEN AL

**RECIPIENT:**  
 CAROLINA FIRST BANK

**Original File Year:**

**Original File Number:**

Document Type:	UCC
# of Pages:	5
# of References:	
Recording Fee	\$ 11.00
Extra Reference Cost	\$ -
Extra Pages	\$ -
Postage	\$ -
Chattel	\$ -
<b>TOTAL</b>	<b>\$ 11.00</b>

**DRAWER:** Drawer 3  
**CLERK:** ECP



2009  
File Year



.11272  
File Number



06/01/2009  
Recorded Date



5  
# Pages



Original File Year



Original File Number



U  
Doc Type



14:49:37  
Recorded Time

Berkeley County  
Cynthia B. Forte  
Register of Deeds  
Moncks Corner 294616120

00000753 Vol: 8287 Pg: 330



RMC Bk 0107 Pg 175 : pg 1 \*

Instrument Number: 2010-00000753

As

Recorded On: January 13, 2010

Modification of Mortgage

Parties: FARM HILL ASSOCIATES LLC

To

CAROLINA FIRST BANK

Billable Pages: 16

Recorded By: BUIST LAW FIRM

Num Of Pages: 18

Comment: BK 6897 PG 149

\*\* Examined and Charged as Follows: \*\*

Modification of Mortgage 22.00

Recording Charge: 22.00



BP0107175

\*\* THIS PAGE IS PART OF THE INSTRUMENT \*\*

I hereby certify that the within and foregoing was recorded in the Clerk's Office For: Berkeley County, SC

File Information:

Document Number: 2010-00000753

Receipt Number: 261422

Recorded Date/Time: January 13, 2010 01:05:03P

Book-Vol/Pg: Bk-R VI-8287 Pg-330

Cashier / Station: O Howell / Cash Station 6

Record and Return To:

BUIST LAW FIRM

P.O. BOX 999

CHARLESTON SC 29402



*Cynthia B. Forte*

Cynthia B Forte - Register of Dees



00000753 Vol: 8287 Pg: 331

RMC BK 0107 Pg 175 : Pg 2 \*

**FOURTH NOTE AND MORTGAGE MODIFICATION AGREEMENT****AS TO THAT NOTE SECURED BY THAT MORTGAGE DATED MARCH 29, 2007, RECORDED IN THE REGISTER OF DEEDS OFFICE FOR BERKELEY COUNTY IN BOOK 6450, AT PAGE 193, AND RE-RECORDED IN BOOK 6897, AT PAGE 149****AS MODIFIED BY THAT NOTE AND MORTGAGE MODIFICATION AGREEMENT DATED APRIL 30, 2008, AND RECORDED IN BOOK 7324 AT PAGE 237****AS MODIFIED BY THAT SECOND NOTE AND MORTGAGE MODIFICATION AGREEMENT DATED MAY 29, 2009, AND RECORDED IN BOOK 7945 AT PAGE 305 IN THE REGISTER OF DEEDS OFFICE FOR BERKELEY COUNTY.****WITH SAID SECOND NOTE AND MORTGAGE MODIFICATION AGREEMENT DATED MAY 29, 2009, AND RECORDED IN BOOK 7945 AT PAGE 305 THE REGISTERS OF DEEDS OFFICE FOR BERKELEY COUNTY ALSO BEING SECURED BY THAT MORTGAGE FROM MICHAEL R. BENNETT AND JOHN H. HOFFORD DATED MAY 29, 2009, AND RECORDED IN BOOK 7945, AT PAGE 322 IN THE REGISTERS OF DEEDS OFFICE FOR BERKELEY COUNTY.****WITH SAID SECOND NOTE AND MORTGAGE MODIFICATION AGREEMENT DATED MAY 29, 2009, AND RECORDED IN BOOK 7945 AT PAGE 305 THE REGISTERS OF DEEDS OFFICE FOR BERKELEY COUNTY ALSO BEING SECURED BY THAT MORTGAGE FROM BENNETT-OCEAN GREEN, LLC AND HOFFORD-OCEAN GREEN, LLC DATED MAY 29, 2009, AND RECORDED IN BOOK 0057, AT PAGE 917 IN THE RMC OFFICE FOR CHARLESTON COUNTY****AS MODIFIED BY THAT THIRD NOTE AND MORTGAGE MODIFICATION AGREEMENT DATED DECEMBER 31, 2009, AND RECORDED IN BOOK<sup>8283</sup> AT PAGE 58 , IN THE REGISTER OF DEEDS FOR BERKELEY COUNTY.****WITH SAID THIRD NOTE AND MORTGAGE MODIFICATION AGREEMENT DATED DECEMBER 31, 2009, AND RECORDED IN BOOK<sup>8283</sup> AT PAGE 58 THE REGISTERS OF DEEDS OFFICE FOR BERKELEY COUNTY THAT THIRD NOTE AND MORTGAGE MODIFICATION AS TO BENNETT-OCEAN GREEN, LLC AND HOFFORD-OCEAN GREEN, LLC ALSO DATED DECEMBER 31, 2009, AND RECORDED IN BOOK 0102, AT PAGE 575 IN THE RMC OFFICE FOR CHARLESTON COUNTY**

This Fourth Mortgage Modification Agreement (the "Agreement") is made and entered into to be effective as of the 31<sup>st</sup> day of December, 2009 (the "Effective Date"), by Farm Hill Associates, LLC ("Original Mortgagor" or "Borrower"), Bennett Farm Hill, LLC ("Bennett Farm Hill") and Hofford Farm Hill, LLC ("Hofford Farm Hill") (Bennett Farm Hill and Hofford Farm Hill being hereinafter together referred to as the "Current Property Owner"), Michael R. Bennett individually and as a Guarantor (as Guarantor hereinafter Bennett-Guarantor) and John H. Hofford individually and as a Guarantor (as Guarantor hereinafter "Hofford-Guarantor"), Bennett-Ocean Green, LLC ("Bennett-Ocean Green") and Hofford-Ocean Green, LLC

(01702762.3)

17

("Hofford-Ocean Green") (Bennett-Ocean Green and Hofford-Ocean Green being hereinafter together referred to as "Ocean Green"), ("Current Property Owner, Bennett/Hofford, Ocean Green, Michael R. Bennett, individually, and John H. Hofford, individually hereinafter collectively the "Mortgagor") and Carolina First Bank ("Lender" or "Mortgagee"). Individually, Original Mortgagor, Bennett Farm Hill, LLC, Hofford Farm Hill, LLC, Michael R. Bennett, John H. Hofford, Bennett-Ocean Green, LLC, Hofford-Ocean Green, LLC and Carolina First Bank, a "Party" and collectively the "Parties".

#### RECITALS:

WHEREAS, Original Mortgagor heretofore executed and delivered to Mortgagee a Promissory Note dated March 29, 2007, in the original principal amount of Five Million Six Hundred Thousand Dollars (\$5,600,000.00) (the "Note") evidencing the loan made by Mortgagee to Original Mortgagor ( the "Loan"); and

WHEREAS, Bennett-Guarantor heretofore executed and delivered to Mortgagee an Unconditional Guaranty dated March 29, 2007, (the "Bennett Guaranty") of the payment and performance of the Loan evidenced by the Note and of the Loan Documents, as defined below, which Bennett Guaranty is being amended as of the Effective Date hereof in accordance with the Amended and Restated Guaranty Agreement of Michael R. Bennett dated as of the Effective Date of this Agreement (the "Bennett Amended and Restated Guaranty"); and

WHEREAS, Hofford-Guarantor heretofore executed and delivered to Mortgagee an Unconditional Guaranty dated March 29, 2007, (the "Hofford Guaranty") of the payment and performance of the loan evidenced by the Note and of the Loan Documents, as defined below; and

WHEREAS in order to secure repayment of the Note, Original Mortgagor executed and delivered to Mortgagee that certain Mortgage dated March 29, 2007, recorded in the Register of Deeds Office for Berkeley County in Book 6450, at Page 193, and re-recorded in Book 6897, at Page 149 (the "Mortgage"), encumbering certain real property as more particularly described therein (the "Farm Hill Property") and as described on Exhibit A attached hereto; and

WHEREAS, the Mortgage provided that it was to secure the obligations of the Original Mortgagor under the terms of the Note and all other documents evidencing and securing the repayment of the indebtedness evidenced by the Note, including all modifications, extensions, renewals or substitutions of the Note (the Mortgage, the Note, the Bennett Guaranty, the Hofford Guaranty, and all other documents evidencing and securing the repayment of the indebtedness evidenced by the Note, as such Note and other documents evidencing or securing the same may have heretofore been modified and as modified by this Fourth Note and Mortgage Modification Agreement, are hereinafter collectively referred to as the "Loan Documents"); and

WHEREAS, Original Mortgagor conveyed an undivided one half interest in and to the property encumbered by the Mortgage to Bennett Farm Hill, LLC by deeds dated July 16, 2007, recorded in the Register of Deeds Office for Berkeley County in Book 6728, at Page 316, and recorded in Book 6728, at Page 327; and

WHEREAS, Original Mortgagor conveyed an undivided one half interest in and to the property encumbered by the Mortgage to Hofford Farm Hill, LLC by deeds dated July 16, 2007, recorded in the Register of Deeds Office for Berkeley County in Book 6728, at Page 311, and recorded in Book 6728, at Page 321; and

WHEREAS, Original Mortgagor, Current Property Owner, Bennett-Guarantor, Hofford-Guarantor and Mortgagee agreed to modify the Note, the Mortgage, the Bennett Guaranty, the Hofford Guaranty and all other documents evidencing and securing the repayment of the indebtedness evidenced by the Note (the "Modified Loan Documents") by that Note And Mortgage Modification Agreement dated April 30, 2008, and recorded in the ROD Office for Berkeley County in Book 7324 at Page 237 (the "Note and Mortgage Modification Agreement"); and

WHEREAS, Original Mortgagor, Current Property Owner, Bennett-Guarantor, Hofford-Guarantor, Ocean-Green and Mortgagee agreed to further modify the Note, the Mortgage, the Bennett Guaranty, the Hofford Guaranty, and all other documents evidencing and securing the repayment of the indebtedness evidenced by the Note (the "Second Modified Loan Documents") as the Modified Loan Documents were modified by the Note and Mortgage Modification Agreement by that Second Note And Mortgage Modification Agreement dated May 29, 2009, recorded in the ROD Office for Berkeley County in Book 7945 at Page 305 (the "Second Note and Mortgage Modification Agreement"); and

WHEREAS, Original Mortgagor, Current Property Owner, Bennett-Guarantor, Hofford-Guarantor, Ocean-Green and Mortgagee agreed to further modify the Note, the Mortgage, the Bennett Guaranty, the Hofford Guaranty, and all other documents evidencing and securing the repayment of the indebtedness evidenced by the Note (the "Third Modified Loan Documents") as the Modified Loan Documents were modified by the Note and Mortgage Modification Agreement by that Third Note And Mortgage Modification Agreement dated December 31, 2009, recorded in the ROD Office for Berkeley County in Book 8283 , at Page 58 (the "Third Note and Mortgage Modification Agreement"); and

WHEREAS, in order to further secure repayment of the Note, as modified by the Note and Mortgage Modification Agreement, as modified by the Second Note and Mortgage Modification Agreement, and a modified by the Third Note and Mortgage Modification Agreement, Michael R. Bennett and John H. Hofford granted and delivered to Mortgagee that Commercial Mortgage and Security Agreement dated May 29, 2009, and recorded in the Register of Deeds Office for Berkeley County in Book 7945, at Page 322 (the "Bennett/Hofford Mortgage") encumbering certain real property as more particularly described therein (the "Bennett/Hofford Property") and as described on Exhibit B attached hereto; and

WHEREAS, in order to further secure repayment of the Note, as modified by the Note and Mortgage Modification Agreement, as modified by the Second Note and Mortgage Modification Agreement, and as modified by the Third Note and Mortgage Modification Agreement, Ocean-Green granted and delivered to Mortgagee that Commercial Mortgage and Security Agreement dated May 29, 2009, and recorded in the RMC Office for Charleston County in Book 0057, at Page 917 (the "Ocean Green Mortgage") encumbering certain real property as more particularly described therein (the "Ocean Green Property") and as described on Exhibit C attached hereto; and

WHEREAS, Original Mortgagor, Current Mortgagor, Bennett-Guarantor, Hofford-Guarantor, Ocean-Green and Mortgagee have agreed to further modify the Note, the Mortgage the Bennett Guaranty, the Hofford Guaranty, the Bennett/Hofford Mortgage, the Ocean Green Mortgage and all other documents evidencing and securing the repayment of the indebtedness evidenced by the Note (the "Fourth Modified Loan Documents"), as same were modified by the Note and Mortgage Modification Agreement, by the Second Note And Mortgage Modification Agreement, by the Third Note and Mortgage Modification Agreement, by the Bennett/Hofford Mortgage and by the Ocean Green Mortgage, by this Fourth Note And Mortgage Modification Agreement as hereinafter set forth, the Loan Documents, the modified Loan Documents, the Second Modified Loan Documents, and the Third Modified Loan Documents to remain otherwise of full force and effect except as hereby modified, and do desire to reduce their agreement to writing by this Fourth Note and Mortgage Modification Agreement; and

WHEREAS, the terms, covenants and conditions of the Loan Documents, the Modified Loan Documents, the Second Modified Loan Documents, the Third Modified Loan Documents, the Note and Mortgage Modification Agreement, the Second Note and Mortgage Modification Agreement, the Third Note and Mortgage Modification Agreement, the Bennett/Hofford Mortgage and the Ocean Green Mortgage are incorporated herein as fully as if restated herein except as modified hereby.

NOW, THEREFORE, in consideration of the premises and the promises of the Parties hereto, each to the other, and mutual benefits to be derived, the sum of THREE AND NO/100THS (\$3.00) DOLLARS paid to each Party by the other Parties, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

(1) Incorporation of Recitals/ Definitions. The foregoing Recitals are incorporated and made a part of this Agreement. All capitalized terms used herein without definition shall have the meanings ascribed to such terms in the Loan Documents, as defined hereinbelow.

(2) Incorporation of Terms and Conditions of the Loan Documents. The entire terms and conditions of the Note, the Mortgage, the Bennett Guaranty (as modified and amended by the Amended and Restated Bennett Guaranty), the Hofford Guaranty, the Loan Documents, the Modified Loan Documents, the Second Modified Loan Documents, the Third Modified Loan Documents, the Note and Mortgage Modification Agreement, the Second Note and Mortgage Modification Agreement, the Third Note and Mortgage Modification Agreement, the Bennett/Hofford Mortgage, the Ocean Green Mortgage and all documents referred to or incorporated therein as recited above are hereby incorporated and made a part hereof by reference unchanged except as herein amended. Original Mortgagor, Current Property Owner, Bennett-Guarantor, Hofford-Guarantor, Ocean Green and Mortgagee each hereby affirm and restate the warranties, covenants, terms and conditions of the Note, the Mortgage, the Bennett Guaranty, the Hofford Guaranty, the Loan Documents, the Modified Loan Documents, the Second Modified Loan Documents, the Third Modified Loan Documents, the Note and Mortgage Modification Agreement, the Second Note and Mortgage Modification Agreement, the Third Note and Mortgage Modification Agreement, the Bennett/Hofford Mortgage and the Ocean Green Mortgage as applicable to each such Party, as further modified hereby.

(3) Consistency of the Loan Documents. The terms, covenants and conditions of the Note, the Mortgage, the Bennett Guaranty (as modified and amended by the Amended and

Restated Bennett Guaranty), the Hofford Guaranty, the Loan Documents, the Modified Loan Documents, the Second Modified Loan Documents, the Third Modified Loan Documents, the Note and Mortgage Modification Agreement, the Second Note and Mortgage Modification Agreement, the Third Note and Mortgage Modification Agreement, the Bennett/Hofford Mortgage and the Ocean Green Mortgage are hereby further modified consistently with the terms of this Agreement and as follows, all other terms and conditions thereof remaining of full force and effect unchanged except as modified herein.

(4) Transfer by Bennett Farm Hill to Hofford Farm Hill and Transfer by Bennett-Ocean Green to Hofford-Ocean Green. Notwithstanding anything contained in the Loan Documents (as heretofore modified and as further modified by this Fourth Note and Mortgage Modification Agreement) to the contrary, Lender does hereby consent to the transfer by Bennett Farm Hill of its undivided 50% interest in the Farm Hill Property to Hofford Farm Hill, such that Hofford Farm Hill shall become owner of an undivided 100% interest in the Farm Hill Property, and the transfer by Bennett-Ocean Green to Hofford-Ocean Green of its undivided 50% interest in the Ocean Green Property, such that upon Hofford-Ocean Green shall become owner of an undivided 100% interest in the Ocean Green Property; provided, however, that notwithstanding such transfers, John H. Hofford shall not be released from the Hofford Guaranty, and Michael R. Bennett shall not be released from the Bennett Guaranty except to the extent specifically provided in Section 5 of this Fourth Note and Mortgage Modification Agreement and the Amended and Restated Bennett Guaranty.

(5) Modification of the Bennett Guaranty. As of the date of this Fourth Note and Mortgage Modification Agreement, Lender does hereby agree to amend the Bennett Guaranty to limit Michael R. Bennett's liability thereunder to seventy-five (75%) of the outstanding principal balance of the Loan (as such principal balance may be reduced from time to time), as more particularly set forth in the Bennett Amended and Restated Guaranty. Lender does hereby agree to further amend the Bennett Guaranty, as more particularly set forth in the Bennett Amended and Restated Guaranty, to further limit Michael R. Bennett's liability thereunder to fifty (50%) percent of the outstanding principal balance of the Loan (as such principal balance may be reduced from time to time), provided, however, that such further reduction in Michael R. Bennett's liability thereunder shall be subject to and conditioned upon the following conditions precedent (the "Conditions Precedent"): (a) payment and satisfaction of that certain loan by Lender to The Bennett-Hofford Construction Company, Inc. and South Island Market, LLC dated November 12, 2007, as modified by a Note and Mortgage Modification Agreement dated August 29, 2008, and by a Second Note and Mortgage Modification Agreement dated October 31, 2008, and by a Third Note and Mortgage Modification Agreement dated as of December 21, 2009, said loan being secured by a first priority mortgage (as modified) on certain lands owned by The Bennett-Hofford Construction Company, Inc. and/or South Island Market, LLC located on Johns Island, SC, having an original principal balance of \$3,905,000.00 (the "Johns Island Loan"); and (b) as further security for the within Loan, John H. Hofford and Prospect Hill, LLC shall, together, grant Lender a subordinate mortgage on certain lands owned by Prospect Hill, LLC located on Edisto Island, SC (the "Prospect Hill Mortgage") in an amount equal to and in substitution for the additional reduction in Michael R. Bennett's liability from 75% to 50% of the outstanding principal balance of the Loan (as such principal balance may be reduced from time to time). In the event the foregoing Conditions Precedent are not met, satisfied or waived at or prior to the current Maturity Date of the Loan (i.e., June 30, 2010), then the liability of Michael R. Bennett shall remain capped at 75% of the outstanding principal balance of the Loan (as such

(16) Construction. This Agreement shall not be construed more strongly for or against any party solely by reason of who was more responsible for the drafting of it. Execution of this Agreement does not constitute a waiver of any provisions of any of the Note, the Mortgage, the Bennett Guaranty (as modified and amended by the Amended and Restated Bennett Guaranty), the Hofford Guaranty, the Loan Documents, the Modified Loan Documents, the Second Modified Loan Documents, the Third Modified Loan Documents, the Note and Mortgage Modification Agreement, the Second Note and Mortgage Modification Agreement, the Third Note and Mortgage Modification Agreement, the Bennett/Hofford Mortgage, the Ocean Green Mortgage and all documents referred to or incorporated therein as recited above.

(17) Invalidity. If any clause or provision of this Agreement is determined to be illegal, invalid, or unenforceable under any present or future law by the final judgment of a court of competent jurisdiction, the remainder of this Agreement will not be affected thereby. It is the intention of the parties that if any such provision is held to be illegal, invalid, or unenforceable, there will be added in lieu thereof a provision as similar in terms to that provision as is possible and be legal, valid, and enforceable.

(18) Sections. Sections or headings contained in this Agreement are for reference purposes only and are not intended to affect in any way the meaning or interpretation of this Agreement.

(19) Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original document, but all of which will constitute a single document. This document will not be binding on or constitute evidence of a contract between the parties until such time as a counterpart of this document has been executed by each party and a copy thereof delivered to each other party to this Agreement.

**[the remainder of this page intentionally left blank]**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written

Signed, sealed and delivered

in the presence of:

WITNESS:

Kelly BB  
W. Mike Murrell

Kelly BB  
W. Mike Murrell

Kelly BB  
W. Mike Murrell

Kelly BB  
W. Mike Murrell

Kelly BB  
W. Mike Murrell

Kelly BB  
W. Mike Murrell

ORIGINAL MORTGAGOR:

FARM HILL ASSOCIATES, LLC

By: John H. Hofford  
John H. Hofford  
Its: Member

By: Michael R. Bennett  
Michael R. Bennett  
Its: Member

MORTGAGOR

BENNETT FARM HILL, LLC

By: Michael R. Bennett  
Michael R. Bennett  
Its: Member

HOFFORD FARM HILL, LLC

By: John H. Hofford  
John H. Hofford  
Its: Member

Michael R. Bennett  
Michael R. Bennett, individually and  
as Bennett-Guarantor

John H. Hofford  
John H. Hofford, individually and  
as Hofford-Guarantor

Kathy BB  
W. Bruce Commaid

BENNETT-OCEAN GREEN, LLC

By: Michael R. Bennett  
Michael R. Bennett  
Its: Member

Kathy BB  
W. Bruce Commaid

HOFFORD-OCEAN GREEN, LLC

By: John H. Hofford  
John H. Hofford  
Its: Member

STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )

ACKNOWLEDGMENT

I, Kathy B. Brown, (Notary Public), do hereby certify that Farm Hill Associates, LLC by John H. Hofford, its Member, personally appeared before me this day and acknowledged the due execution of the foregoing Third Note and Mortgage Modification Agreement.

Witness my hand and official seal this the 11<sup>th</sup> day of January, 2010.

Kathy BB  
Notary Public For South Carolina  
My Commission Expires: 5/6/15

STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )

ACKNOWLEDGMENT

I, Kathy B. Brown, (Notary Public), do hereby certify that Farm Hill Associates, LLC by Michael R. Bennett, its Member, personally appeared before me this day and acknowledged the due execution of the foregoing Third Note and Mortgage Modification Agreement.

Witness my hand and official seal this the 11<sup>th</sup> day of January, 2010.

Kathy BB  
Notary Public For South Carolina  
My Commission Expires: 5/6/15

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

**ACKNOWLEDGMENT**

I, Kimberly B Braun (Notary Public), do hereby certify that Hofford Farm Hill Associates, LLC by John H. Hofford, its Member, personally appeared before me this day and acknowledged the due execution of the foregoing Third Note and Mortgage Modification Agreement.

Witness my hand and official seal this the 11<sup>th</sup> day of January, 2010.

Kimberly B Braun  
Notary Public For South Carolina  
My Commission Expires: 5/6/15

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

**ACKNOWLEDGMENT**

I, Kimberly B Braun (Notary Public), do hereby certify that Bennett Farm Hill Associates, LLC by Michael R. Bennett, its Member, personally appeared before me this day and acknowledged the due execution of the foregoing Third Note and Mortgage Modification Agreement.

Witness my hand and official seal this the 11<sup>th</sup> day of January, 2010.

Kimberly B Braun  
Notary Public For South Carolina  
My Commission Expires: 5/6/15

STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )

**ACKNOWLEDGMENT**

I, Kimberly B Brown (Notary Public), do hereby certify that John H. Hofford, personally appeared before me this day and acknowledged the due execution of the foregoing Third Note and Mortgage Modification Agreement.

Witness my hand and official seal this the 11<sup>th</sup> day of January, 2010.

Kimberly B Brown  
Notary Public For South Carolina  
My Commission Expires: 5/6/15

STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )

**ACKNOWLEDGMENT**

I, Kimberly B Brown (Notary Public), do hereby certify that Michael R. Bennett, personally appeared before me this day and acknowledged the due execution of the foregoing Third Note and Mortgage Modification Agreement.

Witness my hand and official seal this the 11<sup>th</sup> day of January, 2010.

Kimberly B Brown  
Notary Public For South Carolina  
My Commission Expires: 5/6/15

STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )

ACKNOWLEDGMENT

I, Kimberly B Brown (Notary Public), do hereby certify that Hofford-Ocean Green, LLC, by John H. Hofford, its Member, personally appeared before me this day and acknowledged the due execution of the foregoing Third Note and Mortgage Modification Agreement.

Witness my hand and official seal this the 11<sup>th</sup> day of January, 2010.

Kimberly B Brown  
Notary Public For South Carolina  
My Commission Expires: 5/6/15

STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )

ACKNOWLEDGMENT

I, Kimberly B Brown (Notary Public), do hereby certify that Bennett-Ocean Green, LLC by Michael R. Bennett, its Member, personally appeared before me this day and acknowledged the due execution of the foregoing Third Note and Mortgage Modification Agreement.

Witness my hand and official seal this the 11<sup>th</sup> day of January, 2010.

Kimberly B Brown  
Notary Public For South Carolina  
My Commission Expires: 5/6/15

MORTGAGEE:

CAROLINA FIRST BANK

[Signature]  
Kathryn M Kelly

By: [Signature]  
Printed Name: B. Roper Jenkins III  
Its: Vice President

STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )

ACKNOWLEDGMENT

I, Carla S Ducote, (Notary Public), do hereby certify that Carolina First Bank, by B. Roper Jenkins III, its Vice President, personally appeared before me this day and acknowledged the due execution of the foregoing Third Note and Mortgage Modification Agreement.

Witness my hand and official seal this the 12<sup>th</sup> day of January, 2010.

[Signature]  
Notary Public For South Carolina  
My Commission Expires: 7/27/2019

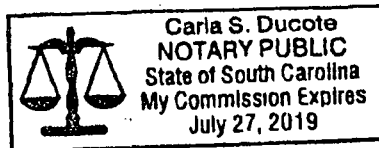


Exhibit A  
Legal Description of the Farm Hill Property

ALL that certain piece, parcel or tract of land, with the buildings and improvements thereon, situate, lying and being in Berkeley County, South Carolina containing 7.18 acres, more or less, as shown on a plat thereof entitled "Plat Showing 7.18 Acres on Bluffview Lane, in Wando, Berkeley County, South Carolina" prepared by Charles F. Dawley, Jr., R.L.S. dated January 18, 2005, recorded in the RMC Office for Berkeley County in Plat Cabinet Q, at Page 326-J (the "Plat"); the said tract of land having such size, shape, dimensions, buttings and boundings as will by reference to said plat more fully appear.

TOGETHER with all of Grantor's right, title and interest in and to the adjoining marshlands and tidelands and all lands lying between the mean high water mark of the above described property and the low water mark of the abutting tidal waters of Wando River and its tributaries.

TOGETHER ALSO with all of Grantor's non-exclusive right, title and interest in and to that certain Existing 50' R/W and Utility Easement as shown on the aforesaid Plat and Grantor's non-exclusive right, title and interest in and to the twenty (20') foot soil road as shown on said Plat.

AND ALSO

ALL that piece, parcel or tract of land, situate, lying and being in Berkeley County, South Carolina and known and designated as Lot C1, containing 12.950 Acres and being shown on that certain survey entitled "A Subdivision Plat of Tracts C, C1 and a 50' right-of-way Containing 32.208 Acres, Owned by the Estate of Adeline Murphy, Located in the City of Charleston, Berkeley County, South Carolina" said survey being prepared by Southeastern Surveying, Inc., dated July 23, 1996 and filed in the RMC/Register of Deeds Office for Berkeley County in Plat Cabinet M at Page 103; said tract of land, having such actual size, shape, dimensions, buttings and boundings as shown on said plat, reference to which is hereby made for a more complete description.

TOGETHER with all of Grantor's right, title and interest in and to all adjoining marshlands and tidelands.

AND ALSO TOGETHER WITH ALL that piece, parcel or lot of land, situate, lying and being in Berkeley County, South Carolina and known and designated as "Highland," containing .288 acres, road right-of-way as shown on that certain plat described above.

AND ALSO

ALL those pieces, parcels or tracts of land, situate, lying and being in Berkeley County, South Carolina and known and designated as Tracts A and D as shown on that certain plat entitled "Plat Showing a Resurvey of Tract A Including the Triangular Piece of Land on the North Side of Cainhoy Road, and Tract D, Presently Owned by the Estate of Adeline Murphy in Berkeley County, South Carolina" said plat being dated May 14, 1996 and filed in the RMC Office for Berkeley County in Plat Cabinet M at Page 18; said tract of land having such actual size, shape, dimensions, buttings and boundings as shown on said plat, reference to which is hereby made for a more complete description.

Exhibit B  
Legal Description of the Bennett/Hofford Property

All that certain piece, parcel or tract of land, with any improvements thereon, situate, lying and being in St. Thomas-St. Dennis Parish, County of Berkeley, State of South Carolina, containing one and two hundred eighty-one thousandths (1.281) acres, more or less, known as Lot B and as shown on a plat of survey entitled "WANDO, PLAT SHOWING LOT A, LOT B AND A 35.85 ACRE RESIDUAL TRACT, ST. THOMAS-ST. DENNIS PARISH, BERKELEY COUNTY, SOUTH CAROLINA", prepared by Penolia A. Van Buren, PLS 11075, dated July 18, 1997, last record February 22, 1999, and recorded March 15, 1999 in the Register of Deeds for Berkeley County in Plat Cabinet O at Page 27-B, and bounded and measuring as follows:

On the Northwest by the right-of-way of SC Highway 100, measuring on the chord one hundred forty-four and forty-hundredths (144.40) feet; on the Northeast by property now or formerly of Cox and Easterby (Lot A), measuring thereon two hundred forty-three and seventy-two hundredths (243.72) feet; on the Southeast by property now or formerly of Cox and Easterby, measuring thereon one hundred sixty-nine and seventy-five hundredths (169.75) feet; on the Southwest by the right-of-way of SC Highway 33, measuring on the chord, one hundred forty-nine and sixteen-hundredths (149.16) feet; and on the West by property now or formerly of Gilbert Stauss, measuring thereon two hundred twenty-three and six one-hundredths (223.06) feet; all measurements being more or less.

Said property having such size, shape, courses, distances, boundaries and measurements as more particularly set forth and shown on the aforesaid plat and for a more complete and accurate description, reference is craved thereto.

**BEING** the identical property conveyed to Michael R. Bennett and John H. Hofford by deed of Lorraine C. Easterby dated May 18, 2005 and recorded in the ROD Office for Berkeley County in Book 4713 at Page 34..

TMS No. 263-00-03-055

Exhibit C  
Legal Description of the Ocean Green Property

**ALL** that certain piece, parcel or lot of land, together with the buildings and improvements thereon, situate, lying and being in the Town of Kiawah Island, Charleston County, South Carolina, and shown and designated as Lot 17 on a Plat entitled "A Final Plat of Bennett and Hofford Golf Cottages and a 6.038 Acre Tract, Owned by Kiawah Resort Associates, Locate in the Town of Kiawah Island, Charleston County, South Carolina" prepared by Mark S. Busey, RLS, dated November 20, 1989, last revised June 19, 1990, recorded in the RMC Office for Charleston County in Plat Book BZ, Page 203. Said lot having such size shape, dimensions, buttings and boundings, more or less, as will by reference to said Plat more fully appear.

**BEING** a portion of the property conveyed to Bennett-Ocean Green, LLC by deed of Michael R. Bennett as recorded in the RMC Office for Charleston County in Book 0027 at Page 422 and being a portion of the property conveyed to Hofford-Ocean Green, LLC by deed of John H. Hofford as recorded in the RMC Office for Charleston County in Book 0027 at Page 420.

TMS No. 264-13-00-151

# RECORDER'S PAGE



**NOTE:** This page **MUST** remain with the original document

**Filed By:**

**BUIST, MOORE, SMYTHE & MCGEE P.A.**  
**ATTORNEYS AT LAW**  
POST OFFICE BOX 999  
CHARLESTON SC 29402

RECORDED		
Date:	February 16, 2010	
Time:	11:56:23 AM	
Book	Page	DocType
0107	175	Mtg/Mod
Charlie Lybrand, Register Charleston County, SC		

**MAKER:**

**FARM HILL ASSOCS ETC**

# of Sats:		# of Pages:	19
		# of References:	

**RECIPIENT:**

**CAROLINA FIRST**

Note:

Recording Fee	\$ 6.00
Extra Reference Cost	\$ -
Extra Pages	\$ 17.00
Postage	\$ -
Chattel	\$ -
<b>TOTAL</b>	<b>\$ 23.00</b>

**Original Book:**

**Original Page:**

**DRAWER**   
**CLERK**



0107  
Book



175  
Page



02/16/2010  
Recorded Date



19  
# Pgs



0057  
Original Book



917  
Original Page



M  
Doc Type



11:56:23  
Recorded Time

## UNCONDITIONAL GUARANTY

March 29, 2007  
(DATE OF EXECUTION AND DELIVERY)

PRIMARY  
OBLIGOR: FARM HILL ASSOCIATES, LLC

GUARANTOR: JOHN H. HOFFORD

OBLIGEE: CAROLINA FIRST BANK  
40 Calhoun Street, Charleston, South Carolina 29401  
Attention: W. Dixon Woodward

WHEREAS, the above Primary Obligor has borrowed or shall borrow up to the sum of Five Million Six Hundred Thousand and no/100 (\$5,600,000.00) Dollars from CAROLINA FIRST BANK (hereinafter termed "CAROLINA FIRST") pursuant to a promissory note from Primary Obligor to CAROLINA FIRST dated March 29, 2007 (the "Note"), and

WHEREAS, CAROLINA FIRST is unwilling to make the loan to Primary Obligor evidenced by the Note unless it receives an unconditioned and continuing joint and several guaranty from the above-named Guarantor(s) (hereinafter collectively termed "Guarantor"), covering all "Obligations of Primary Obligor" as hereinafter defined.

NOW, THEREFORE, in consideration of the premises and of other good and valuable consideration, and in order to induce CAROLINA FIRST to lend money to Primary Obligor as evidenced by the Note, Guarantor (jointly and severally, if more than one) hereby absolutely and unconditionally guarantees to CAROLINA FIRST and its successors and assigns, the due and punctual payment of the Note as and when the same shall become due and payable (whether by acceleration or otherwise), in accordance with the terms of the Note, and including all renewals, extensions and/or modifications thereof, plus all interest, costs and reasonable attorneys' fees of CAROLINA FIRST (all liabilities and obligations of the Primary Obligor to CAROLINA FIRST, including all of the foregoing, being hereinafter collectively termed "Obligations of Primary Obligor").

Further, whether or not suit is brought by CAROLINA FIRST to acquire possession of collateral or to enforce collection of any unpaid balance(s) hereunder, Guarantor expressly hereby agrees to pay all legal expenses and the reasonable attorneys' fees incurred by CAROLINA FIRST with respect to this Guaranty.

In order to implement the foregoing and as additional inducements to CAROLINA FIRST, Guarantor further covenants and agrees:

1. This Guaranty is and shall remain an unconditional and continuing guaranty of payment and not of collection, shall remain in full force and effect irrespective of any interruptions(s) in the business or other dealings and relations of Primary Obligor with

CAROLINA FIRST and shall apply to and guarantee the due and punctual payment of all "Obligations of Primary Obligor" due by Primary Obligor to CAROLINA FIRST. To that end, Guarantor hereby expressly waives any right to require CAROLINA FIRST to bring any action against Primary Obligor or any other person(s) or to require that resort be had to any security or to any balance(s) of any deposit or other account(s) or debt(s) or credits on the books of CAROLINA FIRST in favor of Primary Obligor or any other person(s). Guarantor acknowledges that its liabilities and obligations hereunder are primary rather than secondary, recognizing that Primary Obligor is identified as "PRIMARY OBLIGOR" and the undersigned are identified as "GUARANTOR(S)" solely for convenience in identification of the parties involved in this Guaranty Agreement and in the obligation being secured hereby. To that end and without limiting the generality of the foregoing, the undersigned Guarantor expressly waives any rights he otherwise might have under provisions of South Carolina or other applicable law to require CAROLINA FIRST to attempt to recover against Primary Obligor and/or to realize upon any securities or collateral security which CAROLINA FIRST holds for the obligation evidenced or secured hereby.

2. TIME IS OF THE ESSENCE HEREOF. Any notice(s) to Guarantor shall be sufficiently given if mailed to the address(es) of Guarantor shown below.

3. This Guaranty Agreement constitutes the entire agreement between the parties, and no waivers or modifications shall be valid unless they are reduced to writing, duly executed by the party to be charged thereby, and expressly approved in writing by an officer of CAROLINA FIRST actually involved in the transactions being guaranteed hereby.

4. If any process is issued or ordered to be served upon CAROLINA FIRST, seeking to seize Primary Obligor's and/or Guarantor's rights and/or interests in any bank account(s) maintained with CAROLINA FIRST, the balance(s) in any such account(s) shall immediately be deemed to have been and shall be set-off against any and all "Obligations of Primary Obligor" and/or all obligations and liabilities of Guarantor hereunder, as of the time of the issuance of any such writ or process, whether or not Primary Obligor, Guarantor and/or CAROLINA FIRST shall then have been served therewith.

5. All moneys available to and/or received by CAROLINA FIRST for application toward payment of (or reduction of) the "Obligations of Primary Obligor" may be applied by CAROLINA FIRST to such Obligations of Primary Obligor in such manner as set forth in the mortgage.

6. [Intentionally Left Blank]

7. Guarantor agrees that his liability hereunder shall not be diminished by any failure on the part of CAROLINA FIRST to perfect (by filing, recording or otherwise) any security interest(s) it may have in any property securing this Unconditional Guaranty Agreement and/or the "Obligations of Primary Obligor" secured hereby and hereunder.

8. Guarantor further hereby consents and agrees that CAROLINA FIRST may at any time, or from time to time, in its sole discretion: (i) extend or change the time of payment, and/or

11-1550

the manner, place or terms of payment of any or all of the "Obligations of Primary Obligor"; (ii) exchange, release and/or surrender all or any of any collateral security, or any part(s) thereof, by whomsoever deposited, which is or may hereafter be held by it in connection with all or any of the "Obligations of Primary Obligor" and/or any liabilities or obligations of Guarantor hereunder; (iii) release any other guarantor, endorser or co-obligor of the "Obligations of Primary Obligor"; (iv) sell or otherwise dispose of and/or purchase all or any of any such collateral at public or private sale, or to or through any Investment Securities Broker, and after deducting all costs and expenses of every kind for collection, preparation for sale, sale or delivery, the net proceeds of any such sale(s) or other disposition may be applied by CAROLINA FIRST upon all or any of the "Obligations of Primary Obligor"; and (v) settle or compromise with the Primary Obligor, any insurance carrier and/or any other person(s) liable thereon, any and all of the "Obligations of Primary Obligor," and/or subordinate the payment of all or any part of same, to the payment of any other debts or claims, which may at any time(s) be due or owing to CAROLINA FIRST and/or any other person(s); all in such manner and upon such terms as CAROLINA FIRST may deem proper and/or desirable, and without notice to or further assent from Guarantor, it being agreed that Guarantor shall be and remain bound upon this Unconditional Guaranty Agreement, irrespective of the existence, value or condition of any collateral, and notwithstanding any such change, exchange, settlement, compromise, surrender, release, sale or other disposition, application, renewal or extension and notwithstanding also that the "Obligations of Primary Obligor" may at any time(s) exceed the aggregate principal sum of the Note. Further, this Guaranty shall not be construed to impose any obligation on CAROLINA FIRST to extend or continue to extend credit or otherwise to deal with Primary Obligor at any time.

9. If Primary Obligor is an organization, this Guaranty covers all "Obligations of Primary Obligor" purporting to be created or undertaken on behalf of such organization by any officer, partner, manager or agent of such organization, without regard to the actual authority of any such officer, partner, manager or agent, whether or not corporate resolutions, proper or otherwise, are given by any corporate Primary Obligor to CAROLINA FIRST, and/or whether or not such purported organizations are legally chartered or organized.

10. This Unconditional Guaranty Agreement shall be binding upon Guarantor, and the heirs, executors, administrators, successors and assigns of Guarantor; and it shall inure to the benefit of, and be enforceable by, CAROLINA FIRST, and its successors, transferees and assigns. It further shall be deemed to have been made under and shall be governed by the Laws of the State of South Carolina in all respects, including matters of construction, validity and performance.

11. Further, all terms or expressions contained herein which are defined in Articles 1, 3 or 9 of the South Carolina Uniform Commercial Code shall have the same meaning herein as in said Articles of said Code.

12. No waiver by CAROLINA FIRST of any default(s) by Guarantor or Primary Obligor shall operate as a waiver of any other default or of the same default on a future occasion. If more than one person has signed this Guaranty Agreement, such parties are jointly and severally obligated hereunder. Further, use of the masculine or neuter pronoun herein shall

include the masculine, feminine and neuter, and also the plural. The term "Guarantor," as used herein, shall (if signed by more than one person) mean the "Guarantors and each of them." If any Guarantor shall be a partnership, the obligations, liabilities and agreements on the part of such Guarantor shall remain in full force and effect and fully applicable notwithstanding any changes in the individuals composing the partnership. Further, the term "Guarantor" shall include in such event any altered or successor partnerships, it being also understood that the predecessor partnership(s) and their partners shall not thereby be released from any obligations or liabilities hereunder. CAROLINA FIRST, or any other holder hereof, may correct patent errors in this Agreement.

13. Guarantor hereby waives: (i) notice of acceptance of this Guaranty; (ii) notice(s) of extensions of the Note and/or continuations of the Note to Primary Obligor by CAROLINA FIRST; (iii) notice(s) of entering into and engaging in business transactions and/or contractual relationships and any other dealings between Primary Obligor and CAROLINA FIRST; (iv) presentment and/or demand for payment of any of the "Obligations of Primary Obligor;" (v) protest or notice of dishonor or default to Guarantor or to any other person with respect to any of the "Obligations of Primary Obligor;" (vi) any demand for payment under this Guaranty; and (vii) the benefit of any homestead or other exemptions and (viii) any appraisal rights to reduce a deficiency judgment against either the Guarantor or the Primary Obligor.

14. Anything contained herein to the contrary notwithstanding, if for any reason the effective rate of interest on any of the Obligations of Primary Obligor should exceed the maximum lawful rate, the effective rate of such obligation(s) shall be deemed reduced to and shall be such maximum lawful rate, and any sums of interest which have been collected in excess of such maximum lawful rate shall be applied as a credit against the unpaid principal balance due.

15. In the event any provision(s) of this instrument should be left blank or incomplete, Guarantor hereby authorizes and empowers CAROLINA FIRST, to supply and complete the necessary information to complete or fill in the blank provision(s).

16. EVENTS OF DEFAULT. Guarantor shall be in default under this Guaranty Agreement upon the happening of any of the following events, circumstances or conditions, namely:

(a) Failure of Guarantor to pay its obligations hereunder immediately upon demand after a default in the payment of the Obligations of Primary Obligor or in the payment or performance of any other obligations or of any covenant, warranty or liability contained or referred to herein, or contained in any other contract or agreement of Primary Obligor or Guarantor with CAROLINA FIRST, whether now existing or hereafter arising; or

(b) Any warranty, representation or statement made or furnished to CAROLINA FIRST by or on behalf of Primary Obligor or Guarantor in connection with this Guaranty Agreement or to induce CAROLINA FIRST to extend credit or otherwise deal with either Primary Obligor or Guarantor proving to have been false in any material respect when made or furnished; or

(c) Death (unless CAROLINA FIRST, in its sole discretion, accepts a substitute guarantor), dissolution, termination of existence, insolvency, business failure, appointment of a receiver for any part of the property of, assignment for the benefit of creditors by, or the commencement of any proceeding under any State or Federal Bankruptcy or Insolvency Laws by or against Guarantor or Primary Obligor; or

(d) Failure of a corporate Primary Obligor or Guarantor to maintain its limited liability company existence in good standing; or

(e) The assertion or making or any seizure, vesting or intervention by or under authority of any government by which the management of Primary Obligor or Guarantor is displaced or their authority in the conduct or their business(es) is curtailed; or

(f) Upon the entry of any material judgment or the assessment and/or filing of any tax lien against either Primary Obligor or Guarantor or upon the issuance of any writ of garnishment or attachment against any property of, debts due or rights of Primary Obligor or Guarantor, to specifically include the commencement of any action or proceeding to seize moneys of either Primary Obligor or Guarantor on deposit in any bank account with CAROLINA FIRST; or

(g) Material adverse change in the financial position of Guarantor.

17. REMEDIES ON DEFAULT. Upon the occurrence of any of the foregoing events, circumstances, or conditions of default, all of the obligations evidenced herein and secured or guaranteed hereby shall immediately be due and payable without notice. Further, CAROLINA FIRST shall then have all of the rights and remedies granted hereunder, and all of the rights and remedies of a Secured Party and/or Holder-in-Due-Course under the South Carolina Uniform Commercial Code and/or under other Laws of South Carolina.

18. Any provision hereof to the contrary notwithstanding, to the extent Guarantor is determined to be an "insider" as such term is used in the United States Bankruptcy Code or cases thereunder, Guarantor waives any right (whether established by contract or statute or otherwise available at law or in equity) to reimbursement, indemnity, subrogation, contribution or other such claim against Primary Obligor or any other guarantor or any other person primarily or secondarily liable for any obligations of Primary Obligor with respect to any disbursement or payment made by Guarantor under or in connection with this Guaranty or otherwise.

19. In the event any payment made by Guarantor to CAROLINA FIRST is determined to be a preferential transfer under any bankruptcy or similar law and CAROLINA FIRST is required to return such payment to a trustee in bankruptcy, to a receiver, to the Guarantor, or to another person or entity, Guarantor's obligations under this Guaranty shall not be discharged with respect to such preferential payment notwithstanding any satisfaction of the Note guaranteed hereby or the return of this Guaranty. Furthermore, Guarantor shall be jointly and severally liable to CAROLINA FIRST for the amount of any such preferential payment and any interest expenses or other expenses, including but not limited to attorneys' fees, incurred by

CAROLINA FIRST related in any way to such preferential payment, and Guarantor agrees to reinstate any collateral given to CAROLINA FIRST as security for the obligations under this Guaranty notwithstanding the fact that such collateral may have been released or returned by CAROLINA FIRST.

20. Guarantor acknowledges that Guarantor has previously submitted financial statements to CAROLINA FIRST for the purpose of inducing CAROLINA FIRST to extend credit to Primary Obligor. Guarantor agrees to update such financial statements from time to time as requested by CAROLINA FIRST. Guarantor further agrees to immediately notify CAROLINA FIRST in writing of any material adverse change in the financial position of Guarantor. Guarantor covenants and warrants that such financial statements, as updated or supplemented from time to time by Guarantor, shall remain a true and accurate statement of Guarantor's financial position for so long as the Obligations of Primary Obligor remain outstanding, and CAROLINA FIRST shall be entitled to continue to rely on the truth and accuracy of such statements. Guarantor agrees not to transfer assets for less than fair value or take any other action which could reasonably be expected to reduce the net worth of Guarantor or diminish Guarantor's ability to perform Guarantor's obligations hereunder.

21. Guarantor submits to the jurisdiction of any court of competent jurisdiction within the State of South Carolina. Guarantor agrees that any action concerning this Agreement or the debts guaranteed hereby, whether initiated by CAROLINA FIRST, Primary Obligor, Guarantor or any other party, shall be tried only in a court of competent jurisdiction within the State of South Carolina, and Guarantor waives all objections to venue. All matters arising hereunder shall be determined in accordance with the law and practice of such South Carolina court. Guarantor further agrees to comply with all requirements necessary to give such court in personam jurisdiction and agrees that service of process may be accomplished by, in addition to any other lawful means; certified mail, return receipt requested, to the Guarantor at Guarantor's address set forth below or any new address of which CAROLINA FIRST has been notified by Guarantor in writing.

22. Guarantor's liability hereunder shall not be diminished or reduced by (i) any payment of any of the "Obligations of Primary Obligor" by any other guarantor, endorser, co-obligor or any other person liable or to become liable for the payment of the "Obligations of Primary Obligor", or (ii) any reduction of the "Obligations of Primary Obligor" by realization of any collateral or security or by any other source.

23. **WAIVER OF JURY TRIAL. GUARANTOR AND CAROLINA FIRST WAIVE, TO THE FULL EXTENT PERMITTED BY LAW, THE RIGHT TO A JURY TRIAL IN ANY LITIGATION CONCERNING THIS AGREEMENT AND IN ANY LITIGATION CONCERNING ANY DEFENSE, CLAIM, COUNTERCLAIM, CLAIM OF SET-OFF OR SIMILAR CLAIM OF ANY NATURE THAT GUARANTOR OR PRIMARY OBLIGOR MAY ASSERT AGAINST CAROLINA FIRST.**

24. **Waiver of Appraisal Rights.** Guarantor understands that upon the occurrence of an Event of Default hereunder, among the other remedies set out herein or in the Note, CAROLINA FIRST may foreclose upon the Property securing the Note and proceed for a deficiency judgment pursuant to South Carolina law. The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. **GUARANTOR HEREBY EXPRESSLY WAIVES AND RELINQUISHES ANY APPRAISAL RIGHTS WHICH GUARANTOR MAY HAVE UNDER SECTION 29-3-680 THROUGH SECTION 29-3-770 OF THE SOUTH CAROLINA CODE OF LAWS (1976), AS SUCH MAY BE AMENDED, AND UNDERSTANDS AND AGREES THAT A DEFICIENCY JUDGMENT, IF PURSUED BY CAROLINA FIRST, SHALL BE DETERMINED BY THE HIGHEST PRICE BID AT THE JUDICIAL SALE OF THE PROPERTY REGARDLESS OF ANY APPRAISED VALUE OF THE PROPERTY.**

WITNESS the Hand(s) and Seal(s) of the undersigned, this Unconditional Guaranty Agreement being executed and delivered on the date first above written.

Signed, sealed and delivered  
in the presence of:

Melissa K. Weaver

W. Mike Bouland

John H. Hofford  
John H. Hofford  
Social Security Number: \_\_\_\_\_

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF CHARLESTON )     ACKNOWLEDGMENT

Before me, the undersigned notary public, personally appeared John H. Hofford, who executed the foregoing Guaranty this 29 day of March, 2007 and acknowledged that he executed the same.

Melissa K. Weaver  
Notary Public for South Carolina  
My Commission Expires: 2/11/2008

UNCONDITIONAL GUARANTY

March 29, 2007  
(DATE OF EXECUTION AND DELIVERY)

PRIMARY OBLIGOR: FARM HILL ASSOCIATES, LLC  
GUARANTOR: MICHAEL R. BENNETT  
OBLIGEE: CAROLINA FIRST BANK  
40 Calhoun Street, Charleston, South Carolina 29401  
Attention: W. Dixon Woodward

WHEREAS, the above Primary Obligor has borrowed or shall borrow up to the sum of Five Million Six Hundred Thousand and no/100 (\$5,600,000.00) Dollars from CAROLINA FIRST BANK (hereinafter termed "CAROLINA FIRST") pursuant to a promissory note from Primary Obligor to CAROLINA FIRST dated March 29, 2007 (the "Note"), and

WHEREAS, CAROLINA FIRST is unwilling to make the loan to Primary Obligor evidenced by the Note unless it receives an unconditioned and continuing joint and several guaranty from the above-named Guarantor(s) (hereinafter collectively termed "Guarantor"), covering all "Obligations of Primary Obligor" as hereinafter defined.

NOW, THEREFORE, in consideration of the premises and of other good and valuable consideration, and in order to induce CAROLINA FIRST to lend money to Primary Obligor as evidenced by the Note, Guarantor (jointly and severally, if more than one) hereby absolutely and unconditionally guarantees to CAROLINA FIRST and its successors and assigns, the due and punctual payment of the Note as and when the same shall become due and payable (whether by acceleration or otherwise), in accordance with the terms of the Note, and including all renewals, extensions and/or modifications thereof, plus all interest, costs and reasonable attorneys' fees of CAROLINA FIRST (all liabilities and obligations of the Primary Obligor to CAROLINA FIRST, including all of the foregoing, being hereinafter collectively termed "Obligations of Primary Obligor").

Further, whether or not suit is brought by CAROLINA FIRST to acquire possession of collateral or to enforce collection of any unpaid balance(s) hereunder, Guarantor expressly hereby agrees to pay all legal expenses and the reasonable attorneys' fees incurred by CAROLINA FIRST with respect to this Guaranty.

In order to implement the foregoing and as additional inducements to CAROLINA FIRST, Guarantor further covenants and agrees:

1. This Guaranty is and shall remain an unconditional and continuing guaranty of payment and not of collection, shall remain in full force and effect irrespective of any interruptions(s) in the business or other dealings and relations of Primary Obligor with



CAROLINA FIRST and shall apply to and guarantee the due and punctual payment of all "Obligations of Primary Obligor" due by Primary Obligor to CAROLINA FIRST. To that end, Guarantor hereby expressly waives any right to require CAROLINA FIRST to bring any action against Primary Obligor or any other person(s) or to require that resort be had to any security or to any balance(s) of any deposit or other account(s) or debt(s) or credits on the books of CAROLINA FIRST in favor of Primary Obligor or any other person(s). Guarantor acknowledges that its liabilities and obligations hereunder are primary rather than secondary, recognizing that Primary Obligor is identified as "PRIMARY OBLIGOR" and the undersigned are identified as "GUARANTOR(S)" solely for convenience in identification of the parties involved in this Guaranty Agreement and in the obligation being secured hereby. To that end and without limiting the generality of the foregoing, the undersigned Guarantor expressly waives any rights he otherwise might have under provisions of South Carolina or other applicable law to require CAROLINA FIRST to attempt to recover against Primary Obligor and/or to realize upon any securities or collateral security which CAROLINA FIRST holds for the obligation evidenced or secured hereby.

2. TIME IS OF THE ESSENCE HEREOF. Any notice(s) to Guarantor shall be sufficiently given if mailed to the address(es) of Guarantor shown below.

3. This Guaranty Agreement constitutes the entire agreement between the parties, and no waivers or modifications shall be valid unless they are reduced to writing, duly executed by the party to be charged thereby, and expressly approved in writing by an officer of CAROLINA FIRST actually involved in the transactions being guaranteed hereby.

4. If any process is issued or ordered to be served upon CAROLINA FIRST, seeking to seize Primary Obligor's and/or Guarantor's rights and/or interests in any bank account(s) maintained with CAROLINA FIRST, the balance(s) in any such account(s) shall immediately be deemed to have been and shall be set-off against any and all "Obligations of Primary Obligor" and/or all obligations and liabilities of Guarantor hereunder, as of the time of the issuance of any such writ or process, whether or not Primary Obligor, Guarantor and/or CAROLINA FIRST shall then have been served therewith.

5. All moneys available to and/or received by CAROLINA FIRST for application toward payment of (or reduction of) the "Obligations of Primary Obligor" may be applied by CAROLINA FIRST to such Obligations of Primary Obligor in such manner as set forth in the mortgage.

6. [Intentionally Left Blank]

7. Guarantor agrees that his liability hereunder shall not be diminished by any failure on the part of CAROLINA FIRST to perfect (by filing, recording or otherwise) any security interest(s) it may have in any property securing this Unconditional Guaranty Agreement and/or the "Obligations of Primary Obligor" secured hereby and hereunder.

8. Guarantor further hereby consents and agrees that CAROLINA FIRST may at any time, or from time to time, in its sole discretion: (i) extend or change the time of payment, and/or

the manner, place or terms of payment of any or all of the "Obligations of Primary Obligor"; (ii) exchange, release and/or surrender all or any of any collateral security, or any part(s) thereof, by whomsoever deposited, which is or may hereafter be held by it in connection with all or any of the "Obligations of Primary Obligor" and/or any liabilities or obligations of Guarantor hereunder; (iii) release any other guarantor, endorser or co-obligor of the "Obligations of Primary Obligor"; (iv) sell or otherwise dispose of and/or purchase all or any of any such collateral at public or private sale, or to or through any Investment Securities Broker, and after deducting all costs and expenses of every kind for collection, preparation for sale, sale or delivery, the net proceeds of any such sale(s) or other disposition may be applied by CAROLINA FIRST upon all or any of the "Obligations of Primary Obligor"; and (v) settle or compromise with the Primary Obligor, any insurance carrier and/or any other person(s) liable thereon, any and all of the "Obligations of Primary Obligor," and/or subordinate the payment of all or any part of same, to the payment of any other debts or claims, which may at any time(s) be due or owing to CAROLINA FIRST and/or any other person(s); all in such manner and upon such terms as CAROLINA FIRST may deem proper and/or desirable, and without notice to or further assent from Guarantor, it being agreed that Guarantor shall be and remain bound upon this Unconditional Guaranty Agreement, irrespective of the existence, value or condition of any collateral, and notwithstanding any such change, exchange, settlement, compromise, surrender, release, sale or other disposition, application, renewal or extension and notwithstanding also that the "Obligations of Primary Obligor" may at any time(s) exceed the aggregate principal sum of the Note. Further, this Guaranty shall not be construed to impose any obligation on CAROLINA FIRST to extend or continue to extend credit or otherwise to deal with Primary Obligor at any time.

9. If Primary Obligor is an organization, this Guaranty covers all "Obligations of Primary Obligor" purporting to be created or undertaken on behalf of such organization by any officer, partner, manager or agent of such organization, without regard to the actual authority of any such officer, partner, manager or agent, whether or not corporate resolutions, proper or otherwise, are given by any corporate Primary Obligor to CAROLINA FIRST, and/or whether or not such purported organizations are legally chartered or organized.

10. This Unconditional Guaranty Agreement shall be binding upon Guarantor, and the heirs, executors, administrators, successors and assigns of Guarantor; and it shall inure to the benefit of, and be enforceable by, CAROLINA FIRST, and its successors, transferees and assigns. It further shall be deemed to have been made under and shall be governed by the Laws of the State of South Carolina in all respects, including matters of construction, validity and performance.

11. Further, all terms or expressions contained herein which are defined in Articles 1, 3 or 9 of the South Carolina Uniform Commercial Code shall have the same meaning herein as in said Articles of said Code.

12. No waiver by CAROLINA FIRST of any default(s) by Guarantor or Primary Obligor shall operate as a waiver of any other default or of the same default on a future occasion. If more than one person has signed this Guaranty Agreement, such parties are jointly and severally obligated hereunder. Further, use of the masculine or neuter pronoun herein shall

include the masculine, feminine and neuter, and also the plural. The term "Guarantor," as used herein, shall (if signed by more than one person) mean the "Guarantors and each of them." If any Guarantor shall be a partnership, the obligations, liabilities and agreements on the part of such Guarantor shall remain in full force and effect and fully applicable notwithstanding any changes in the individuals composing the partnership. Further, the term "Guarantor" shall include in such event any altered or successor partnerships, it being also understood that the predecessor partnership(s) and their partners shall not thereby be released from any obligations or liabilities hereunder. CAROLINA FIRST, or any other holder hereof, may correct patent errors in this Agreement.

13. Guarantor hereby waives: (i) notice of acceptance of this Guaranty; (ii) notice(s) of extensions of the Note and/or continuations of the Note to Primary Obligor by CAROLINA FIRST; (iii) notice(s) of entering into and engaging in business transactions and/or contractual relationships and any other dealings between Primary Obligor and CAROLINA FIRST; (iv) presentment and/or demand for payment of any of the "Obligations of Primary Obligor;" (v) protest or notice of dishonor or default to Guarantor or to any other person with respect to any of the "Obligations of Primary Obligor;" (vi) any demand for payment under this Guaranty; and (vii) the benefit of any homestead or other exemptions and (viii) any appraisal rights to reduce a deficiency judgment against either the Guarantor or the Primary Obligor.

14. Anything contained herein to the contrary notwithstanding, if for any reason the effective rate of interest on any of the Obligations of Primary Obligor should exceed the maximum lawful rate, the effective rate of such obligation(s) shall be deemed reduced to and shall be such maximum lawful rate, and any sums of interest which have been collected in excess of such maximum lawful rate shall be applied as a credit against the unpaid principal balance due.

15. In the event any provision(s) of this instrument should be left blank or incomplete, Guarantor hereby authorizes and empowers CAROLINA FIRST, to supply and complete the necessary information to complete or fill in the blank provision(s).

16. **EVENTS OF DEFAULT.** Guarantor shall be in default under this Guaranty Agreement upon the happening of any of the following events, circumstances or conditions, namely:

(a) Failure of Guarantor to pay its obligations hereunder immediately upon demand after a default in the payment of the Obligations of Primary Obligor or in the payment or performance of any other obligations or of any covenant, warranty or liability contained or referred to herein, or contained in any other contract or agreement of Primary Obligor or Guarantor with CAROLINA FIRST, whether now existing or hereafter arising; or

(b) Any warranty, representation or statement made or furnished to CAROLINA FIRST by or on behalf of Primary Obligor or Guarantor in connection with this Guaranty Agreement or to induce CAROLINA FIRST to extend credit or otherwise deal with either Primary Obligor or Guarantor proving to have been false in any material respect when made or furnished; or

(c) Death (unless CAROLINA FIRST, in its sole discretion, accepts a substitute guarantor), dissolution, termination of existence, insolvency, business failure, appointment of a receiver for any part of the property of, assignment for the benefit of creditors by, or the commencement of any proceeding under any State or Federal Bankruptcy or Insolvency Laws by or against Guarantor or Primary Obligor; or

(d) Failure of a corporate Primary Obligor or Guarantor to maintain its limited liability company existence in good standing; or

(e) The assertion or making or any seizure, vesting or intervention by or under authority of any government by which the management of Primary Obligor or Guarantor is displaced or their authority in the conduct or their business(es) is curtailed; or

(f) Upon the entry of any material judgment or the assessment and/or filing of any tax lien against either Primary Obligor or Guarantor or upon the issuance of any writ of garnishment or attachment against any property of, debts due or rights of Primary Obligor or Guarantor, to specifically include the commencement of any action or proceeding to seize moneys of either Primary Obligor or Guarantor on deposit in any bank account with CAROLINA FIRST; or

(g) Material adverse change in the financial position of Guarantor.

17. REMEDIES ON DEFAULT: Upon the occurrence of any of the foregoing events, circumstances, or conditions of default, all of the obligations evidenced herein and secured or guaranteed hereby shall immediately be due and payable without notice. Further, CAROLINA FIRST shall then have all of the rights and remedies granted hereunder, and all of the rights and remedies of a Secured Party and/or Holder-in-Due-Course under the South Carolina Uniform Commercial Code and/or under other Laws of South Carolina.

18. Any provision hereof to the contrary notwithstanding, to the extent Guarantor is determined to be an "insider" as such term is used in the United States Bankruptcy Code or cases thereunder, Guarantor waives any right (whether established by contract or statute or otherwise available at law or in equity) to reimbursement, indemnity, subrogation, contribution or other such claim against Primary Obligor or any other guarantor or any other person primarily or secondarily liable for any obligations of Primary Obligor with respect to any disbursement or payment made by Guarantor under or in connection with this Guaranty or otherwise.

19. In the event any payment made by Guarantor to CAROLINA FIRST is determined to be a preferential transfer under any bankruptcy or similar law and CAROLINA FIRST is required to return such payment to a trustee in bankruptcy, to a receiver, to the Guarantor, or to another person or entity, Guarantor's obligations under this Guaranty shall not be discharged with respect to such preferential payment notwithstanding any satisfaction of the Note guaranteed hereby or the return of this Guaranty. Furthermore, Guarantor shall be jointly and severally liable to CAROLINA FIRST for the amount of any such preferential payment and any interest expenses or other expenses, including but not limited to attorneys' fees, incurred by

CAROLINA FIRST related in any way to such preferential payment, and Guarantor agrees to reinstate any collateral given to CAROLINA FIRST as security for the obligations under this Guaranty notwithstanding the fact that such collateral may have been released or returned by CAROLINA FIRST.

20. Guarantor acknowledges that Guarantor has previously submitted financial statements to CAROLINA FIRST for the purpose of inducing CAROLINA FIRST to extend credit to Primary Obligor. Guarantor agrees to update such financial statements from time to time as requested by CAROLINA FIRST. Guarantor further agrees to immediately notify CAROLINA FIRST in writing of any material adverse change in the financial position of Guarantor. Guarantor covenants and warrants that such financial statements, as updated or supplemented from time to time by Guarantor, shall remain a true and accurate statement of Guarantor's financial position for so long as the Obligations of Primary Obligor remain outstanding, and CAROLINA FIRST shall be entitled to continue to rely on the truth and accuracy of such statements. Guarantor agrees not to transfer assets for less than fair value or take any other action which could reasonably be expected to reduce the net worth of Guarantor or diminish Guarantor's ability to perform Guarantor's obligations hereunder.

21. Guarantor submits to the jurisdiction of any court of competent jurisdiction within the State of South Carolina. Guarantor agrees that any action concerning this Agreement or the debts guaranteed hereby, whether initiated by CAROLINA FIRST, Primary Obligor, Guarantor or any other party, shall be tried only in a court of competent jurisdiction within the State of South Carolina, and Guarantor waives all objections to venue. All matters arising hereunder shall be determined in accordance with the law and practice of such South Carolina court. Guarantor further agrees to comply with all requirements necessary to give such court in personam jurisdiction and agrees that service of process may be accomplished by, in addition to any other lawful means, certified mail, return receipt requested, to the Guarantor at Guarantor's address set forth below or any new address of which CAROLINA FIRST has been notified by Guarantor in writing.

22. Guarantor's liability hereunder shall not be diminished or reduced by (i) any payment of any of the "Obligations of Primary Obligor" by any other guarantor, endorser, co-obligor or any other person liable or to become liable for the payment of the "Obligations of Primary Obligor", or (ii) any reduction of the "Obligations of Primary Obligor" by realization of any collateral or security or by any other source.

23. WAIVER OF JURY TRIAL. GUARANTOR AND CAROLINA FIRST WAIVE, TO THE FULL EXTENT PERMITTED BY LAW, THE RIGHT TO A JURY TRIAL IN ANY LITIGATION CONCERNING THIS AGREEMENT AND IN ANY LITIGATION CONCERNING ANY DEFENSE, CLAIM, COUNTERCLAIM, CLAIM OF SET-OFF OR SIMILAR CLAIM OF ANY NATURE THAT GUARANTOR OR PRIMARY OBLIGOR MAY ASSERT AGAINST CAROLINA FIRST.

24. **Waiver of Appraisal Rights.** Guarantor understands that upon the occurrence of an Event of Default hereunder, among the other remedies set out herein or in the Note, CAROLINA FIRST may foreclose upon the Property securing the Note and proceed for a deficiency judgment pursuant to South Carolina law. The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. **GUARANTOR HEREBY EXPRESSLY WAIVES AND RELINQUISHES ANY APPRAISAL RIGHTS WHICH GUARANTOR MAY HAVE UNDER SECTION 29-3-680 THROUGH SECTION 29-3-770 OF THE SOUTH CAROLINA CODE OF LAWS (1976), AS SUCH MAY BE AMENDED, AND UNDERSTANDS AND AGREES THAT A DEFICIENCY JUDGMENT, IF PURSUED BY CAROLINA FIRST, SHALL BE DETERMINED BY THE HIGHEST PRICE BID AT THE JUDICIAL SALE OF THE PROPERTY REGARDLESS OF ANY APPRAISED VALUE OF THE PROPERTY.**

WITNESS the Hand(s) and Seal(s) of the undersigned, this Unconditional Guaranty Agreement being executed and delivered on the date first above written.

Signed, sealed and delivered  
in the presence of:

Melissa K. Weaver

W. Tracy Crawford

Michael R. Bennett  
Michael R. Bennett

Social Security Number: \_\_\_\_\_

STATE OF SOUTH CAROLINA    )  
   )    ACKNOWLEDGMENT  
 COUNTY OF CHARLESTON        )

Before me, the undersigned notary public, personally appeared Michael R. Bennett, who executed the foregoing Guaranty this 29 day of March, 2007 and acknowledged that he executed the same.

*Melissa K. Weaver*  
 \_\_\_\_\_  
 Notary Public for South Carolina  
 My Commission Expires: 2/11/2008

**AMENDED AND RESTATED GUARANTY AGREEMENT**

As of December 31, 2009  
(DATE OF EXECUTION AND DELIVERY)

PRIMARY  
OBLIGOR: FARM HILL ASSOCIATES, LLC

GUARANTOR: MICHAEL R. BENNETT

OBLIGEE: CAROLINA FIRST BANK  
40 Calhoun Street, Charleston, South Carolina 29401  
Attention: W. Dixon Woodward

WHEREAS, the above Primary Obligor has borrowed up to the sum of Five Million Six Hundred Thousand and no/100 (\$5,600,000.00) Dollars (the "Loan") from CAROLINA FIRST BANK (hereinafter termed "CAROLINA FIRST") pursuant to a promissory note from Primary Obligor to CAROLINA FIRST dated March 29, 2007 (the "Note"), secured by a first priority mortgage on certain lands of Primary Obligor located in Berkeley County, South Carolina (the "Mortgage"), which Loan was guaranteed by Michael R. Bennett ("Guarantor") and by John H. Hofford by Unconditional Guaranty Agreements of Guarantor (the "Bennett Guaranty") and Hofford (the "Hofford Guaranty") dated as of March 29, 2007; and

WHEREAS, Primary Obligor, Guarantor and Hofford agreed to modify the Note, the Mortgage, the Bennett Guaranty, the Hofford Guaranty and all other documents evidencing and securing the repayment of the indebtedness evidenced by the Note (the "Modified Loan Documents") by that Note And Mortgage Modification Agreement dated April 30, 2008, and recorded in the ROD Office for Berkeley County in Book 7324 at Page 237 (the "Note and Mortgage Modification Agreement"); and

WHEREAS, Primary Obligor, Guarantor and Hofford agreed to further modify the Note, the Mortgage, the Bennett Guaranty, the Hofford Guaranty, and all other documents evidencing and securing the repayment of the indebtedness evidenced by the Note (the "Second Modified Loan Documents") as the Modified Loan Documents were modified by the Note and Mortgage Modification Agreement by that Second Note And Mortgage Modification Agreement dated May 29, 2009, recorded in the ROD Office for Berkeley County in Book 7945 at Page 305 (the "Second Note and Mortgage Modification Agreement"); and

WHEREAS, Primary Obligor, Original, Guarantor and Hofford agreed to further modify the Note, the Mortgage, the Bennett Guaranty, the Hofford Guaranty, and all other documents evidencing and securing the repayment of the indebtedness evidenced by the Note (the "Third Modified Loan Documents") as the Modified Loan Documents were modified by the Note and Mortgage Modification Agreement, by the Second Note and Mortgage Modification Agreement, and by that Third Note And Mortgage Modification Agreement dated December 31, 2009, recorded in the ROD Office for Berkeley County in Book \_\_\_\_\_, at Page \_\_\_\_\_ (the "Third Note and Mortgage Modification Agreement"); and

WHEREAS, Primary Obligor, Original, Guarantor and Hofford agreed to further modify the Note, the Mortgage, the Bennett Guaranty, the Hofford Guaranty, and all other documents evidencing and securing the repayment of the indebtedness evidenced by the Note (the "Fourth Modified Loan Documents") as the Modified Loan Documents were modified by the Note and Mortgage Modification Agreement, by the Second Note and Mortgage Modification Agreement, by the Third Note And Mortgage Modification Agreement and by the Fourth Note and Mortgage Modification Agreement dated as of December 31, 2009, recorded in the ROD Office for Berkeley County in Book \_\_\_\_\_, at Page \_\_\_\_\_ (the "Fourth Note and Mortgage Modification Agreement"); and

WHEREAS, the terms, covenants and conditions of the Loan Documents, the Modified Loan Documents, the Second Modified Loan Documents, the Third Modified Loan Documents, the Fourth Modified Loan Documents, the Note and Mortgage Modification Agreement, the Second Note and Mortgage Modification Agreement, the Third Note and Mortgage Modification Agreement, and the Fourth Note and Mortgage Modification Agreement are incorporated herein as fully as if restated herein except as modified hereby.

WHEREAS, CAROLINA FIRST was unwilling to make the original Loan to Primary Obligor evidenced by the Note unless it received an unconditioned and continuing joint and several guaranty from the above-named Guarantor covering all "Obligations of Primary Obligor" as set forth in the Bennett Guaranty; and

WHEREAS, CAROLINA FIRST, in connection with Fourth Modification Loan Documents and the Fourth Note and Mortgage Modification Agreement, is willing to modify and amend the Bennett Guaranty relating to the Loan to Primary Obligor evidenced by the Note, as modified by the Note and Mortgage Modification Agreement, the Second Note and Mortgage Modification Agreement, the Third Note and Mortgage Modification Agreement and the Fourth Note and Mortgage Modification Agreement, as more particularly set forth in this Amended and Restated Guaranty Agreement, covering all "Obligations of Primary Obligor" as hereinafter defined.

NOW, THEREFORE, in consideration of the premises and of other good and valuable consideration, and in order to induce CAROLINA FIRST to lend money to Primary Obligor as evidenced by the Note, as modified by the Note and Mortgage Modification Agreement, the Second Note and Mortgage Modification Agreement, the Third Note and Mortgage Modification Agreement and the Fourth Note and Mortgage Modification Agreement, Guarantor (jointly and severally, if more than one) hereby absolutely and unconditionally guarantees to CAROLINA FIRST and its successors and assigns, the due and punctual payment of the Note, as modified, as and when the same shall become due and payable (whether by acceleration or otherwise), in accordance with the terms of the Note, as modified, and including all renewals, extensions and/or modifications thereof, plus all interest, costs and reasonable attorneys' fees of CAROLINA FIRST (all liabilities and obligations of the Primary Obligor to CAROLINA FIRST, including all of the foregoing, being hereinafter collectively termed "Obligations of Primary Obligor"), subject, however, to the limitations set forth in Section 2 hereof.

Further, whether or not suit is brought by CAROLINA FIRST to acquire possession of collateral or to enforce collection of any unpaid balance(s) hereunder, Guarantor expressly

hereby agrees to pay all legal expenses and the reasonable attorneys' fees incurred by CAROLINA FIRST with respect to this Amended and Restated Guaranty Agreement (the "Amended and Restated Guaranty").

In order to implement the foregoing and as additional inducements to CAROLINA FIRST, Guarantor further covenants and agrees:

1. Except as provided in Section 2 hereof, this Amended and Restated Guaranty is and shall remain an unconditional and continuing guaranty of payment and not of collection, shall remain in full force and effect irrespective of any interruptions(s) in the business or other dealings and relations of Primary Obligor with CAROLINA FIRST and shall apply to and guarantee the due and punctual payment of all "Obligations of Primary Obligor" due by Primary Obligor to CAROLINA FIRST. To that end, Guarantor hereby expressly waives any right to require CAROLINA FIRST to bring any action against Primary Obligor or any other person(s) or to require that resort be had to any security or to any balance(s) of any deposit or other account(s) or debt(s) or credits on the books of CAROLINA FIRST in favor of Primary Obligor or any other person(s). Guarantor acknowledges that its liabilities and obligations hereunder are primary rather than secondary, recognizing that Primary Obligor is identified as "PRIMARY OBLIGOR" and the undersigned are identified as "GUARANTOR(S)" solely for convenience in identification of the parties involved in this Amended and Restated Guaranty Agreement and in the obligation being secured hereby. To that end and without limiting the generality of the foregoing, the undersigned Guarantor expressly waives any rights he otherwise might have under provisions of South Carolina or other applicable law to require CAROLINA FIRST to attempt to recover against Primary Obligor and/or to realize upon any securities or collateral security which CAROLINA FIRST holds for the obligation evidenced or secured hereby.

2. Limitation of Liability. Notwithstanding anything contained herein to the contrary, Guarantor's liability hereunder shall be limited to seventy-five (75%) of the outstanding principal balance of the Loan (as such principal balance may be reduced from time to time). Carolina First does hereby agree to further limit Guarantor's liability hereunder to fifty (50%) percent of the outstanding principal balance of the Loan (as such principal balance may be reduced from time to time), provided, however, that such further reduction in Guarantor's liability hereunder shall be subject to and conditioned upon the following conditions precedent (the "Conditions Precedent"): (a) payment and satisfaction of that certain loan by Carolina First to The Bennett-Hofford Construction Company, Inc. and dated \_\_\_\_\_, secured by a first priority mortgage on certain lands now or formerly owned by The Bennett-Hofford Construction Company, Inc. and South Island Market, LLC dated November 12, 2007, as modified by a Note and Mortgage Modification Agreement dated August 29, 2008, and by a Second Note and Mortgage Modification Agreement dated October 31, 2008, and by a Third Note and Mortgage Modification Agreement dated as of December 21, 2009, said loan being secured by a first priority mortgage (as modified) on certain lands owned by The Bennett-Hofford Construction Company, Inc. and/or South Island Market, LLC located on Johns Island, SC, having an original principal balance of \$3,905,000.00 (the "Johns Island Loan"); and (b) as further security for the within Loan, John H. Hofford and Prospect Hill, LLC shall, together, grant Carolina First a subordinate mortgage on certain lands owned by Prospect Hill, LLC located on Edisto Island, SC (the "Prospect Hill Mortgage") in an amount equal to and in substitution for the additional

reduction in Guarantor's liability hereunder from 75% to 50% of the outstanding principal balance of the Loan (as such principal balance may be reduced from time to time). In the event the foregoing Conditions Precedent are not met, satisfied or waived at or prior to the current Maturity Date of the Loan (i.e., June 30, 2010), then the liability of Guarantor shall remain capped at 75% of the outstanding principal balance of the Loan (as such principal balance may be reduced from time to time). If the event such Conditions Precedent are met, satisfied or waived at or prior to such Maturity Date, then the liability of Guarantor hereunder shall be automatically reduced, without any further written agreement or amendment to this Amended and Restated Guaranty, to fifty (50%) of the principal balance of the Loan (as such principal balance may be reduced from time to time).

3. TIME IS OF THE ESSENCE HEREOF. Any notice(s) to Guarantor shall be sufficiently given if mailed to the address(es) of Guarantor shown below.

4. This Amended and Restated Guaranty Agreement constitutes the entire agreement between the parties, and no waivers or modifications shall be valid unless they are reduced to writing, duly executed by the party to be charged thereby, and expressly approved in writing by an officer of CAROLINA FIRST actually involved in the transactions being guaranteed hereby.

5. If any process is issued or ordered to be served upon CAROLINA FIRST, seeking to seize Primary Obligor's and/or Guarantor's rights and/or interests in any bank account(s) maintained with CAROLINA FIRST, the balance(s) in any such account(s) shall immediately be deemed to have been and shall be set-off against any and all "Obligations of Primary Obligor" and/or all obligations and liabilities of Guarantor hereunder, as of the time of the issuance of any such writ or process, whether or not Primary Obligor, Guarantor and/or CAROLINA FIRST shall then have been served therewith.

6. All moneys available to and/or received by CAROLINA FIRST for application toward payment of (or reduction of) the "Obligations of Primary Obligor" may be applied by CAROLINA FIRST to such Obligations of Primary Obligor in such manner as set forth in the mortgage.

7. [Intentionally Left Blank]

8. Guarantor agrees that his liability hereunder shall not be diminished by any failure on the part of CAROLINA FIRST to perfect (by filing, recording or otherwise) any security interest(s) it may have in any property securing this Amended and Restated Guaranty Agreement and/or the "Obligations of Primary Obligor" secured hereby and hereunder.

9. Guarantor further hereby consents and agrees that CAROLINA FIRST may at any time, or from time to time, in its sole discretion: (i) extend or change the time of payment, and/or the manner, place or terms of payment of any or all of the "Obligations of Primary Obligor"; (ii) exchange, release and/or surrender all or any of any collateral security, or any part(s) thereof, by whomsoever deposited, which is or may hereafter be held by it in connection with all or any of the "Obligations of Primary Obligor" and/or any liabilities or obligations of Guarantor hereunder; (iii) release any other guarantor, endorser or co-obligor of the "Obligations of Primary Obligor"; (iv) sell or otherwise dispose of and/or purchase all or any of any such

collateral at public or private sale, or to or through any Investment Securities Broker, and after deducting all costs and expenses of every kind for collection, preparation for sale, sale or delivery, the net proceeds of any such sale(s) or other disposition may be applied by CAROLINA FIRST upon all or any of the "Obligations of Primary Obligor"; and (v) settle or compromise with the Primary Obligor, any insurance carrier and/or any other person(s) liable thereon, any and all of the "Obligations of Primary Obligor," and/or subordinate the payment of all or any part of same, to the payment of any other debts or claims, which may at any time(s) be due or owing to CAROLINA FIRST and/or any other person(s); all in such manner and upon such terms as CAROLINA FIRST may deem proper and/or desirable, and without notice to or further assent from Guarantor, it being agreed that Guarantor shall be and remain bound upon this Amended and Restated Guaranty Agreement, irrespective of the existence, value or condition of any collateral, and notwithstanding any such change, exchange, settlement, compromise, surrender, release, sale or other disposition, application, renewal or extension and notwithstanding also that the "Obligations of Primary Obligor" may at any time(s) exceed the aggregate principal sum of the Note. Further, this Amended and Restated Guaranty shall not be construed to impose any obligation on CAROLINA FIRST to extend or continue to extend credit or otherwise to deal with Primary Obligor at any time.

10. If Primary Obligor is an organization, this Amended and Restated Guaranty covers all "Obligations of Primary Obligor" purporting to be created or undertaken on behalf of such organization by any officer, partner, manager or agent of such organization, without regard to the actual authority of any such officer, partner, manager or agent, whether or not corporate resolutions, proper or otherwise, are given by any corporate Primary Obligor to CAROLINA FIRST, and/or whether or not such purported organizations are legally chartered or organized.

11. This Amended and Restated Guaranty Agreement shall be binding upon Guarantor, and the heirs, executors, administrators, successors and assigns of Guarantor; and it shall inure to the benefit of, and be enforceable by, CAROLINA FIRST, and its successors, transferees and assigns. It further shall be deemed to have been made under and shall be governed by the Laws of the State of South Carolina in all respects, including matters of construction, validity and performance.

12. Further, all terms or expressions contained herein which are defined in Articles 1, 3 or 9 of the South Carolina Uniform Commercial Code shall have the same meaning herein as in said Articles of said Code.

13. No waiver by CAROLINA FIRST of any default(s) by Guarantor or Primary Obligor shall operate as a waiver of any other default or of the same default on a future occasion. If more than one person has signed this Amended and Restated Guaranty Agreement, such parties are jointly and severally obligated hereunder. Further, use of the masculine or neuter pronoun herein shall include the masculine, feminine and neuter, and also the plural. The term "Guarantor," as used herein, shall (if signed by more than one person) mean the "Guarantors and each of them." If any Guarantor shall be a partnership, the obligations, liabilities and agreements on the part of such Guarantor shall remain in full force and effect and fully applicable notwithstanding any changes in the individuals composing the partnership. Further, the term "Guarantor" shall include in such event any altered or successor partnerships, it being also

understood that the predecessor partnership(s) and their partners shall not thereby be released from any obligations or liabilities hereunder. CAROLINA FIRST, or any other holder hereof, may correct patent errors in this Agreement.

14. Guarantor hereby waives: (i) notice of acceptance of this Amended and Restated Guaranty; (ii) notice(s) of extensions of the Note and/or continuations of the Note to Primary Obligor by CAROLINA FIRST; (iii) notice(s) of entering into and engaging in business transactions and/or contractual relationships and any other dealings between Primary Obligor and CAROLINA FIRST; (iv) presentment and/or demand for payment of any of the "Obligations of Primary Obligor;" (v) protest or notice of dishonor or default to Guarantor or to any other person with respect to any of the "Obligations of Primary Obligor;" (vi) any demand for payment under this Amended and Restated Guaranty; and (vii) the benefit of any homestead or other exemptions and (viii) any appraisal rights to reduce a deficiency judgment against either the Guarantor or the Primary Obligor.

15. Anything contained herein to the contrary notwithstanding, if for any reason the effective rate of interest on any of the Obligations of Primary Obligor should exceed the maximum lawful rate, the effective rate of such obligation(s) shall be deemed reduced to and shall be such maximum lawful rate, and any sums of interest which have been collected in excess of such maximum lawful rate shall be applied as a credit against the unpaid principal balance due.

16. In the event any provision(s) of this instrument should be left blank or incomplete, Guarantor hereby authorizes and empowers CAROLINA FIRST, to supply and complete the necessary information to complete or fill in the blank provision(s).

17. EVENTS OF DEFAULT. Guarantor shall be in default under this Amended and Restated Guaranty Agreement upon the happening of any of the following events, circumstances or conditions, namely:

(a) Failure of Guarantor to pay its obligations hereunder immediately upon demand after a default in the payment of the Obligations of Primary Obligor or in the payment or performance of any other obligations or of any covenant, warranty or liability contained or referred to herein, or contained in any other contract or agreement of Primary Obligor or Guarantor with CAROLINA FIRST, whether now existing or hereafter arising; or

(b) Any warranty, representation or statement made or furnished to CAROLINA FIRST by or on behalf of Primary Obligor or Guarantor in connection with this Amended and Restated Guaranty Agreement or to induce CAROLINA FIRST to extend credit or otherwise deal with either Primary Obligor or Guarantor proving to have been false in any material respect when made or furnished; or

(c) Death (unless CAROLINA FIRST, in its sole discretion, accepts a substitute guarantor), dissolution, termination of existence, insolvency, business failure, appointment of a receiver for any part of the property of, assignment for the benefit of creditors by, or the

commencement of any proceeding under any State or Federal Bankruptcy or Insolvency Laws by or against Guarantor or Primary Obligor; or

(d) Failure of a corporate Primary Obligor or Guarantor to maintain its limited liability company existence in good standing; or

(e) The assertion or making or any seizure, vesting or intervention by or under authority of any government by which the management of Primary Obligor or Guarantor is displaced or their authority in the conduct or their business(es) is curtailed; or

(f) Upon the entry of any material judgment or the assessment and/or filing of any tax lien against either Primary Obligor or Guarantor or upon the issuance of any writ of garnishment or attachment against any property of, debts due or rights of Primary Obligor or Guarantor, to specifically include the commencement of any action or proceeding to seize moneys of either Primary Obligor or Guarantor on deposit in any bank account with CAROLINA FIRST; or

(g) Material adverse change in the financial position of Guarantor.

18. REMEDIES ON DEFAULT. Upon the occurrence of any of the foregoing events, circumstances, or conditions of default, all of the obligations evidenced herein and secured or guaranteed hereby shall immediately be due and payable without notice. Further, CAROLINA FIRST shall then have all of the rights and remedies granted hereunder, and all of the rights and remedies of a Secured Party and/or Holder-in-Due-Course under the South Carolina Uniform Commercial Code and/or under other Laws of South Carolina.

19. Any provision hereof to the contrary notwithstanding, to the extent Guarantor is determined to be an "insider" as such term is used in the United States Bankruptcy Code or cases thereunder, Guarantor waives any right (whether established by contract or statute or otherwise available at law or in equity) to reimbursement, indemnity, subrogation, contribution or other such claim against Primary Obligor or any other guarantor or any other person primarily or secondarily liable for any obligations of Primary Obligor with respect to any disbursement or payment made by Guarantor under or in connection with this Amended and Restated Guaranty or otherwise.

20. In the event any payment made by Guarantor to CAROLINA FIRST is determined to be a preferential transfer under any bankruptcy or similar law and CAROLINA FIRST is required to return such payment to a trustee in bankruptcy, to a receiver, to the Guarantor, or to another person or entity, Guarantor's obligations under this Amended and Restated Guaranty shall not be discharged with respect to such preferential payment notwithstanding any satisfaction of the Note guaranteed hereby or the return of this Amended and Restated Guaranty. Furthermore, Guarantor shall be jointly and severally liable to CAROLINA FIRST for the amount of any such preferential payment and any interest expenses or other expenses, including but not limited to attorneys' fees, incurred by CAROLINA FIRST related in any way to such preferential payment, and Guarantor agrees to reinstate any collateral given to CAROLINA FIRST as security for the obligations under this Amended and Restated

Guaranty notwithstanding the fact that such collateral may have been released or returned by CAROLINA FIRST.

21. Guarantor acknowledges that Guarantor has previously submitted financial statements to CAROLINA FIRST for the purpose of inducing CAROLINA FIRST to extend credit to Primary Obligor. Guarantor agrees to update such financial statements from time to time as requested by CAROLINA FIRST. Guarantor further agrees to immediately notify CAROLINA FIRST in writing of any material adverse change in the financial position of Guarantor. Guarantor covenants and warrants that such financial statements, as updated or supplemented from time to time by Guarantor, shall remain a true and accurate statement of Guarantor's financial position for so long as the Obligations of Primary Obligor remain outstanding, and CAROLINA FIRST shall be entitled to continue to rely on the truth and accuracy of such statements. Guarantor agrees not to transfer assets for less than fair value or take any other action which could reasonably be expected to reduce the net worth of Guarantor or diminish Guarantor's ability to perform Guarantor's obligations hereunder.

22. Guarantor submits to the jurisdiction of any court of competent jurisdiction within the State of South Carolina. Guarantor agrees that any action concerning this Agreement or the debts guaranteed hereby, whether initiated by CAROLINA FIRST, Primary Obligor, Guarantor or any other party, shall be tried only in a court of competent jurisdiction within the State of South Carolina, and Guarantor waives all objections to venue. All matters arising hereunder shall be determined in accordance with the law and practice of such South Carolina court. Guarantor further agrees to comply with all requirements necessary to give such court in personam jurisdiction and agrees that service of process may be accomplished by, in addition to any other lawful means, certified mail, return receipt requested, to the Guarantor at Guarantor's address set forth below or any new address of which CAROLINA FIRST has been notified by Guarantor in writing.

23. Guarantor's liability hereunder shall not be diminished or reduced by (i) any payment of any of the "Obligations of Primary Obligor" by any other guarantor, endorser, co-obligor or any other person liable or to become liable for the payment of the "Obligations of Primary Obligor", or (ii) any reduction of the "Obligations of Primary Obligor" by realization of any collateral or security or by any other source.

24. WAIVER OF JURY TRIAL. GUARANTOR AND CAROLINA FIRST WAIVE, TO THE FULL EXTENT PERMITTED BY LAW, THE RIGHT TO A JURY TRIAL IN ANY LITIGATION CONCERNING THIS AGREEMENT AND IN ANY LITIGATION CONCERNING ANY DEFENSE, CLAIM, COUNTERCLAIM, CLAIM OF SET-OFF OR SIMILAR CLAIM OF ANY NATURE THAT GUARANTOR OR PRIMARY OBLIGOR MAY ASSERT AGAINST CAROLINA FIRST.

25. **Waiver of Appraisal Rights.** Guarantor understands that upon the occurrence of an Event of Default hereunder, among the other remedies set out herein or in the Note, CAROLINA FIRST may foreclose upon the Property securing the Note and proceed for a deficiency judgment pursuant to South Carolina law. The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. **GUARANTOR HEREBY EXPRESSLY WAIVES AND RELINQUISHES ANY APPRAISAL RIGHTS WHICH GUARANTOR MAY HAVE UNDER SECTION 29-3-680 THROUGH SECTION 29-3-770 OF THE SOUTH CAROLINA CODE OF LAWS (1976), AS SUCH MAY BE AMENDED, AND UNDERSTANDS AND AGREES THAT A DEFICIENCY JUDGMENT, IF PURSUED BY CAROLINA FIRST, SHALL BE DETERMINED BY THE HIGHEST PRICE BID AT THE JUDICIAL SALE OF THE PROPERTY REGARDLESS OF ANY APPRAISED VALUE OF THE PROPERTY.**

WITNESS the Hand(s) and Seal(s) of the undersigned, Amended and Restated Guaranty Agreement being executed and delivered on the date first above written.

Signed, sealed and delivered  
in the presence of:

*Franklin B. B.*

*W. Troy Ballard*

*Michael R. Bennett*

Michael R. Bennett

Social Security Number: \_\_\_\_\_

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON ) ACKNOWLEDGMENT

Before me, the undersigned notary public, personally appeared Michael R. Bennett, who executed the foregoing Amended and Restated Guaranty this 16<sup>th</sup> day of January, 2010 and acknowledged that he executed the same.

*Kimberly P. Bennett*  
Notary Public for South Carolina  
My Commission Expires: 2/6/15

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

IN THE CIRCUIT COURT FOR THE  
NINTH JUDICIAL CIRCUIT

CASE NO: 2011-CP-10-1550

TD Bank, N.A., Successor by merger to  
Carolina First Bank,

PLAINTIFF

v.

Farm Hill Associates, LLC, John H. Hofford,  
Michael R. Bennett, Hofford-Ocean Green,  
LLC and Bennett-Ocean Green, LLC,

DEFENDANTS

ANSWER  
JURY TRIAL DEMANDED

FILED  
2011 MAY -14 PM 1:51  
JULIE J. ARMSTRONG  
CLERK OF COURT

Defendants Hofford-Ocean Green, LLC and John H. Hofford answer the Complaint of the above named Plaintiff as follows, stating that each and every allegation of the Complaint not herein expressly admitted or explained, is denied.

**FOR A FIRST DEFENSE**

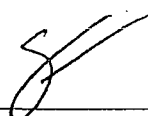
1. Defendants admit the allegations in Paragraph 1.
2. Defendants admit the allegations in Paragraph 2.
3. Defendants admit the allegations in Paragraph 3.
4. Defendants admit the allegations in Paragraph 4.
5. Defendants admit the allegations in Paragraph 5.
6. Defendants admit the allegations in Paragraph 6.
7. Defendants admit that this court has jurisdiction over this matter.
8. Defendants admit the allegations contained in Paragraph 8.
9. Defendants admit the allegations contained in Paragraph 9.

10. Paragraph 10 requires no response from the defendants.
  11. Defendants deny the allegations in Paragraph 11 and demand strict proof thereof.
  12. Responding to Paragraph 12, Defendants admit to the allegations that are consistent with the public record, but deny all other allegations and demand strict proof thereof.
  13. Responding to Paragraph 13, Defendants deny any allegations inconsistent with the terms of the Note and Mortgage and demand strict proof.
  14. Responding to Paragraph 14, Defendants admit to the allegations that are consistent with the public record, but deny all other allegations and demand strict proof thereof.
  15. Paragraph 15 requires no additional response.
  16. Responding to Paragraph 16, Defendants deny the allegations and demand strict proof thereof.
  17. Paragraph 17 requires no additional response.
  18. Responding to Paragraph 18, Defendants admit to the allegations that are consistent with the public record, but deny all other allegations and demand strict proof thereof.
  19. Responding to Paragraph 19, Defendants admit to the allegations that are consistent with the public record, but deny all other allegations and demand strict proof thereof.
  20. Responding to Paragraph 20, Defendants admit to the allegations that are consistent with the public record, but deny all other allegations and demand strict proof thereof.
  21. Responding to Paragraph 21, Defendants deny the allegations and demand strict proof thereof.
  22. Responding to Paragraph 22, Defendants admit those things of public record and denies all others.
  23. Paragraph 23 requires no response from Defendants. To the extent a response is required defendants deny that the Plaintiff is entitled to the relief requested.
  24. Paragraph 24 requires no response from Defendants. To the extent a response is required defendants deny that the Plaintiff is entitled to the relief requested.
-

25. Paragraph 25 requires no additional response from the Defendants.
26. Responding to Paragraph 26, Defendants deny the allegations and demand strict proof thereof.
27. Responding to Paragraph 27, Defendants deny the allegations therein and demand strict proof.
28. Responding to Paragraph 38, Defendants deny the allegations and demand strict proof thereof.
29. Responding to Paragraph 29, Defendants deny the allegations and demand strict proof thereof.
30. Responding to Paragraph 30, Defendants deny the allegations and demand strict proof thereof.
31. Responding to Paragraph 31, Defendants deny the allegations and demand strict proof thereof.
32. Responding to Paragraph 32, Defendants deny the allegations and demand strict proof thereof.
33. Responding to Paragraph 33, Defendants deny the allegations and demand strict proof thereof.
34. Responding to Paragraph 32, Defendants deny the Plaintiff is entitled to the relief requested.
35. Paragraph 35 requires no additional response.
36. Responding to Paragraph 36, Defendants deny that the Plaintiff is entitled to the appointment of a receiver.
37. Responding to the section of the complaint that begins with WHEREFORE and contains sub-paragraphs (1) through (10), defendants deny that Plaintiff is entitled to any relief requested.

WHEREFORE, having fully answered the Complaint herein, the Defendant

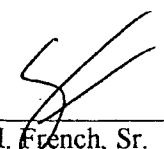
- (1) Requests that this matter be heard before a Jury;
- (2) Expressly denies that the Plaintiff is entitled to any relief requested;
- (3) Prays that the Plaintiff's Complaint be dismissed with prejudice;
- (4) Request an accounting be conducted;
- (5) And for such other and further relief as this Court may deem Just and Proper.

  
\_\_\_\_\_  
Shawn M. French  
Attorney for Defendant  
SC BAR No.: 75007  
100 Ellis Ave, Ste. B.  
Lexington, SC 29027  
803-462-4141

**CERTIFICATE OF SERVICE**

I, the undersigned, so hereby certify that I have this 2<sup>nd</sup> day of May, 2011 caused the foregoing **Answer of Defendants Hofford-Ocean Grean and John H. Hofford** to be served on the Attorneys of record by depositing in the US MAIL, postage prepaid, addressed as follows:

Nelson Mullins Riley & Scarborough LLP  
PO Box 11070  
Columbia, SC 29211-1070  
ATTN: B. Keith Poston

  
\_\_\_\_\_  
Shawn M. French, Sr.

**FILED**  
2011 MAY -14 PM 1:57  
JULIE J. ARMSTRONG  
CLERK OF COURT

STATE OF SOUTH CAROLINA )  
 COUNTY OF CHARLESTON )  
 )  
 TD Bank, N. A., Successor by merger to )  
 Carolina First Bank, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 Farm Hill Associates, LLC, John H. Hofford, )  
 Michael R. Bennett, Hofford Ocean Green, LLC, )  
 and Bennett-Ocean Green, LLC, )  
 )  
 Defendants, )  
 )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
 CASE NO.: 2011-CP-10-1550

**ANSWER  
 ON BEHALF OF DEFENDANT  
 MICHAEL R. BENNETT  
 (Jury Trial Demanded)**

FILED  
 2011 MAY -4 PM 4:32  
 JULIE J. ARMSTRONG  
 CLERK OF COURT  
 BY \_\_\_\_\_

Defendant Michael R. Bennett, ( hereinafter referred to as "Bennett") answers the complaint of the Plaintiff TD Bank, N. A., (hereinafter referred to as "Bank") and demanding a jury trial would allege and show as follows:

1. That each and every allegation of the complaint by hereinafter admitted or modified, is denied and strict proof is demanded hereof.
2. Bennett denies lack of sufficient information to either admit or deny paragraph 1 and therefore denies the same and demands strict proof thereof.
3. Bennett admits upon information and belief to Paragraph 2 and demands strict proof thereof.
4. Bennett admits Paragraphs 3 & 4.
5. Bennett admits upon information and belief Paragraphs 5 and 6, however demands strict proof thereof.

6. Bennett neither admits nor denies Paragraph 7 as a conclusion of law and neither admits or denies saying to the extent an answer is required. Defendant denies same and demands strict proof thereof.

7. Bennett admits upon information and belief Paragraph 8.

8. With regards to Paragraph 9, Bennett lacks sufficient information to either admit or deny and therefore denies the same and demands strict proof thereof.

9. With regard to Paragraph 10, Bennett repeats and re-alleges each of his previous answers as if set forth verbatim herein.

10. Paragraphs 11 – 24, these paragraphs are related to the foreclosure of real and personal property and make no claim for relief against Defendant, Bennett and therefore Defendant Bennett does not answer Paragraphs 11 thru 24. To the extent an answer is required Bennett denies each and every allegation and demands strict proof thereof.

11. With regard to Paragraph 25 Defendant Bennett would allege and shows as follows:

12. With regard to Paragraph 1-9 Defendant Bennett would repeat and re-allege previous answers as if set forth verbatim herein.

13. With regard to Paragraphs 10-24 Bennett would state that to the extent Plaintiffs refer to writings, Bennett would allege that the writings control the accuracy of the allegations contained in all such paragraphs would refer to the document either attached or incorporated in the complaint of foreclosure for the true contents thereof.

14. Bennett denies each and every allegation of paragraphs 11-24 which contradict either the terms of the writing or the subsequent modifications made between the parties either orally or in writing. To the extent any further answer is required with regard to the Paragraphs repeated and re-alleged Bennett would deny same and demand Strict proof thereof.

15. With regard Paragraph 25, Bennett would deny same and demand strict proof thereof.

16. Paragraph 26 does not reference Defendant Bennett so therefore no answer is required by Defendant Bennett to the extent any answer is required he would deny sufficient information to either admit or deny the same and demands strict proof thereof.

17. Bennett would deny Paragraphs 27, 28, 29, 30.

18. Bennett denies sufficient information needed to admit or deny Paragraph 31 and therefore denies same and demands strict proof thereof.

19. Bennett denies Paragraph 32 and 33.

20. Bennett denies Paragraph 34.

21. With regard to Paragraph 35, Bennett repeats and realleges its responses to each of the paragraphs repeated and incorporated and to the extent any additional answer is required all allegations are denied.

22. Bennett denies Paragraph 36.

**FOR A FIRST AFFIRMATIVE DEFENSE**

23. Defendants have failed to state a claim pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

**FOR A SECOND AFFIRMATIVE DEFENSE**

24. Plaintiff and the Defendant Bennett have reached an accord and satisfaction of all of Bennett's obligations, contrary to the relief requested by Plaintiff.

**FOR A THIRD AFFIRMATIVE DEFENSE**

25. Plaintiff has waived its rights to pursue Bennett on the guarantee.

**FOR A FOURTH AFFIRMATIVE DEFENSE**

26. Plaintiff's conduct estops Plaintiff from pursuing Bennett in this action.

**FOR A FIFTH AFFIRMATIVE DEFENSE**

27. Plaintiff's guarantee fails for lack of consideration.

**FOR A SIXTH AFFIRMATIVE DEFENSE**

28. Plaintiff is equitably stopped from pursuing Bennett on any guarantee.

**FOR A SEVENTH AFFIRMATIVE DEFENSE**

29. Plaintiff, based upon the doctrine of unclean hands is barred from any recovery.

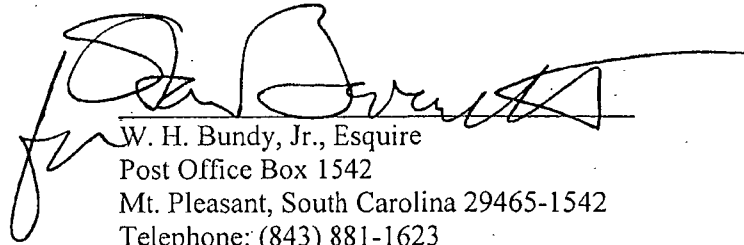
**FOR AN EIGHTH AFFIRMATIVE DEFENSE**

30. Plaintiff has failed to mitigate damages.

WHEREFORE having answered the complaint of the Plaintiff, Bennett would pray as follows:

1. That the Complaint of the Plaintiff herein against Defendant Bennett be dismissed with costs to be borne by Plaintiff;
2. That the Court award Defendant Bennett his attorneys' fees and costs;
3. For such other and further relief as the Court may deem just and proper.

SMITH, BUNDY, BYBEE & BARNETT, P.C.



W. H. Bundy, Jr., Esquire  
Post Office Box 1542  
Mt. Pleasant, South Carolina 29465-1542  
Telephone: (843) 881-1623  
Attorney for Michael R. Bennett

Mt. Pleasant, South Carolina  
May 9, 2011



STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

) IN THE COURT OF COMMON PLEAS  
) CASE NO.: 2011-CP-10-1550

TD Bank, N. A., Successor by merger to  
Carolina First Bank,

Plaintiff,

)  
)  
)  
) **MOTION FOR LEAVE TO FILE AN  
) ANSWER or in the alternative to SET  
) ASIDE THE ENTRY OF DEFAULT**

vs.,

Farm Hill Associates, LLC, John H. Hofford,  
Michael R. Bennett, Hofford Ocean Green, LLC,  
and Bennett-Ocean Green, LLC,

Defendants;

FILED  
2011 JUN - 7 PM 2:24  
JULIE J. ARMSTRONG  
CLERK OF COURT

TO: JOHN T. MOORE, ESQ. and B. KEITH POSTON, ESQ. ATTORNEYS FOR PLAINTIFF

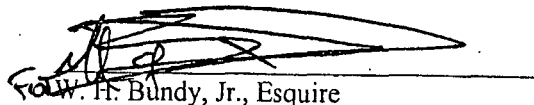
Defendant Bennett-Ocean Green, LLC moves this Court for leave to file an Answer or in the alternative to set aside the entry of default for good cause shown pursuant to Rule 55(c), SCRPC or, in the alternative, pursuant to Rule 60, SCRPC. The Defendant respectfully shows as follows:

- (1) The Plaintiff filed this foreclosure action on March 1, 2011.
- (2) Defendant Bennett-Ocean Green, LLC was named as a defendant in the action notwithstanding that it did not own the property which is the subject of this action and was not on the Note or Guaranty referenced in the Complaint.
- (3) Defendant Bennett-Ocean Green, LLC was served by and through Michael R. Bennett on March 7, 2011. Michael R. Bennett was also served on March 7, 2011.
- (4) Defendant Michael R. Bennett retained Smith, Bundy, Bybee, & Barnett, PC to represent him in this action subsequent to service.
- (5) On May 4, 2011, Defendant Michael R. Bennett filed an answer to the Complaint.

- (6) On June 6, 2011; Counsel for Defendant Michael R. Bennett became aware that the answer should have been filed on behalf of Michael R. Bennett and Defendant Bennett-Ocean Green, LLC.
- (7) On that same day, Counsel for the Defendant called Plaintiff's Counsel to inform him that an answer was forthcoming. However, Counsel for the Plaintiff informed Defendant's Counsel that an affidavit of default was filed on Thursday, June 2, 2011 and that the Plaintiff would not withdraw the affidavit.
- (8) Upon information and belief, no action has been taken by the Court or the Clerk on the affidavit of default and the affidavit has not yet been served on the Defendants.
- (9) Defendant Bennett-Ocean Green, LLC is fully prepared to file and Answer to the Plaintiff's complaint and that no prejudice would result from the Defendants filing the same.

The Defendant Bennett-Ocean Green, LLC move this Court for leave to file an answer or, in the alternative, to set aside the entry of default for the good cause shown and the unique circumstances of the present case. Further, there is no resulting prejudice to any of the remaining parties. For the Court's consideration a proposed order is attached hereto.

SMITH, BUNDY, BYBEE & BARNETT, P.C.



W. F. Bundy, Jr., Esquire  
Post Office Box 1542  
Mt. Pleasant, South Carolina 29465-1542  
Telephone: (843) 881-1623  
Attorney for Michael R. Bennett and Ocean-Bennett Green, LLC

Mt. Pleasant, South Carolina  
6/7, 2011

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

IN THE COURT OF COMMON PLEAS

TD Bank, N.A., Successor by merger to )  
Carolina First Bank, )  
 )  
Plaintiff, )

Civil Action No. 2011-CP-10-1550

vs. )

**MOTION FOR REFERENCE TO**  
**MASTER IN EQUITY**

Farm Hill Associates, LLC, John H. )  
Hofford, Michael R. Bennett, Hofford- )  
Ocean Green, LLC, and Bennett-Ocean )  
Green, LLC )  
 )  
Defendants. )

FILED  
2011 JUN -9 AM 10:00  
JULIE J. ARMSTRONG  
CLERK OF COURT  
BY

The Plaintiff, TD Bank, N.A., Successor by merger to Carolina First Bank, moves pursuant to Rule 53(b) of the South Carolina Rules of Civil Procedure, for an Order (in substantially the form attached hereto as **Exhibit A**) referring the above-captioned matter to the Honorable Mikell R. Scarborough, Master-in-Equity for Charleston County. This matter is a foreclosure action, and as such, is appropriate for the Master-in-Equity to hear.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: B. Keith Poston  
John T. Moore  
SC Bar No. 004056  
E-Mail: john.moore@nelsonmullins.com  
B. Keith Poston  
SC Bar No. 78397  
E-Mail: keith.poston@nelsonmullins.com  
1320 Main Street / 17th Floor  
Post Office Box 11070 (29211-1070)  
Columbia, SC 29201  
(803) 799-2000

**ATTORNEYS FOR TD BANK, N.A., SUCCESSOR BY  
MERGER TO CAROLINA FIRST BANK**

Columbia, South Carolina

June 6, 2011

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

IN THE COURT OF COMMON PLEAS

TD Bank, N.A., Successor by merger to )  
Carolina First Bank, )

Civil Action No. 2011-CP-10-1550

Plaintiff, )

vs. )

**ORDER FOR REFERENCE TO**  
**MASTER IN EQUITY**

Farm Hill Associates, LLC, John H. )  
Hofford, Michael R. Bennett, Hofford- )  
Ocean Green, LLC, and Bennett-Ocean )  
Green, LLC )

Defendants. )

It appearing that pursuant to Rule 53(b) of the South Carolina Rules of Civil Procedure, as amended September 1, 2002, that the herein action is an appropriate action to be referred to the Honorable Mikell R. Scarborough, Master-in-Equity for Charleston County with authority to enter a final judgment in the case.

NOW, THEREFORE, on motion of Plaintiff's attorney, B. Keith Poston,

IT IS HEREBY ORDERED that this case is referred to the Honorable Mikell R. Scarborough, Master-in-Equity for Charleston County; who, pursuant to Rule 53(b) of the South Carolina Rules of Civil Procedure, shall exercise all power and authority which a circuit judge sitting without a jury would have, including but not limited to, making findings of fact and conclusions of law; directing entry of final judgment in this action under Rule 53(b) of the South Carolina Rules of Civil Procedure; to order a sale on any day, not just the first Monday in the month; to hear any issues, including motions, after sale or judgment; issuing any and all Orders and Supplemental Orders, Writs of Assistance, and hearing any issues involving possession



and/or removal of property and appraisal proceedings under Section 29-3-360, *et. seq.* of the South Carolina Code. Pursuant to Rule 53(b) of the South Carolina Rules of Civil Procedure, any appeal from the final judgment entered by the Master-in-Equity shall be to the Supreme Court or the Court of Appeals as provided by the South Carolina Appellate Court Rules.

ALL OF WHICH HAS BEEN ORDERED, ADJUDGED, AND DECREED.

---

Presiding Judge  
Ninth Judicial Circuit

Charleston, South Carolina

---

, 2011

STATE OF SOUTH CAROLINA )  
 ) IN THE COURT OF COMMON PLEAS  
COUNTY OF CHARLESTON )

TD Bank, N.A., Successor by merger to ) Civil Action No. 2011-CP-10-1550  
Carolina First Bank, )

Plaintiff, )

vs. )

**CERTIFICATE OF SERVICE**

Farm Hill Associates, LLC, John H. )  
Hofford, Michael R. Bennett, Hofford- )  
Ocean Green, LLC, and Bennett-Ocean )  
Green, LLC )

Defendants. )

BY

JULIE J. ARMSTRONG  
CLERK OF COURT

2011 JUN -9 AM 10:00

FILED

I, Linnea Hann, a Paralegal at the law offices of Nelson Mullins Riley & Scarborough LLP, Attorneys for the Plaintiff, do hereby certify that I have served a copy of the Motion for Reference to Master in Equity, which is attached hereto and incorporated herein by reference, and in connection with the above referenced case, by mailing a copy of the same by United States mail, postage prepaid, to each of the addresses listed below and in separate envelopes, at each of their respective addresses this 7 day of June, 2011.

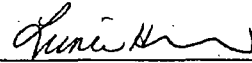
Farm Hill Associates, LLC  
c/o Michael Bennett, Registered Agent  
17 Lockwood Blvd, 4th Floor  
Charleston, SC 29401

Bennett-Ocean Green, LLC  
c/o Michael Bennett, Registered Agent  
17 Lockwood Blvd, 4th Floor  
Charleston, SC 29401

Shawn M. French  
The French Law Firm, LLC  
Attorney for Hofford-Ocean Green, LLC  
And John H. Hofford  
100 Ellis Avenue, Suite B  
Lexington, SC 29027

W.H. Bundy, Jr.  
Smith, Bundy, Bybee & Barnett, P.C.

Attorney for Michael R. Bennett  
P.O. Box 1542  
Mt. Pleasant, SC29465



---

Linnea Hann  
Paralegal to B. Keith Poston

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

) IN THE COURT OF COMMON PLEAS  
) CASE NO.: 2011-CP-10-1550  
)

TD Bank, N. A., Successor by merger to  
Carolina First Bank,

Plaintiff,

vs.

Farm Hill Associates, LLC, John H. Hofford,  
Michael R. Bennett, Hofford Ocean Green, LLC,  
and Bennett-Ocean Green, LLC,

Defendants,

ANSWER  
ON BEHALF OF DEFENDANT  
BENNETT-OCEAN GREEN, LLC  
(Jury Trial Demanded)

FILED  
JUL - 6 PM 3:19  
CLERK OF COURT  
J. ARMSTRONG

Defendant Bennett-Ocean Green, LLC, ( hereinafter referred to as "B.O.G.") answers the complaint of the Plaintiff TD Bank, N. A., (hereinafter referred to as "Bank") and demanding a jury trial would allege and show as follows:

1. That each and every allegation of the complaint hereinafter admitted or modified, is denied and strict proof is demanded hereof.
2. B.O.G denies lack of sufficient information to either admit or deny paragraph 1 and therefore denies the same and demands strict proof thereof.
3. B.O.G admits upon information and belief to Paragraph 2 and demands strict proof thereof.
4. B.O.G admits Paragraphs 3 & 4.
5. B.O.G., upon information and belief, admits Paragraphs 5 and 6.
6. B.O.G neither admits nor denies Paragraph 7 as it is a conclusion of law and no answer is required.
7. B.O.G, upon information and belief, admits Paragraph 8.

8. With regards to Paragraph 9, B.O.G lacks sufficient information to either admit or deny and therefore denies the same and demands strict proof thereof.

9. With regard to Paragraph 10, Bennett repeats and re-allèges each and every previous answers as if set forth verbatim herein.

10. With regard to Paragraphs 11 - 24, these Paragraphs are related to the foreclosure of real and personal property. Defendant B.O.G. would deny each and every allegation of Paragraphs 11 - 24, which contradicts or varies from the writings referenced incorporated in said Paragraphs. In the extent that an answer is required B.O.G. denies all allegations which are inconsistent with the writings referenced and denies Paragraph 23 so far as it alleges the Bank's entitlement to a deficiency judgment against B.O.G.

11. With regard to Paragraph 25, B.O.G. repeats and re-alleges each and every previous answer as if set forth verbatim herein.

12. Paragraphs 26-34, do not seek any relief against B.O.G. and therefore no answer is required of B.O.G. to these allegations. To the extent that any relief is requested B.O.G. denies each and every allegation of Paragraphs 25-34.

13. B. O. G repeats and re-allege each and every allegation in Paragraph 35 as if set forth verbatim herein.

14. B.O.G. denies Paragraph 36.

**FOR A FIRST AFFIRMATIVE DEFENSE**

15. Defendants have failed to state a claim pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

**FOR A SECOND AFFIRMATIVE DEFENSE**

16. Plaintiff and the Defendant B.O.G. have reached an accord and satisfaction of all of B.O.G's obligations, contrary to the relief requested by Plaintiff.

**FOR A THIRD AFFIRMATIVE DEFENSE**

17. Plaintiff has waived its rights to pursue B.O.G on the guarantee.

**FOR A FOURTH AFFIRMATIVE DEFENSE**

18. Plaintiff's conduct estops Plaintiff from pursuing B.O.G in this action.

**FOR A FIFTH AFFIRMATIVE DEFENSE**

19. Plaintiff's guarantee fails for lack of consideration.

**FOR A SIXTH AFFIRMATIVE DEFENSE**

20. Plaintiff is equitably stopped from pursuing B.O.G on any guarantee.

**FOR A SEVENTH AFFIRMATIVE DEFENSE**

21. Plaintiff, based upon the doctrine of unclean hands is barred from any recovery.

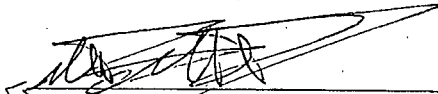
**FOR AN EIGHTH AFFIRMATIVE DEFENSE**

22. Plaintiff has failed to mitigate damages.

~~WHEREFORE~~ having answered the complaint of the Plaintiff, Defendant  
Bennett-Ocean Green, LLC, would pray as follows:

1. That the Complaint of the Plaintiff herein against Defendant Bennett-Ocean Green, LLC, be dismissed with costs to be borne by Plaintiff;
2. That the Court award Defendant Bennett-Ocean Green, LLC, its attorneys' fees and costs;
3. For such other and further relief as the Court may deem just and proper.

SMITH, BUNDY, BYBEE & BARNETT, P.C.



W. H. Bundy, Jr., Esquire  
Post Office Box 1542  
Mt. Pleasant, South Carolina 29465-1542  
Telephone: (843) 881-1623  
Attorney for Michael R. Bennett and Bennett-Ocean Green, LLC

Mt. Pleasant, South Carolina  
July 5, 2011



STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

IN THE CIRCUIT COURT FOR THE  
NINTH JUDICIAL CIRCUIT

CASE NO: 2011-CP-10-1550

TD Bank, N.A., Successor by merger to  
Carolina First Bank,

PLAINTIFF

v.

Farm Hill Associates, LLC, John H. Hofford,  
Michael R. Bennett, Hofford-Ocean Green,  
LLC and Bennett-Ocean Green, LLC,

DEFENDANTS

Motion to Set Aside Entry of Default

2011 AUG 24 PM 2:37  
JULIE J. ARMSTRONG  
CLERK OF COURT

FILED

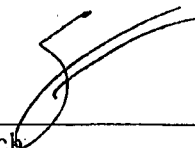
**COME NOW** Farmhill Associates, LLC, by and through its attorney, Shawn M. French of 100 Ellis Avenue, Ste. B, Lexington, SC 29072, and request that pursuant to Rule 55(c) and Rule 60(b) of the South Carolina Rules of Civil Procedure this Honorable Court **Set Aside the Entry of Default** entered against Defendant Farm Hill Associates.

1. Rule 55(c) South Carolina Rules of Civil Procedure states "For good cause shown the court may set aside an entry of default and, if a judgment by default has been entered, may likewise set it aside in accordance with Rule 60(b)."
2. Rule 60(b) South Carolina Rules of Civil Procedure states that "...the court may relieve a party . . . from a final judgment, order or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; . . . (3) fraud, misrepresentation, or other misconduct of an adverse party. . ."
3. The Complaint in this action was filed on March 1, 2011.
4. Farm Hill Associates was served through its registered agent, Michael Bennett.
5. Farm Hill Associates was at one time a company owned jointly by Mr. Hofford and Mr. Bennett. As of the filing of this complaint, Mr. Hofford was attempting to liquidate its assets.

6. Answers had already been filed on behalf of Mr. Hofford and Hofford-Ocean Green, LLC by Shawn M. French, Sr. It was only through a miscommunication that an answer was not also filed by Farm Hill Associates, LLC.
7. Defendant Farm Hill Associates, LLC is fully prepared to answer the complaint and states that there exists no prejudice to the plaintiff in allowing the answer to be filed.
8. Defenant Farm Hill Associates, LLC states that it is informed and believes that the Plaintiff would not withdraw its entry of default.

**WHEREFORE**, defendant Farm Hill Associates, LLC requests that this court set aside the entry of default for good cause shown.

**August 23, 2011**



---

Shawn M. French  
Attorney for John H. Hofford, Farm Hill  
Associates, LLC, and Hofford-Ocean Green,  
LLC  
SC BAR No.: 75007  
100 Ellis Ave, Ste. B  
Lexington, SC 29072  
843-606-6440

7550  
P. 134

**NOTICE OF APPEAL IN A CIVIL CASE**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Markley Dennis, Circuit Court Judge

Case No. 2011-CP-10-01550

FILED  
2011 AUG 25 PM 4:16  
JULIE J. ARMSTRONG  
CLERK OF COURT

TD Bank, N.A., Successor by  
merger to Carolina First Bank,

Respondent,

v.

Farm Hill Associates, LLC,  
John H. Hofford, Michael R.  
Bennett, Hofford-Ocean  
Green, LLC and Bennett-  
Ocean Green, LLC,

Appellant.

**NOTICE OF APPEAL**

Farm Hill Associates, LLC, John H. Hofford, and Hofford-Ocean Green, LLC appeal the Order for Reference to Master in Equity of the Honorable Markley Dennis dated August 3, 2011. Appellant received written notice of entry of this order on August 12, 2011.

August 24, 2011

Shawn M. French, SC BAR No.: 75007  
Attorney for Farm Hill Associates, LLC,  
John Hofford, and Hofford-Ocean Green,  
100 Ellis Ave, Ste. B  
Lexington, SC 29072  
843-606-6440(ph)  
888-850-0948(f)  
shawn@thefrenchlawfirm.com

**Other Counsel of Record:**

Nelson Mullins Riley & Scarborough LLP  
PO Box 11070  
Columbia, SC 29211-1070  
ATTN: B. Keith Poston

W.H. Bundy  
Smith, Bundy, Bybee & Barnett, PC  
PO Box 1542  
Mt. Pleasant, SC 29465

**NOTICE OF APPEAL IN A CIVIL CASE**

**THE STATE OF SOUTH CAROLINA**  
In The Court of Appeals

**APPEAL FROM CHARLESTON COUNTY**  
Court of Common Pleas

Markley Dennis, Circuit Court Judge

Case No. 2011-CP-10-01550

FILED  
2011 AUG 25 PM 4:16  
JULIE J. ARMSTRONG  
CLERK OF COURT

TD Bank, N.A., Successor by  
merger to Carolina First Bank,

Respondent,

v.

Farm Hill Associates, LLC,  
John H. Hofford, Michael R.  
Bennett, Hofford-Ocean  
Green, LLC and Bennett-  
Ocean Green, LLC,

Appellant.

**CERTIFICATE OF SERVICE OF NOTICE OF APPEAL**

I certify that I have served the Notice of Appeal of Farm Hill Associates, LLC, John H. Hofford, Hofford-Ocean Green, LLC, on Counsel of Record by depositing a copy of it in the United States Mail, postage prepaid, on August 24, 2011, and again with this CERTIFICATE OF SERVICE on August 24, 2011 addressed as follows:

Nelson Mullins Riley & Scarborough LLP  
PO Box 11070  
Columbia, SC 29211-1070  
ATTN: B. Keith Poston

W.H. Bundy  
Smith, Bundy, Bybee & Barnett, PC  
PO Box 1542  
Mt. Pleasant, SC 29465

August 24, 2011

\_\_\_\_\_  
Shawn M. French  
Attorney for Farm Hill Associates, LLC,  
John Hofford, and Hofford-Ocean Green  
SC BAR No.: 75007  
100 Ellis Ave, Ste. B  
Lexington, SC 29072

STATE OF SOUTH CAROLINA )  
 )  
COURT OF COMMON PLEAS  
COUNTY OF CHARLESTON )

TD Bank, N.A. as Successor by )  
merger to Carolina First Bank, )  
 )  
Plaintiff, )

vs. )

Case No. 11-CP-10-1550

Farm Hill Associates, et al )  
 )  
Defendant. )

**TRANSCRIPT OF HEARING**

The within Hearing in the above-captioned action was held on August 1, 2011, before The Honorable R. Markley Dennis, Jr. in Courtroom 4B of the Charleston County Courthouse, 100 Broad Street, Charleston, South Carolina; attended by Counsel, as follows:

**APPEARANCES:**

Brandon Keith Poston, Esq.  
Appearing for TD Bank

Walter Henry Bundy, Jr., Esq.  
Appearing for Bennett & Green Defendants

Shawn M. French, Esq.

**DEBORAH GARRISON**  
*Circuit Court Reporter - 9<sup>th</sup> Judicial Circuit*  
Post Office Box 901  
Johns Island, South Carolina 29457  
[dGarrison@secourts.org](mailto:dGarrison@secourts.org)

1 THE COURT: The next one is a Motion  
2 to refer, TD Bank versus Farm Hill Associates.

3 MR. POSTON: Your Honor, Keith Poston  
4 on behalf of TD Bank.

5 THE COURT: Yes, sir, I will be happy  
6 to hear from you.

7 MR. POSTON: Your Honor, this is a  
8 foreclosure action. TD Bank filed it's  
9 Complaint for foreclosure on March 1<sup>st</sup> of this  
10 year.

11 THE COURT: Why won't they agree to  
12 you referring a foreclosure action?

13 MR. POSTON: I don't want to state on  
14 their benefit what ---

15 THE COURT: You have to. You brought  
16 this Motion. So I am asking you, why won't they  
17 do that?

18 MR. POSTON: We are also seeking a  
19 deficiency judgment against their clients, for  
20 which they believe there is a legal cause of  
21 action.

22 THE COURT: May be. That's what the  
23 Master can do. He can hear the ones that he can  
24 and send it back for jury trial on those things  
25 that he can't. Can't he?

1 MR. POSTON: That's correct, Your  
2 Honor.

3 THE COURT: Okay. So what is the  
4 opposition, Mr. Bundy, or ---

5 MR. BUNDY: Your Honor, Bill Bundy.  
6 I represent Michael R. Bennett and Bennett Green  
7 -- he's a guarantor on these fairly substantial  
8 Notes.

9 THE COURT: I'm sure.

10 MR. BUNDY: While he did waive a jury  
11 trial, we believe that these are acts that --  
12 and I wanted to -- my position is that we have a  
13 circuit judge hear it, basically on a nonjury  
14 docket but let a circuit judge hear it because  
15 that's what the ---

16 THE COURT: Okay. The Rule sets up  
17 and it works beautifully. I will refer it, then  
18 the Master can determine what those issues are  
19 that he can't try and send it back to us. We'll  
20 refer it, get started. Thank you very much.

21 (HEARING CONCLUDED)

22

23

24

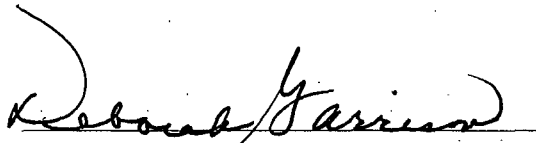
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

CERTIFICATE OF REPORTER

I, the undersigned, Deborah Garrison,  
official court reporter for the 9<sup>th</sup> Judicial  
Circuit of the State of South Carolina, do  
hereby certify that the foregoing is a true,  
accurate and complete transcript of the hearing  
held before The Honorable R. Markley Dennis,  
Jr., on August 1, 2011;

I further certify that I am neither kin nor  
counsel to any of the parties and have no  
interest in the outcome of this action.



Deborah Garrison  
Circuit Court Reporter  
9<sup>th</sup> Judicial Circuit

Charleston, South Carolina  
September 26, 2011

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Markley Dennis, Circuit Court Judge

Case No. 2011-CP-10-01550

TD Bank, N.A., Successor by  
merger to Carolina First Bank,

Respondent,

v.

Farm Hill Associates, LLC,  
John H. Hofford, Michael R.  
Bennett, Hofford-Ocean  
Green, LLC and Bennett-  
Ocean Green, LLC,

Appellant.

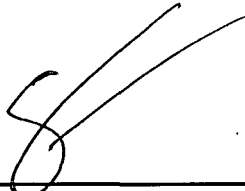
**RECEIVED**  
APR 03 2012  
**SC Court of Appeals**

CERTIFICATE OF SERVICE OF RECORD OF APPEAL

I certify that I have served the RECORD OF APPEAL, on Counsel of Record by depositing a copy of it in the United States Mail, postage prepaid, on March 30, 2012 and served on all parties filing briefs in this matter, addressed as follows:

Nelson Mullins Riley & Scarborough LLP  
PO Box 11070  
Columbia, SC 29211-1070  
ATTN: B. Keith Poston

March 30, 2012

  
Shawn M. French  
Attorney for Farm Hill Associates, LLC,  
John Hofford, and Hofford-Ocean Green  
SC BAR No.: 75007  
100 Ellis Ave, Ste. B  
Lexington, SC 29072



MAY 7, 2012

VIA US MAIL

SOUTH CAROLINA COURT OF APPEALS  
PO BOX 11629  
COLUMBIA, SC 29211

RE: TD Bank v. Farmhill Associates, et al.

To Whom It May Concern,

Please find enclosed the Record on Appeal along with a Certificate of Service on the attorneys of record.

If you have any questions, you can contact me at the above number.

Sincerely,

  
Shawn M. French

Cc File

B. Keith Poston

Bill Bundy

John Hofford

Encl/

**RECEIVED**  
MAY 08 2012  
SC Court of Appeals

1476 Ben Sawyer Blvd., Suite 3  
Mt. Pleasant, SC 29464  
843-606-6440

www.TheFrenchLawFirm.com  
info@TheFrenchLawFirm.com  
Facsimile 888-850-0948

100 Ellis Ave. Suite B  
Lexington, SC 29072  
803-462-4141