

LAW OFFICES  
**NELSON MULLINS RILEY & SCARBOROUGH, L.L.P.**  
A REGISTERED LIMITED LIABILITY PARTNERSHIP

BRADLEY E. WAHL  
(ADMITTED IN GA & NY)  
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COLUMBIA, SOUTH CAROLINA  
GREENVILLE, SOUTH CAROLINA  
MYRTLE BEACH, SOUTH CAROLINA  
MUNICH, GERMANY

April 5, 2004

Via Federal Express

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, NW  
Washington, DC 20423-0001

RECORDATION NO. 24920

APR 19 '04 10-30 AM

SURFACE TRANSPORTATION BOARD



Dear Sir:

I have enclosed an original and one copy of the document described below, to be recorded pursuant to Section 11301 of Title 49 of the U.S. Code. This document is a Security Agreement, a primary document, dated March 5, 2004.

The names and addresses of the parties to the documents are as follows:

Lender: Wachovia Bank, National Association  
Attention: Business Lending Group Credit Products Management  
191 Peachtree Street, NE  
MC GA 9071  
Atlanta, Georgia 30303

Pledgor: M.B.C.X. Leasing, LLC  
510 Janice Drive  
Fayetteville, Georgia 30214

A description of the equipment covered by the document is listed on the attached schedule. A fee of \$30 per document is enclosed. Please return the original and extra copies not needed by the Board for recordation to me, Bradley E. Wahl, at the address listed above.

A short summary of the document to appear in the index follows:

Security Agreement between M.B.C.X. Leasing, LLC, as debtor, and Wachovia Bank, National Association, as secured party, dated March 6, 2004, and covering (a) 16 Gondola Rail Cars of 7,400 cubic feet each, bearing numbers TERX 211 through TERX 226, inclusive, (b) 20 Gondola Rail Cars of 6,500 cubic feet each, bearing numbers TERX 227 through TERX

RECORDATION NO. 24920 FILED

APR 19 '04 10-30 AM

**SECURITY AGREEMENT**  
(Personal Property Assets)

SURFACE TRANSPORTATION BOARD

Date: March 5, 2004

**DEBTOR**

Name: M.B.C.X. Leasing, LLC

Address: 3695 Bullock Bridge Road  
Monroe, Georgia 30656

**BANK**

Wachovia Bank, National Association

Address: 191 Peachtree Street, N.E.  
29<sup>th</sup> Floor  
Atlanta, Georgia 30303

For value received and to secure payment and performance all obligations of Debtor to Bank however created, arising or evidenced, whether direct or indirect, absolute or contingent, now existing or hereafter arising or acquired, including swap agreements (as defined in 11 U.S.C. §101), future advances, obligations under Loan Documents, and all costs and expenses incurred by Bank to obtain, preserve, perfect and enforce the security interest granted herein and to maintain, preserve and collect the property subject to the security interest (collectively, "Obligations"), Debtor hereby grants to Bank a continuing security interest in and lien upon the following described property, whether now owned or hereafter acquired, and any additions, replacements, accessions, or substitutions thereof and all cash and non-cash proceeds and products thereof (collectively, "Collateral"):

~~All of the personal property of Debtor of every kind and nature including, without limitation, all accounts, equipment, inventory, chattel paper, instruments, documents, letter of credit rights, deposit accounts and general intangibles, wherever located.~~

~~All inventory, accounts and general intangibles.~~

~~All equipment.~~



The vehicles and/or equipment described on Schedule A, attached.

Debtor hereby represents and agrees that:

**OWNERSHIP.** Debtor owns the Collateral or Debtor will purchase and acquire rights in the Collateral within ten days of the date funds are advanced by Bank for the purpose of acquisition of the Collateral. The Collateral is free and clear of all liens, security interests, and claims except those previously reported in writing to Bank, and Debtor will keep the Collateral free and clear from all other liens, security interests and claims, except those granted to Bank.

**NAME AND OFFICES; JURISDICTION OF ORGANIZATION.** The name and address of Debtor appearing at the beginning of this Agreement are Debtor's exact legal name and the address of its chief executive office. There has been no change in the name of Debtor, or the name under which Debtor conducts business, within the five years preceding the date hereof except as previously reported in writing to Bank. Debtor has not moved its chief executive office within the five years preceding the date hereof except as previously reported in writing to Bank. Debtor is organized under the laws of the State

of Georgia and has not changed the jurisdiction of its organization within the five years preceding the date hereof except as previously reported to Bank.

**NAME AND OFFICES.** The name and address of Debtor appearing at the beginning of this Agreement are Debtor's exact legal name and the address of the site of Debtor. There has been no change in the name of Debtor, or the name under which Debtor conducts business, within the five years preceding the date hereof except as previously reported in writing to Bank. Debtor has not moved the site of Debtor within the five years preceding the date hereof except as previously reported in writing to Bank.

**NAME AND OFFICES.** The name and address of Debtor appearing at the beginning of this Agreement are Debtor's exact legal name and the address of its residence. Debtor's business address, if different from its residence address is . There has been no change in the name of Debtor, or the name under which Debtor conducts business, within the five years preceding the date hereof except as previously reported in writing to Bank. Debtor has not moved its residence or business address within the five years preceding the date hereof except as previously reported in writing to Bank.

**COLLATERAL CONDITION AND LAWFUL USE.** Debtor represents that the Collateral is in good repair and condition and that Debtor shall use reasonable care to prevent Collateral from being damaged or depreciating, normal wear and tear excepted. Debtor shall immediately notify Bank of any material loss or damage to Collateral. Debtor shall not permit any item of Collateral to become a fixture to real estate or an accession to other personal property. Debtor represents it is in compliance in all respects with all laws, rules and regulations applicable to the Collateral and its properties, operations, business, and finances.

**TITLE/TAXES.** Debtor has good and marketable title to Collateral and will warrant and defend it against all claims. Debtor will not transfer, sell, or lease Collateral (except as permitted herein). Debtor agrees to pay promptly all taxes and assessments upon or for the use of Collateral and on this Security Agreement. At its option, Bank may discharge taxes, liens, security interests or other encumbrances at any time levied or placed on Collateral. Debtor agrees to reimburse Bank, on demand, for any such payment made by Bank. Any amounts so paid shall be added to the Obligations.

**WAIVERS.** Debtor agrees not to assert against Bank as a defense (legal or equitable), as a set-off, as a counterclaim, any claims Debtor may have against any seller or lessor that provided personal property or services relating to any part of the Collateral. Debtor waives all exemptions and homestead rights with regard to the Collateral. Debtor waives any and all rights to any bond or security which might be required by applicable law prior to the exercise of any of Bank's remedies against any Collateral. All rights of Bank and security interests hereunder, and all obligations of Debtor hereunder, shall be absolute and unconditional, not discharged or impaired irrespective of (and regardless of whether Debtor receives any notice of): (i) any lack of validity or enforceability of any Loan Document; (ii) any change in the time, manner or place of payment or performance, or in any term, of all or any of the Obligations or the Loan Documents or any other amendment or waiver of or any consent to any departure from any Loan Document; (iii) any exchange, release or non-perfection of any Collateral, or any release of or modifications of the obligations of any guarantor or other obligor; (iv) any amendment or waiver of or consent to departure from any Loan Document or other agreement. To the extent permitted by law, Debtor hereby waives any rights under any valuation, stay, appraisal, extension or redemption laws which, but for this provision, might be applicable to any sale or disposition of the Collateral by Bank.

**NOTIFICATIONS; LOCATION OF COLLATERAL.** Debtor will notify Bank in writing at least 30 days prior to any change in: (i) Debtor's chief place of business and/or residence; (ii) Debtor's name or identity; (iii) Debtor's corporate/organizational structure; or (iv) the jurisdiction in which Debtor is organized. In addition, Debtor shall promptly notify Bank of any claims or alleged claims of any other person or entity to the Collateral or the institution of any litigation, arbitration, governmental investigation or administrative proceedings against or affecting the Collateral. Debtor will keep Collateral at the location(s) previously provided to Bank until such time as Bank provides written advance consent to a change of location. Debtor will bear the cost of preparing and filing any documents necessary to protect Bank's liens.

**RISK OF LOSS AND INSURANCE.** Debtor shall bear all risk of loss with respect to the Collateral. The injury to or loss of Collateral, either partial or total, shall not release Debtor from payment or other performance hereof. ~~Debtor agrees to obtain and keep in force casualty and hazard insurance on Collateral naming Bank as loss payee. Such insurance is to be in form and amounts and issued by such companies as are satisfactory to Bank. All such policies shall provide to Bank a minimum of 30 days written notice of cancellation. Debtor shall furnish to Bank such policies, or other evidence of such policies satisfactory to Bank. If Debtor fails to obtain or maintain in force such insurance or fails to furnish such evidence, Bank is authorized, but not obligated, to purchase any or all insurance or "Single Interest Insurance" protecting such interest as Bank deems appropriate against such risks and for such coverage and for such amounts, including either the loan amount or value of the Collateral, all at its discretion, and at Debtor's expense. In such event, Debtor agrees to reimburse Bank for the cost of such insurance. Debtor hereby assigns to Bank the proceeds of all such insurance and directs any insurer to make payments directly to Bank. Debtor hereby appoints Bank its attorney-in-fact, which appointment shall be irrevocable and coupled with an interest for so long as Obligations are unpaid, to file proof of loss and/or any other forms required to collect from any insurer any amount due from any damage or destruction of Collateral, to agree to and bind Debtor as to the amount of said recovery, to designate payee(s) of such recovery, to grant releases to insurer, to grant subrogation rights to any insurer, and to endorse any settlement check or draft. Debtor agrees not to exercise any of the foregoing powers granted to Bank without Bank's prior written consent.~~

**FINANCING STATEMENTS, POWER OF ATTORNEY.** On request of Bank, Debtor will execute one or more financing statements in form satisfactory to Bank and will pay all costs and expenses of filing the same or of filing this Security Agreement in all public filing offices, where filing is deemed by Bank to be desirable. Bank is authorized to file financing statements relating to Collateral without Debtor's signature where authorized by law. On request of Bank, Debtor will take all necessary steps to confer control on Bank of any Collateral for which control is required under the UCC in order to perfect Bank's security interest in such Collateral. Debtor hereby constitutes and appoints Bank the true and lawful attorney of Debtor with full power to take any and all appropriate action and to execute any and all documents or instruments, including financing statements, that may be necessary or desirable to accomplish the purpose and carry out the terms of this Security Agreement. The foregoing power of attorney is coupled with an interest and shall be irrevocable until all of the Obligations have been paid in full. Neither Bank nor anyone acting on its behalf shall be liable for acts, omissions, errors in judgment, or mistakes in fact in such capacity as attorney-in-fact. Debtor ratifies all acts of Bank as attorney-in-fact. Debtor agrees to take such other actions as might be requested for the perfection, continuation and assignment, in whole or in part, of the security interests granted herein.

**LANDLORD/MORTGAGEE WAIVERS.** At Bank's request Debtor shall cause each mortgagee of real property owned by Debtor and each landlord of real property leased by Debtor to execute and deliver instruments satisfactory in form and substance to Bank by which such mortgagee or landlord subordinates its rights, if any, in the Collateral.

**COLLATERAL DUTIES.** Bank shall have no custodial or ministerial duties to perform with respect to Collateral pledged except as set forth herein; and by way of explanation and not by way of limitation, Bank shall incur no liability for any of the following: (i) loss or depreciation of Collateral (unless caused by its willful misconduct or gross negligence), (ii) failure to present any paper for payment or protest, to protest or give notice of nonpayment, or any other notice with respect to any paper or Collateral.

**INSPECTION, BOOKS AND RECORDS.** Debtor will at all times keep accurate and complete records covering each item of Collateral, including the proceeds therefrom. Bank, or any of its agents, shall have the right, at intervals to be determined by Bank and without hindrance or delay, at Debtor's expense, to inspect, audit, and examine the Collateral and to make copies of and extracts from the books, records, journals, orders, receipts, correspondence and other data relating to Collateral, Debtor's business or any other transaction between the parties hereto. Debtor will at its expense furnish Bank copies thereof upon request.

**ACCOUNT INFORMATION.** This paragraph is applicable if Collateral includes Accounts. From time to time, at Bank's request, Debtor shall provide Bank with schedules describing all accounts, including customers' addresses, credited or acquired by Debtor and at Bank's request shall execute and deliver written assignments of contracts and other documents evidencing such accounts to Bank. Together with each schedule, Debtor shall, if requested by Bank, furnish Bank with copies of Debtor's sales journals, invoices, customer purchase orders or the equivalent, and original shipping or delivery receipts for all goods sold, and Debtor warrants the genuineness thereof.

**ACCOUNT DEBTORS.** This paragraph is applicable if Collateral includes Accounts. If a Default should occur, Bank shall have the right to notify the account debtors obligated on any or all of the Collateral to make payment thereof directly to Bank and Bank may take control of all proceeds of any such Collateral, which rights Bank may exercise at any time. The cost of such collection and enforcement, including attorneys' fees and expenses, shall be borne solely by Debtor whether Bank or Debtor incurs the same. If Default should occur, Debtor should grant no discount, credit, or allowance to any account debtor and no return of merchandise shall be accepted by Debtor without Bank's consent. Bank may, after Default, settle or adjust disputes and claims directly with account contract debtors for amounts and upon terms that Bank considers advisable, and in such cases Bank will credit the Obligations with the net amounts received by Bank, after deducting all of the expenses incurred by Bank. Debtor agrees to indemnify and defend Bank and hold it harmless with respect to any claim or proceeding arising out of any matter related to collection of Collateral.

**CHATTEL PAPER, ACCOUNTS, GENERAL INTANGIBLES, INSTRUMENTS, DOCUMENTS.** This paragraph is applicable if Collateral includes chattel paper, accounts, general intangibles, instruments and/or documents. Debtor warrants that Collateral consisting of chattel paper, accounts, general intangibles, instruments and/or documents is (i) genuine and enforceable in accordance with its terms; (ii) not subject to any defense, set-off, claim or counterclaim of a material nature against Debtor except as to which Debtor has notified Bank in writing; and (iii) not subject to any other circumstances that would impair the validity, enforceability, value, or amount of such Collateral except as to which Debtor has notified Bank in writing. Debtor shall not amend, modify or supplement any lease, contract or agreement contained in Collateral or waive any provision therein, without prior written consent of Bank. ~~Any Collateral that is instruments, chattel paper and negotiable documents will be properly assigned to, the originals of any such Collateral in tangible form deposited with and held by Bank, unless Bank shall hereafter otherwise direct or consent in writing.~~ Bank may, without notice, before or after maturity of the Obligations, exercise any or all rights of collection, conversion, or exchange and other similar rights, privileges and options pertaining to such Collateral, but shall have no duty to do so.

**INVENTORY.** This paragraph is applicable if Collateral includes Inventory. So long as no Default has occurred, Debtor shall have the right in the regular course of business, to process and sell Debtor's inventory. If a Default should occur or upon demand of Bank, Debtor will, upon receipt of all checks, drafts, cash and other remittances, in payment of Collateral sold, deposit the same in a special bank account maintained with Bank, over which Bank shall have the sole power of withdrawal.

**ATTORNEYS' FEES AND OTHER COSTS OF COLLECTION.** Debtor shall pay all of Bank's reasonable expenses incurred in enforcing this Security Agreement and in preserving and liquidating Collateral, including but not limited to, reasonable arbitration, paralegals', attorneys' and experts' fees and expenses, whether incurred with or without the commencement of a suit, trial, arbitration, or administrative proceeding, or in any appellate or bankruptcy proceeding.

**DEFAULT.** If any of the following occurs, a default ("Default") under this Security Agreement shall exist: **Loan Document Default:** A default under any Loan Document; **Collateral Loss or Destruction:** Any loss, theft, substantial damage, or destruction of Collateral not fully covered by insurance, or as to which insurance proceeds are not remitted to Bank within 30 days of the loss; **Collateral Sale, Lease or Encumbrance.** Any sale, lease, or encumbrance of any Collateral not specifically permitted herein without prior written consent of Bank; or **Levy, Seizure or Attachment.** The making of any levy, seizure, or attachment on or of Collateral which is not removed within 10 days.

**REMEDIES ON DEFAULT (INCLUDING POWER OF SALE).** If a Default occurs, all of the Obligations shall be immediately due and payable, without notice, other than Obligations under any swap agreements (as defined in 11 U.S.C. § 101) with Bank, which shall be governed by the default and termination provisions of said swap agreements, and Bank shall have all the rights and remedies of a secured party under the Uniform Commercial Code. Without limitation thereto, Bank shall have the following rights and remedies: (i) to take immediate possession of Collateral, without notice or resort to legal process, and for such purpose, to enter upon any premises on which Collateral or any part thereof may be situated and to remove the same therefrom, or, at its option, to render Collateral unusable or dispose of said Collateral on Debtor's premises; (ii) to require Debtor to assemble the Collateral and make it available to Bank at a place to be designated by Bank; (iii) to dispose of Collateral, as a unit or in parcels, separately or with any real property interests also securing the Obligations, in any county or place to be selected by Bank, at either private or public sale (at which public sale Bank may be the purchaser) with or without having the Collateral physically present at said sale.

Any notice of sale, disposition or other action by Bank required by law and sent to Debtor at Debtor's address shown above, or at such other address of Debtor as may from time to time be shown on the records of Bank, at least 5 days prior to such action, shall constitute reasonable notice to Debtor. Notice shall be deemed given or sent when mailed postage prepaid to Debtor's address as provided herein. Bank shall be entitled to apply the proceeds of any sale or other disposition of the Collateral, and the payments received by Bank with respect to any of the Collateral, to Obligations in such order and manner as Bank may determine. Collateral that is subject to rapid declines in value and is customarily sold in recognized markets may be disposed of by Bank in a recognized market for such collateral without providing notice of sale. Debtor waives any requirement that Bank sell or dispose of all or any part of the Collateral at any particular time, regardless of whether Debtor has requested such sale or disposition.

**REMEDIES ARE CUMULATIVE.** No failure on the part of Bank to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by Bank or any right, power or remedy hereunder preclude any other or further exercise thereof or the exercise of any right, power or remedy. The remedies herein provided are cumulative and are not exclusive of any remedies provided by law, in equity, or in other Loan Documents.

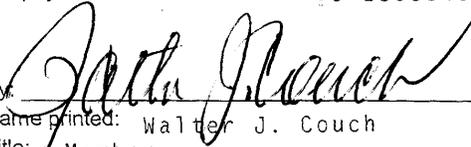
**MISCELLANEOUS.** (i) **Amendments and Waivers.** No waiver, amendment or modification of any provision of this Security Agreement shall be valid unless in writing and signed by Debtor and an officer of Bank. No waiver by Bank of any Default shall operate as a waiver of any other Default or of the same Default on a future occasion. (ii) **Assignment.** All rights of Bank hereunder are freely assignable, in whole or in part, and shall inure to the benefit of and be enforceable by Bank, its successors, assigns and affiliates. Debtor shall not assign its rights and interest hereunder without the prior written consent of Bank. Any assignment shall not release Debtor from the Obligations. (iii) **Applicable Law; Conflict Between Documents.** This Security Agreement shall be governed by and construed under the law of the jurisdiction named in the address of the Bank first shown above ("the Jurisdiction") without regard to that state's conflicts of law principles. If any terms of this Security Agreement conflict with the terms of any commitment letter or loan proposal, the terms of this Security Agreement shall control. (iv) **Jurisdiction.** Debtor irrevocably agrees to non-exclusive personal jurisdiction in the state in which the office of Bank as stated above is located. (v) **Severability.** If any provision of this Security Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective but only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Security Agreement. (vi) **Notices.** Any notices to Debtor shall be sufficiently given, if in writing and mailed or delivered to the address of Debtor shown above or such other address as provided hereunder; and to Bank, if in writing and mailed or delivered to Bank's office address shown above or such other address as Bank may specify in writing from time to time. In the event that Debtor changes Debtor's mailing address at any time prior to the date the Obligations are paid in full, Debtor agrees to promptly give written notice of said change of address by registered or certified mail, return receipt requested, all charges prepaid. (vii) **Loan Documents.** The term "Loan Documents" is defined in any promissory note that comprises part of the Obligations. (viii) **UCC.** "UCC" means the Uniform Commercial Code as presently and hereafter enacted in the Jurisdiction. **Terms defined in the UCC.**

Any term used in this Agreement and in any financing statement filed in connection herewith which is defined in the UCC and not otherwise defined in this Agreement or any other Loan Document has the meaning given to the term in the UCC.

**IN WITNESS WHEREOF**, Debtor, on the day and year first written above, has caused this Security Agreement to be executed under seal.

Debtor Name: M.B.C.X. Leasing, LLC

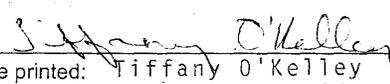
Taxpayer Identification Number: 55-18585405

By:  (Seal)

Name printed: Walter J. Couch

Title: Member

Wachovia Bank, National Association

By:  (Seal)

Name printed: Tiffany O'Kelley

Title: Assistant Vice President

CAT - Deal # 255787 Facility # 232683

**SCHEDULE A**  
**(Vehicles and/or Equipment)**

Schedule A to UCC from M.B.C.X. Leasing, LLC ("Debtor") and for the benefit of Wachovia Bank, National Association ("Secured Party").

The following described property whether now owned or hereafter acquired, and any additions, replacements, accessions, or substitutions thereof and all cash and non-cash proceeds and products thereof.

<b>Description (Type, Maker, Model)</b>	<b>Identification Number</b>
1. All of Debtor's right title and interest and to the Railcar Net Leasing Agreement, dated February 21, 2002, between Debtor and Southeastern Industrial Enterprises, a Georgia corporation.	
2. All of Debtor's right title and interest and to (a) 16 Gondola Rail Cars of 7,400 cubic feet each, bearing numbers TERX 211 through TERX 226, inclusive, (b) 20 Gondola Rail Cars of 6,500 cubic feet each, bearing numbers TERX 227 through TERX 247, inclusive, and (c) 46 Gondola Rail Cars of 6,500 cubic feet each, bearing numbers HCCX 300 through HCCX 345, inclusive.	
3. All accounts receivable arising out of the foregoing, all proceeds of the foregoing (including insurance), and all general intangibles related to the foregoing.	

Any term which is defined in the Uniform Commercial Code (UCC) has the meaning given to the term in the UCC.

I, Walter J. Couch, certify that I am President of M.B.C.X. LEASING, LLC, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that the instrument was signed and sealed on behalf of the corporation by authority of its Board of Directors, and that I acknowledge that the execution of the foregoing instrument was the free act and deed of the corporation. I further declare under penalty of perjury that the foregoing is true and correct. Executed on March \_\_, 2004.

**BORROWER:**

M.B.C.X. LEASING, LLC

By: Walter J. Couch

Title: Agent

State of Georgia

County of Wadsworth:

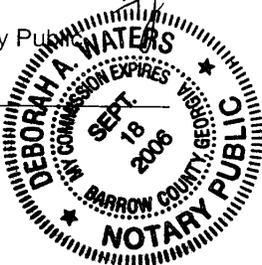
On this 12<sup>th</sup> day of March, 2002 before me personally appeared Walter J. Couch, to me personally known, who being by me duly sworn, says that he is the President of M.B.C.X. LEASING, LLC, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(Seal)

Deborah A. Waters

Signature of Notary Public

My commission expires \_\_\_\_\_



I, Tiffany O'Kelley, certify that I am a Vice President of WACHOVIA BANK, NATIONAL ASSOCIATION, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that the instrument was signed and sealed on behalf of the corporation by authority of its Board of Directors, and that I acknowledge that the execution of the foregoing instrument was the free act and deed of the corporation. I further declare under penalty of perjury that the foregoing is true and correct. Executed on March 5, 2004.

**BANK:**

**WACHOVIA BANK, NATIONAL ASSOCIATION**

By: Tiffany O'Kelley  
Title: Assistant Vice President

State of Georgia

County of Fulton:

On this 5 day of March, 2004 before me personally appeared Tiffany O'Kelley, to me personally known, who being by me duly sworn, says that she is a Vice President of WACHOVIA BANK, NATIONAL ASSOCIATION, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said Bank, and she acknowledged that the execution of the foregoing instrument was the free act and deed of said Bank.

(Seal)



Signature of Notary Public

My commission expires \_\_\_\_\_  
Notary Public, Fulton County, Georgia  
My Commission Expires May 22, 2006