



# Grayson County Economic Development Authority

P. O. Box 217; Independence, VA 24348

March 19th, 2015

**MEETING MINUTES**  
**Of the Economic Development Authority**  
**and**  
**The Grayson County Board of Supervisors**

**Members Present**

Ricky Anderson  
Larry D. Osborne  
Greg Webb  
Robert E. Williams  
Joe Killon

**Staff Present**

Jonathan D. Sweet  
Mitch Smith

**Member(s) Absent**

William F. Halsey  
Richard Patton

**Board of Supervisors in Attendance**

Brenda R. Sutherland  
Kenneth R. Belton  
John K. Brewer  
Glen E. Rosenbaum

**Member(s) Absent**

David M. Sexton

**OPEN MEETING**

Ricky Anderson, Chair, called the Economic Development Authority (EDA) meeting to order.

Brenda R. Sutherland, Vice Chair, called the continued meeting of the Grayson County Board of Supervisors meeting to order.

**APPROVAL OF MINUTES (EDA)**

Larry D. Osborne moved to approve the meeting minutes of January 14, 2015; duly seconded by Joe Killon. Motion carried 5-0.

**FINANCIAL REPORT**

None

## **LOAN PROGRAM**

None

## **NEW BUSINESS – VSBFA LOAN DOCUMENTS**

Jonathan D. Sweet, Clerk, thanked both the EDA and Board of Supervisors for their attendance. Mr. Sweet explained the action items (listed below) to cover: VSBFA loan documents for McAllister Mills, Inc. – Approve, execute and authorize for signature:

- Commitment Letter (EDA)
- Guaranty Agreement (EDA)
- Security Agreement (EDA)
- Deed of Trust – Assignment Agreement (EDA)
- Promissory Note (EDA)
- Loan Agreement (EDA)
- Support Agreement (EDA and BOS)
- Resolution of the Board of Supervisors (BOS)
- Resolution of the Economic Development Authority (EDA)

Mr. Sweet noted that “Project Silica” Company has been here for 35 years; 43 jobs will be retained and will add 16 new jobs at the old Parson/Rives building which is approximated 33,000 square foot. Mr. Sweet explained the incentive package and the \$337,162 loan from the Virginia Small Business Financing Authority (VSBFA). Mr. Sweet opened the floor for questions. Supervisor Glen E. Rosenbaum inquired about the responsibility and how comfortable he is with this deal. Mr. Sweet responded favorably.

Supervisor John K. Brewer moved to approve all instruments necessary to secure the McAllister Mills, Inc. loan from the Virginia Small Business Development Financing Authority (VSBFA) including the Support Agreement and the Resolution of the Board of Supervisors, as well as any further documents necessary at closing, and to authorize the Chair or Vice Chair and the Clerk of the Board to applicably sign and execute said documents; duly seconded by Kenneth R. Belton. Motion carried 4-0.

EDA member Joe Killon moved to approve all instruments necessary to secure the McAllister Mills, Inc. loan from the Virginia Small Business Development Financing Authority including the Commitment Letter, the Guaranty Agreement, the Security Agreement, the Deed of Trust Agreement, the Promissory Note, the Loan Agreement and the Resolution of the Economic Development Authority (EDA), as well as any further documents necessary at closing, and to authorize the Chair or Vice Chair and the Clerk of the EDA to applicably sign and execute said documents; duly seconded by Robert E. Williams. Motion carried 4-0 with Larry D. Osborne abstaining due to possible conflict of interest (Grayson National Bank).

March 16, 2015

Mr. Jonathan D. Sweet, County Administrator  
Economic Development Authority of Grayson County, Virginia  
129 Davis Street  
Independence, VA 24348

Mr. W. Alexander McAllister, President  
McAllister Mills Inc.  
173 Rainbow Circle  
Independence, VA 24348

Dear Jonathan and Alex:

I am pleased to advise you that the Virginia Small Business Financing Authority ("Lender") has approved the request of the **Economic Development Authority of Grayson County, Virginia and McAllister Mills, Inc.** ("Co-Borrowers"), for a loan in an amount not to exceed \$337,162 (the "Loan"), subject to the terms and conditions herein.

1. **Basic Terms:**

- (a) **Co-Borrowers:** Economic Development Authority of Grayson County, Virginia (the "EDA") and McAllister Mills Inc. ("McAllister")
- (b) **Loan Amount:** The Loan amount shall not exceed \$337,162.
- (c) **Interest Rate:** Interest will be fixed at 2.44%. Interest shall be computed based on the actual number of days the Loan is outstanding as if each year were composed of 365 days. In the event of default under any of the Loan Documents, the interest rate on the Loan shall be increased by 5%.
- (d) **Closing Date:** Closing shall take place no later than May 1, 2015.
- (e) **Maturity Date:** The maturity date shall be 10 years (120 months) months following the Closing Date.

2. **Location:** An industrial building located on 10.516 acres known as 326 Rainbow Circle, Independence, Virginia (the "Property").

3. **Purpose of Loan:** To finance the purchase of the property located at 326 Rainbow Circle, Independence, VA, and to finance the purchase of new equipment to be located at the property and used by McAllister (the "Project"). Both the real property and the equipment will be owned by McAllister.

EDA of Grayson County /McAllister Mills Inc.  
March 16, 2015  
Page 2

4. **Payments:** The Loan shall be amortized on a Ten (10) year basis. Payments will begin the same day of the succeeding month immediately following the Closing Date and on the same day of each succeeding calendar month thereafter, Borrowers shall make principal and interest payments in the approximate amount of \$3,169.00 each month until the Maturity Date, at which time all outstanding amounts under the Loan are due in full.

Notwithstanding the foregoing, all principal, interest, late charges and other outstanding amounts under the Loan shall be due and payable on the Maturity Date. Any payments which are not received by the Lender within ten (10) days of the due date shall be subject to a late charge of five percent (5%), or \$250, whichever is less.

5. **Guarantors:** Grayson County, Virginia (the "County") shall provide a Moral Obligation to support this Project. W. Alexander McAllister will serve as Personal Guarantor ("Guarantor"), and shall execute a guarantee of payment and performance of the Loan and the Loan Documents.
6. **Project/Collateral:** Repayment of the Loan shall be secured by a Second Deed of Trust, subordinate to Grayson National Bank, on the building and land located at 326 Rainbow Circle, Independence, VA, including all furniture, fixtures and equipment held at the site.
7. **Quality of Documents and Items:** Each document and item required to be submitted to Lender pursuant to this Commitment shall be satisfactory in form and substance to Lender and its legal counsel, in their sole discretion.
8. **Required Jobs:** It is a requirement of the Loan that the Project shall retain 43 permanent, full-time jobs at both McAllister Locations (both in the Commonwealth of Virginia) as a result of the Loan and shall, within three years of the date of the Loan, create 16 additional permanent, full-time jobs (collectively, "Required Jobs"). McAllister shall provide evidence of such Required Jobs to Lender on a quarterly basis.

9. **Other Sources of Funding:** Borrowers shall furnish evidence satisfactory to Lender of the following additional sources of funds to Borrowers for the Project:
- (a) Private cash equity injection in the amount of \$71,713 or 10% of the first year's projected capital expenditures of \$717,134.
  - (b) Additional equity injection in the amount of \$125,770 as evidenced by the purchase of equipment for the project in the second and third year (2016 and 2017) of the Project.
  - (c) Tobacco Indemnification and Community Revitalization Commission Grant in the amount of \$110,000.
10. **Conditions of Loan:** As conditions precedent to the Loan, all conditions and requirements in this Commitment must be satisfied to Lender's satisfaction, as determined by Lender in its sole discretion and Borrower must have provided or caused to be provided to Lender, and Lender must have received, reviewed and found satisfactory, the following:
- (a) **Loan Documents:** Note with confession of judgment provisions, loan agreement, deed of trust, if applicable, security agreement, guaranty by the Guarantor with confession of judgment provisions, financing statements, collateral assignments, landlord waivers,

EDA of Grayson County /McAllister Mills Inc.  
March 16, 2015  
Page 3

consents and other documents as Lender may require (collectively, the "Loan Documents"), duly executed, acknowledged and/or sworn to and delivered, upon the terms of this Commitment and containing such representations and warranties and affirmative and negative covenants, together with other additional terms and conditions, as Lender may require. If any portion of the Loan is to be disbursed after the Closing Date, such as for the construction of improvements to real estate, such disbursements shall be subject to conditions satisfactory to Lender.

- (b) **Authority and Capacity:** Evidence of the existence, good standing, authority and capacity of each Borrower and Guarantor and their respective constituents and representatives as Lender may require. Borrowers' and Guarantor's organizational documents shall be subject to review and approval by Lender.
- (c) **Survey:** If the Property includes real estate, Borrowers shall furnish to Lender at least twenty (20) days before Loan closing, copy of a current as built survey of the land and improvements thereon by a registered professional surveyor satisfactory to Lender and each title insurer, reflecting no intrusions or protrusions over any property line, setback line, easement or other restricted area and showing a state of facts satisfactory to Lender, signed, sealed and certified by the surveyor to Borrowers, Lender and each title insurer in form and content satisfactory to Lender.
- (d) **Flood Hazards:** Evidence that the Property is not within an area identified as having special flood hazards or evidence of flood insurance as required by applicable law.
- (e) **Insurance:** Borrower's effective, paid up policies of fire and all risk replacement cost coverage of all insurable Property with standard noncontributory mortgage clause in favor of Lender and with loss proceeds payable to Lender; comprehensive general public liability insurance with Lender as an additional insured; and such other or additional insurance, and covering such risks, as Lender requires. All policies must be written by insurers, in amounts, with endorsements, and on terms and conditions satisfactory to Lender.
- (f) **Appraisal:** An "Upon Completion" appraisal of the Property in form and content acceptable to Lender.
- (g) **Financial Statements:** Financial statements from Borrowers and Guarantor in form and content satisfactory to Lender evidencing a financial condition of such parties that is satisfactory to Lender and subsequent financial statements from such parties as required by Lender. The Loan Documents initially will require that McAllister furnish annual

reviewed financial statements and that the Guarantor provide annual financial statements and personal tax returns. Borrower's annual statements shall be prepared by a CPA firm satisfactory to Lender. Further, Lender will receive any audited financial statements that are required by any other lender.

- (h) **Title Insurance:** Lien Searches: (i) A binding commitment for mortgagee title insurance in form satisfactory to Lender (with complete, legible copies of all plats and exception documents) at least twenty (20) days before Loan closing; and (ii) for Borrower and each Guarantor reports (dated within 10 days prior to Loan closing) of searches of the central and local UCC, tax lien and judgment records, indicating no liens of record. Promptly

EDA of Grayson County /McAllister Mills Inc.  
March 16, 2015  
Page 4

after closing, Borrowers shall provide to Lender a mortgagee title policy in the Loan amount with only those exceptions or exclusions approved by Lender in writing and including all endorsements required by Lender, together with a UCC-11 (or equivalent) report showing no liens except as permitted herein. Lender may require that title reinsurance and/or coinsurance, and all title insurers and agents and UCC search contractors be satisfactory to Lender.

- (i) **Attorney's Opinion:** The written opinion(s) of counsel for Borrowers and Guarantor addressed to Lender confirming the legal status and authority of Borrowers and Guarantor, the due authorization, execution and delivery, and the validity, binding effect and enforceability of the Loan Documents, the creation, validity, and perfection of the liens and security interests created by the Loan Documents and such other matters as Lender requests. Such counsel and opinion(s) must be satisfactory to Lender.
- (j) **Project Condition and Compliance:** Evidence that the Project and McAllister's business operations at the project comply with all applicable laws. If proceeds will be used to fund the cost of improving real estate, Borrowers shall furnish evidence that it has obtained all necessary approvals and permits for such construction.
- (k) **Environmental Compliance/Report:** Evidence satisfactory to Lender that the Property does not contain and is not within any area designated as a hazardous waste site or as wetlands by any federal, state or other governmental authority, that no Property of the Borrowers nor any adjoining property contains or has ever contained any hazardous, toxic or regulated substance and that neither the Property nor any use or activity thereon violates or is or could be subject to any response, remediation, clean up or other obligation under any law or other legal requirement pertaining to health or the environment.
- (l) **Additional Conditions:** The Loan Documents shall contain standard negative covenants, including prohibition against (i) payment of dividends or distributions of any kind to equity holders or management; (ii) repayment of loans made to the Borrower by equity holders or management; (iii) repayment of any subordinated debt; and (iv) payment of cash bonuses to management.
- (m) **Date for Submissions:** All submissions must be made and all conditions must be satisfied by Borrower at least seven (7) business days prior to Loan closing (unless an earlier date is specified).
- (n) **Miscellaneous:** Such other evidence, documents, certificates and items requested by Lender that are customarily provided in loan transactions of this type or necessary in connection with any other requirement of this Commitment.

## 11. General Conditions

- 11.1 **Termination of Commitment:** Lender may terminate this Commitment if there shall have occurred, in the opinion of Lender, from the date of Borrowers' application for the Loan (a) any change in the ownership or capital structure of Borrowers' or any non-individual Guarantor, (b) any material adverse change with respect to the Property or other security for the Loan or other source of repayment of the Loan, (c) any material

adverse change in the business or financial condition of any Borrower or any Guarantor, or in any other state of facts submitted to Lender in connection with the Loan, (d) any damage to the Property by fire, casualty or other cause or any part of the Property is taken in condemnation or other like proceeding, or any such proceeding is pending at the time of Closing, or (e) any pending or threatened litigation by any Borrower, any Guarantor, or any affiliate of any Borrower or Guarantors against Lender.

**11.2 Applicable Law:** THIS COMMITMENT AND THE LOAN DOCUMENTS SHALL BE GOVERNED ENTIRELY BY VIRGINIA LAW AND APPLICABLE UNITED STATES FEDERAL LAW.

**11.3 Entire Agreement:** The terms set forth above represent the entire understanding between Borrowers and Lender with respect to the subject matter of this Commitment, and this Commitment supersedes any prior and contemporaneous agreements, commitments, discussions and understandings, oral or written, with respect to the subject matter hereof.

**11.4 Controlling Agreement:** This Commitment is hereby limited so that in no event shall the interest taken, reserved, contracted for, charged or received exceed the maximum nonusurious amount permitted by applicable law; and any provision possibly to the contrary shall be automatically reformed and the interest payable automatically reduced to such maximum amount, without necessity of execution of any amendment or new document.

**11.5 Assignability:** This Commitment cannot be assigned by Borrowers without Lender's prior written approval, nor shall any third party rely hereon or be deemed a party benefited hereby.

**11.6 Costs:** Borrower shall pay all out of pocket costs and expenses incurred by Lender in connection with the Loan (pre- and post-closing), including, but not limited to, all insurance, appraisal, survey, recording, environmental, engineering, closing, escrow and title, title insurance fees and costs, and all fees and expenses of Lender's outside legal counsel and the cost of any other reports or tests deemed necessary by Lender to satisfy the requirements of Section 10(k). Such costs and expenses incurred at or prior to Loan closing shall be due and payable prior to the closing of the Loan. The provisions of this paragraph shall survive the expiration or termination of this Commitment.

**11.7 UCC Financing Statements:** Pursuant to Section 9-509(a) of the Uniform Commercial Code ("UCC"), Borrowers authorize Lender to prepare and file without any Borrower's signature an initial financing statement under Article 9 of the UCC which (a) names Borrower as debtor therein, (b) names Lender as secured party and (c) describes the collateral as set forth on Exhibit A attached hereto.

If, for any reason, the credit transaction currently under discussion between us fails to close on or before May 1, 2015, Lender agrees to terminate such initial financing statement (unless Borrowers otherwise agree to extend such date in writing.)

**12. Acceptance; Termination:** This Commitment shall terminate automatically without notice at 5:00 p.m. Richmond local time on March 15, 2015 unless before that time each Borrower and

each Guarantor have accepted it by delivering to Lender two copies duly executed by them. If all the conditions of this Commitment have not been satisfied or if Lender and each Borrower are unable to agree on and reduce to writing all of the Loan Documents in a manner satisfactory to both of them by the Closing Date, time being of the essence, or if there has been any misrepresentation or any material error in anything submitted to Lender regarding the Loan or pursuant to any other provision hereof, the Lender shall have the option to terminate this Commitment. Upon any such termination, all obligations hereunder shall terminate except as specified in Section 11.6.

13. **Full Faith and Credit:** Nothing in this Commitment shall be construed to create an obligation on the part of the Commonwealth of Virginia or any political subdivision thereof to pay any amounts referred to herein or any interest or other costs incident thereto, except from the revenue of Lender and that neither the faith and credit nor the taxing power of the Commonwealth or any political subdivision thereof is pledged to the payment of any amounts due pursuant to this Commitment.

THE LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN AGREEMENTS BETWEEN THE PARTIES.

EDA of Grayson County /McAllister Mills Inc.  
March 16, 2015  
Page 7

Very truly yours,

VIRGINIA SMALL BUSINESS FINANCING  
AUTHORITY

Scott E. Parsons  
Executive Director  
(804) 371-8256

The undersigned accept and agree to all of the terms and conditions of the foregoing Commitment.

Economic Development Authority of Grayson County, Virginia

By: \_\_\_\_\_  
Jonathan D. Sweet, County Administrator  
McAllister Mills, Inc.

\_\_\_\_\_  
Date:

By: \_\_\_\_\_  
W. Alexander McAllister, President

\_\_\_\_\_  
Date:

GUARANTOR(s):

\_\_\_\_\_  
NAME: W. Alexander McAllister

\_\_\_\_\_  
Date:

BORROWER'S CLOSING ATTORNEY:

Name: \_\_\_\_\_  
Law Firm: \_\_\_\_\_  
Phone: \_\_\_\_\_  
E-Mail: \_\_\_\_\_  
FAX: \_\_\_\_\_

EDA of Grayson County /McAllister Mills Inc.  
March 16, 2015  
Page 8

**EXHIBIT A**  
**Property/Collateral**

**DESCRIBE THE COLLATERAL IN LEGAL TERMS IF KNOWN**

## EXHIBIT B

### FEDERAL REQUIREMENTS

1. **PAYMENT OF TAXES.** Economic Development Authority of Grayson County, Virginia and McAllister Mills, Inc. ("Co-Borrowers") certifies that it has paid all taxes due and payable to the U.S. Internal Revenue Service and the Commonwealth of Virginia as of the Closing Date of the Loan.

2. **NOT LOCATED IN FLOOD PLAIN.** Each Borrower certifies that the building, either securing this Loan or containing assets that secure this Loan, is not located in a flood plain, or is covered by flood insurance as required by applicable law in accordance with paragraph 8 below.

3. **CIVIL RIGHTS**

(a) Each Borrower certifies that it is, and will be, in compliance with all Federal requirements and Federal and State laws regarding Civil Rights, including but not limited to:

- (1) Section 601 of Title VI of the Civil Rights Act of 1964, codified at 42 U.S.C. 2000d et seq. (proscribing discrimination on the basis of race, color or national origin), and the Department of Commerce's implementing regulations found at 15 CFR part 8;
- (2) 42 U.S.C. 3123 (Proscribing discrimination on the basis of sex);
- (3) 29 U.S.C. 794, as amended, and the Department of Commerce's implementing regulations found at 15 CFR part 8b (proscribing discrimination on the basis of disabilities);
- (4) 42 U.S.C. 6101, as amended, and the Department of Commerce's implementing regulations found at 15 CFR part 20;
- (5) 42 U.S.C. 6709 (proscribing discrimination on the basis of sex under the Local Public Works Program); and
- (6) Other Federal statutes, regulations and Executive Orders as applicable.

(b) Each Borrower will not intimidate, threaten, coerce, or discriminate against, any person for the purpose of interfering with any right or privilege secured by section 601 of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, 42 U.S.C. 3123, 42 U.S.C. 6709, and the Age Discrimination Act of 1975, or because the person has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part.

4. **ENVIRONMENT.** Each Borrower certifies that it is, and will be, in compliance with all Federal and State laws, including but not limited to:

- a) The Clean Air Act, as amended (42 U.S.C. 7401 et seq.);
- b) The Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.);
- c) The Coastal Zone Management Act of 1972, P.L. 92-583, as amended (16 U.S.C. 1451, et seq.);
- d) Executive Order 11988, Floodplain Management (May 24, 1977), and regulations and guidelines issued thereunder by the Economic Development Administration;
- e) Executive Order 11990, Protection of Wetlands (May 24, 1977);

- f) The Endangered Species Act of 1973 P.L. 93-205, as amended (16 U.S.C. 1531, et seq.);
- g) The Safe Drinking Water Act, P.L. 93-523, as amended (42 U.S.C. 300f-300j-26);
- h) The Wild and Scenic Rivers Act, as amended (16 U.S.C. 1271, et seq.);
- i) The Resource Conservation and Recovery Act of 1976, P.L. 94-580, as amended (42 U.S.C. 6901);
- j) Historical and Archeological Data Preservation Act, Pub. L. 86-523, as amended, 16 U.S.C. § 469a-1 et. seq.;

- k) National Historic Preservation Act of 1966, Pub. L. 89-665, as amended, 16 U.S.C. § 470 et seq.;
- l) Flood Disaster Protection Act of 1973, Pub. L. 93-234, as amended, 42 U.S.C. § 4002 et seq.;
- m) Farmland Protection Policy Act, Pub. L. 97-98, as amended, 7 U.S.C. § 4201 et seq.; and
- n) Other Federal Environmental Statutes and Executive Orders, and state laws as applicable.

**5. ENVIRONMENTAL REQUIREMENTS**

Each Borrower agrees to be responsible for all liabilities that might be incurred as a result of providing an award to assist, directly or indirectly, in the preparation of site construction, renovation, or repair of any facility or site, if applicable, to the extent that such liabilities are incurred because of ground water, surface soil, or other conditions caused by operations of Each Borrower or any of its predecessors on the property.

Each Borrower further agrees to provide a Phase I environmental audit of the real estate, if any, held as collateral acceptable to the Lender and agrees to comply with applicable laws and statutes including, but not limited to, those listed in this Agreement.

**6. ELIGIBLE LENDING AREA**

Each Borrower agrees to maintain its operations within  CITY  COUNTY of Grayson, Virginia. In the event that operations are moved out of this community, the outstanding balance of the Loan will be immediately due and payable.

**7. EARTHQUAKE REQUIREMENTS.** For new building construction projects: Each Borrower is aware of and intends to comply with one of three model Codes outlined by the Committee on Seismic Safety in Construction (ICSSC): 1991 ICBO Uniform Building Code; 1992 Supplement to the BUCA National Building Code; or 1991 Amendments to the SBCC Standard Building Code.

**8. FLOOD HAZARD INSURANCE.** Where applicable, Each Borrower will obtain flood hazard insurance pursuant to the Flood Disaster Protection Act of 1973, P.L. 93-234, as amended (42 U.S.C. 4002, et seq.)

**9. DAVIS-BACON ACT.** Each Borrower certifies that if construction is being financed in whole or in part by the Loan and when any related construction contract exceeds \$2,000, it will comply with the Davis-Bacon Act, as amended [40 U.S.C. 276a-276a-5); 42 U.S.C. 3222]

EDA of Grayson County /McAllister Mills Inc.  
March 16, 2015  
Page 11

**10. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT 7 ANTI-KICKBACK ACT**

Each Borrower certifies that, if applicable, it will comply with the Contract Work Hours and Safety Standards Act, as amended (40 U.S.C. 327-333) and with the Anti-Kickback Act, as amended (40 U.S.C. 276 (c); 18 U.S.C. 874).

**11. ACCESS FOR THE HANDICAPPED.** Each Borrower certifies that if the Loan is used in whole or in part to finance a building or facility intended for use by the public or the employment of physically handicapped, it must be accessible to the physically handicapped, pursuant to Public Law 90-480, as amended (42 U.S.C. 4151, et seq.), and the regulations issued thereunder.

**12. CONFLICT OF INTEREST**

a) Each Borrower certifies that, to its knowledge, no owner of an interest in Each Borrower is related by blood, marriage, law or business arrangement to the Lender or an employee of Lender or any member of Lender's Board of Directors, or a member of any other Board (hereinafter referred to as "other Board") which advises, approves, recommends or otherwise participates in decisions concerning loans or the use of grant funds.

b) Each Borrower certifies that it is aware that no officer, employee, or member of Lender's Board of Directors, or other Board, or person related to the officer employee, or member of the Board by blood, marriage, law, or business arrangement may receive any benefits resulting from the use of loan or grant funds, unless the officer, employee, or Board member affected first discloses to the Lender of public record the proposed or potential benefit and receives Lender's written determination that the benefit involved is not so substantial as to affect the integrity of Lender's decision process and of the services of the officer, employee or board member.

**13. NOTICE OF DEBARMENT.** Each Borrower agrees to notify the Lender immediately upon notification that it has been debarred, suspended, or otherwise excluded from receiving federal financial assistance.

Economic Development Authority of Grayson County, Virginia

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

McAllister Mills, Inc.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

EDA of Grayson County /McAllister Mills Inc.

March 16, 2015

Page 12

**EXHIBIT C**

**Virginia Small Business Financing Authority**

**Certification Regarding Debarment, Suspension, and Other Responsibility Matters**

McAllister Mills, Inc.  
Name of Applicant Business

\_\_\_\_\_  
Tax ID #

- (1) The applicant business certifies, to the best of its knowledge and belief, that it and its principals:
  - (a) Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or State department or agency;
  - (b) Have not within a three-year period preceding the application for this loan been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local ) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification, and
  - (d) Have not, within a three-year period preceding the application for this loan, had any public transaction (Federal, State, or local) terminated for cause or default.
- (2) Where the applicant business is unable to certify to any of the statements in this certification, such applicant business shall attach an explanation to this proposal.

Business Name: McAllister Mills, Inc.

Date: \_\_\_\_\_, 2015

By: \_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Name and Title of Authorized Representative

## IMPORTANT NOTICE

**THIS INSTRUMENT CONTAINS A CONFESSION OF JUDGMENT PROVISION WHICH CONSTITUTES A WAIVER OF IMPORTANT RIGHTS YOU MAY HAVE AS A DEBTOR AND ALLOWS THE CREDITOR TO OBTAIN A JUDGMENT AGAINST YOU WITHOUT ANY FURTHER NOTICE.**

## GUARANTY AGREEMENT

THIS GUARANTY AGREEMENT (the "Guaranty") is dated as of March \_\_\_\_, 2015, by **W. Alexander McAllister** (collectively, whether one or more, "Guarantor"), for the benefit of the **Virginia Small Business Financing Authority**, a public body corporate and a political subdivision of the Commonwealth of Virginia ("Lender").

## RECITALS

**A. Economic Development Authority of Grayson County, Virginia**, a political subdivision of the Commonwealth of Virginia (the "EDA"), and **McAllister Mills, Inc.**, a Virginia corporation ("McAllister" and together with the EDA, and collectively, "Borrower"), and Lender propose to enter into a Loan Agreement of even date herewith (as amended, supplemented or modified from time to time and including any agreement extending the maturity of, refinancing or otherwise restructuring all or any portion of the obligations of Borrower under such Agreement or any successor agreement, the "Loan Agreement") with Lender pursuant to which Lender has agreed to make a loan to Borrower in the principal amount of up to **\$337,162.00** (the "Loan"). The Loan shall be evidenced by that certain Promissory Note payable to the order of Lender of even date herewith in the principal amount of **\$337,162.00** (collectively, as amended, modified or supplemented from time to time, and together with any note given in renewal, extension, amendment or refinancing thereof, the "Note").

**B.** Lender is unwilling to make the Loan to Borrower unless Guarantor enters into this Guaranty.

**C.** Because Guarantor is a principal of McAllister and would be materially benefited by the Loan, Guarantor desires to provide this Guaranty to Lender in order to induce Lender to enter into the Loan Agreement and to make the Loan to Borrower.

NOW THEREFORE, in consideration of the Loan by Lender to Borrower, and any other advances or other credit to be maintained or obtained by Borrower, and to induce Lender to extend credit to Borrower, Guarantor hereby unconditionally, jointly and severally, guarantees to Lender, for its benefit and the benefit of its successors, endorsees, transferees and assigns, the full and prompt payment when due, whether at stated maturity, by acceleration, upon demand or otherwise, of all Obligations, as defined below, of Borrower to Lender upon and subject to the following terms and conditions:

### 1. Definitions.

1.1 The initially capitalized terms used but not defined herein shall have the respective meanings set forth in the Loan Agreement.

1.2 "Obligations" shall mean all indebtedness and liabilities of Borrower (or any one of them) to Lender of every nature and description arising out of or related to the Loan, whether now existing or hereafter arising, however evidenced, direct or indirect, fixed or contingent, liquidated or unliquidated, due or to become due, secured or unsecured, joint, several or joint and several, including without limitation, all principal, interest, charges, overdrafts, costs of collection, attorneys' fees and expenses and other expenses of Lender which Borrower is obligated to pay and amounts advanced by Lender in discharge of the obligations of Borrower, whether such amounts are from time to time reduced, thereafter increased or entirely extinguished and thereafter incurred, together with all renewals,

1

modifications, consolidations and extensions thereof (the "Guaranteed Amount").

### 2. Guaranty of Payment.

2.1 This Guaranty is a guaranty of payment and performance of the Obligations up to the Guaranteed Amount and not merely a guaranty of collection. If any Obligation is not satisfied when due (which continues beyond any applicable notice and cure period), Guarantor shall satisfy such Obligation up to the Guaranteed Amount or, at the option of Lender, all Obligations of Borrower up to the Guaranteed Amount, upon demand. No payment or payments made by Borrower, Guarantor or any other guarantor or any other person or received or collected by Lender from Borrower, Guarantor, any other guarantor or any other person by virtue of any action or proceeding or any set-off or appropriation or application, at any time or from time to time in reduction of or in payment of the Obligations shall be

deemed to modify, reduce, release or otherwise affect the liability of Guarantor hereunder who shall, notwithstanding any such payment or payments, remain liable for the Obligations until the Obligations are paid in full; except that the Guarantor shall not be liable for any amounts in excess of the Guaranteed Amount.

2.2 Lender may collect such Obligations up to the Guaranteed Amount, or any part thereof, from Guarantor without first exercising its rights against Borrower, any other guarantor or any collateral, and Guarantor waives any right to require Lender to pursue Borrower, any other guarantor or any collateral before enforcing the obligations of Guarantor hereunder.

2.3 Any funds or other property at any time received by Guarantor from Borrower in respect of the Obligations guaranteed hereby up to the Guaranteed Amount shall be held in trust for and shall be paid or transferred to Lender upon demand therefor.

3. Duration of Guaranty. This Guaranty will take effect when received by Lender without the necessity of any acceptance by Lender, or any notice to Guarantor or to Borrower, and will continue in full force and effect until all Obligations shall have been fully and finally paid and satisfied and all other obligations of Guarantor under this Guaranty shall have been performed in full. Subject to the provisions of Section 11 hereof, this Guaranty shall terminate at the earlier of (a) the date when all Obligations shall have been fully and finally paid and satisfied or (b) the date when the Guarantor has paid the full Guaranteed Amount.

4. Waivers/Consents by Guarantor.

4.1 Guarantor hereby irrevocably waives:

(a) notice of presentment, demand, notice of nonpayment, protest and notice of protest and any other demands and notices required by law;

(b) to the extent permitted by law, the benefits of §§ 49-25 and 49-26 of the Code of Virginia (1950), as amended, and any amendments thereto or any similar statutes or rules of law;

(c) to the extent permitted by law, the benefit of any homestead or similar exemption, state or Federal, with respect to the obligations hereunder;

(d) all notices whatsoever with respect to this Guaranty or with respect to the Obligations, including, without limitation, notice of (i) Lender's acceptance hereof and its intention to act or its action in reliance hereon, (ii) the present existence or further incurrence of any Obligation or any terms or amounts thereof or of any change therein, (iii) any default by Borrower or by any surety or guarantor with respect to any of the Obligations, (iv) the obtaining of any guaranty or surety agreement (in addition to this Guaranty), pledge, assignment or other security for any Obligation, (v) the release of any guarantor or surety of any Obligation or of any pledge or assignor whose pledge or assignment has been given as security for any Obligation, (vi) Lender's exercising rights against Borrower to accelerate the unpaid principal amount of any Obligation or to hold, sell, lease or otherwise dispose of Collateral; and

2

(e) any and all defenses of Borrower to the Obligations and any claim, offset or counterclaim by Borrower except the defense of payment in full of the Obligations by the Borrower or the Guaranteed Amount by the Guarantor.

4.2 Guarantor hereby consents to the provisions of all agreements heretofore or hereafter made with Lender by Borrower and consent and agree that Lender may (i) exchange, release or surrender to Borrower or other party any collateral or waive, release or subordinate any security interest, in whole or in part, now or hereafter held as security for any Obligations, (ii) waive or delay the exercise of any rights or remedies against Borrower or any surety or guarantor or any collateral for any Obligations, (iii) release or enter into compromises with Borrower, or any surety or guarantor of the Obligations, (iv) renew, extend, waive or modify the terms of any Obligation or any instrument or agreement evidencing the same, and (v) apply payments by Borrower or Guarantor to any Obligation; provided, however, that notwithstanding the foregoing, the Guarantor shall not be liable upon any Obligation in excess of the Guaranteed Amount unless the Guarantor shall first consent in writing.

4.3 The Obligations shall conclusively be deemed to have been created, contracted or incurred in reliance upon this Guaranty, and all dealings between Borrower or Guarantor and Lender shall likewise be conclusively presumed to have taken place or been consummated in reliance upon this Guaranty.

5. Guaranty Unconditional.

5.1 Subject to the maximum Guaranteed Amount, the obligations of Guarantor hereunder are absolute and unconditional, without regard to the obligations of any other party or person, and shall be effective regardless of the solvency or insolvency of Borrower at any time or the extension or

modification of the Obligations by operation of law or otherwise. The obligations of Guarantor hereunder shall not in any manner be affected by reason of (i) any action taken or not taken by Lender, which action or inaction is hereby consented and agreed to, (ii) the partial or complete unenforceability or invalidity of any other guaranty or surety agreement, pledge, assignment or other security for any Obligation or (iii) the value, genuineness, validity, regularity or enforceability of any of the Obligations.

5.2 Lender may release all or any part of the obligations of any other surety or guarantor of any Obligation, and any such release shall not affect or release any obligation hereunder of Guarantor. No delay in making demand on Guarantor for satisfaction of the obligations of Guarantor hereunder shall prejudice Lender's right to enforce such obligations.

6. Waiver of Right of Subrogation. Guarantor shall not exercise any right of subrogation in and to the Obligations or to all or any part of the Lender's interest therein, until the Obligations have been paid in full. Guarantor hereby subordinates any claim, right or remedy that Guarantor may now have or hereafter acquire against Borrower that arises hereunder and/or from any payment or payments made by Guarantor or any setoff taken by Lender hereunder including, without limitation, any claim, right or remedy of subrogation, reimbursement, exoneration, contribution, indemnification or participation in any claim, right or remedy of Lender against Borrower or any Collateral or security that Lender now has or hereafter acquires, whether or not such claim, right or remedy arises in equity, under contract, by statute, under common law or otherwise. Guarantor shall not exercise any such claim, right or remedy of subrogation, reimbursement, exoneration, contribution, indemnification or participation until the Obligations have been paid in full. Lender acknowledges that Borrower may make, and Guarantor may receive, payments of dividends and distributions and repayments of indebtedness as permitted under the Loan Agreement.

7. Financial Condition of Borrower. Guarantor assumes the responsibility for being and keeping informed of the financial condition of Borrower and of all other circumstances bearing upon the risk of non-payment and non-performance of the Obligations; and Lender shall have no duty to advise Guarantor of information known to Lender regarding such condition or any such circumstances.

8. Covenants of Guarantor. Guarantor covenants and agrees, for so long as any part of the

3

Obligations remain unpaid, to furnish to Lender from time to time such financial data and information as Lender may reasonably request.

9. Subordination. Guarantor hereby subordinates all indebtedness (excluding reasonable compensation and reimbursement of travel advances) of Borrower to Guarantor, whether now existing or hereafter arising (the "Subordinated Indebtedness"), to the full and prompt payment of the Obligations. Any amounts received by Guarantor as a payment on the Subordinated Indebtedness, other than payments on Subordinated Indebtedness permitted under a subordination agreement approved by Lender, shall be retained and held in trust by Guarantor for the benefit of Lender. Notwithstanding the foregoing, Lender acknowledges that Borrower may make, and Guarantor may receive, payments of dividends and distributions and repayments of indebtedness as permitted under the Loan Agreement.

10. Preferences, Fraudulent Conveyances, Etc.

10.1 The liability of Guarantor hereunder (up to the Guaranteed Amount) shall be reinstated and revived and the rights of Lender shall continue if and to the extent that for any reason any payment by or on behalf of Borrower or Guarantor is rescinded or must be otherwise restored by Lender, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, and, if Lender chooses to contest any such matter at the request of Guarantor, Guarantor shall indemnify and hold Lender harmless with respect to all costs (including, without limitation, attorney's fees) of such litigation.

10.2 Guarantor agrees that payment or performance of any of the Obligations or other acts which shall toll any statute of limitations applicable to the Obligations shall also toll the statute of limitations applicable to the liability of Guarantor under this Guaranty.

11. Continuing Guaranty. This Guaranty shall be a continuing guaranty and be binding upon Guarantor regardless of how long before or after the date hereof any part of the Obligation was or is incurred. In the event this Guaranty is preceded or followed by any other agreement of guaranty or suretyship by Guarantor or others, all such agreements shall be deemed to be cumulative and the obligations of Guarantor hereunder shall be in addition to those stated in any other guaranty or suretyship agreement.

12. Representations and Warranties. Guarantor represents and warrants to the Lender that:

12.1 Guarantor has full power and authority to make and perform this Guaranty and this Guaranty has been duly executed and delivered by Guarantor and constitutes the valid and legally binding obligation of Guarantor enforceable against Guarantor in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general principles of equity (whether enforcement is sought by proceedings in equity or at law).

12.2 The making and performance by Guarantor of this Guaranty does not and will not (i) contravene any existing provision of law or regulation or any order, decree, writ or injunction of any court or administrative body or (ii) result in a breach of or constitute a default or require any consent under any contractual restriction binding on Guarantor or on any of the Guarantor's properties.

12.3 Guarantor will receive substantial benefit from the extensions of credit to Borrower pursuant to the Loan Documents.

12.4 No consents, approvals, licenses or authorizations of, or filing or registrations with, any governmental authority are required under applicable federal or state law for the making and performance by Guarantor of this Guaranty.

12.5 There is no action, suit investigation or proceeding in any court or before any arbitrator or regulatory commission, board, administrative agency or other governmental authority pending or, to the knowledge of Guarantor, threatened which, if determined adversely to Guarantor, would

4

materially and adversely affect his assets and properties or Guarantor's ability to perform Guarantor's obligations hereunder. Guarantor has provided the Lender with information relating to all litigation in which Guarantor is a party, none of which Guarantor deems likely to have a material and adverse effect upon Guarantor's assets and properties.

12.6 Except as previously disclosed to Lender in writing, Guarantor is not in default in the payment of the principal of or interest on any indebtedness for borrowed money and is not in default under any instrument under and subject to which any indebtedness has been incurred and, to the knowledge of Guarantor, no event has occurred and is continuing under the provisions of any such agreement which with the lapse of time or the giving of notice, or both, would constitute an event of default thereunder, which default would have a material adverse effect on Guarantor's assets, the validity of the Guaranty or the ability of Guarantor to perform Guarantor's obligations hereunder.

12.7 Guarantor is not insolvent (as defined in § 101(31) of the United States Bankruptcy Code), or unable to pay debts as they mature or engaged in business with unreasonably small capital; and Guarantor is not or has not been the subject of any bankruptcy, reorganization, insolvency, readjustment of debt, trusteeship, receivership, dissolution or liquidation law, statute or proceeding.

12.8 Guarantor has filed all federal, state, local and foreign tax returns which are required to be filed by Guarantor, and Guarantor has paid all federal, State, local and foreign taxes shown to be due on such tax returns or which have been assessed against Guarantor.

13. **Acceleration of Obligations.** All obligations of Guarantor under this Guaranty shall become immediately due and payable, at the option of Lender, upon the occurrence of a default under the Loan Documents, even if Lender is stayed from enforcing its rights against Borrower or any other party to the Loan Documents upon the occurrence of, or following, such default. **Guarantor further acknowledges that all obligations of Guarantor under this Guaranty are subject to collection pursuant to the Set-Off Debt Collection Program as authorized under the Virginia Debt Collection Act (§§ 58.1-520 through 58.1-535 of the Code of Virginia).**

14. **Set-Off.** Lender shall have the right to set-off, at any time without notice to Guarantor, any and all deposits or other sums at any time or times credited by or due from Lender to Guarantor (whether or not matured) against the obligations of Guarantor hereunder.

15. **Confession of Judgment.** In accordance with § 8.01-431 *et seq.*, of the Code of Virginia (1950), as amended, and any successor statute, Guarantor hereby duly constitutes and appoints Scott E. Parsons, Patricia S. Thorne, the Attorney General of the Commonwealth of Virginia, or his duly designated representative, or any Assistant Attorney General of the Commonwealth of Virginia, or any officer or agent of Lender as Lender may from time to time designate, as its true and lawful attorney-in-fact, for it, to appear in its name, place and stead upon the occurrence of a default under this Guaranty, and to confess judgment against it, in either the Circuit Court for the City of Richmond, Virginia or the United States District Court for the Eastern District of Virginia - Richmond Division, at Lender's sole option, in favor of Lender for and in the amount of the unpaid principal balance of the Obligations then outstanding plus interest accrued and unpaid thereon, all other amounts then due and payable hereunder, costs of suit and reasonable attorney's fees. The authority and power to appear for and enter judgment against Guarantor shall not be exhausted by one or more exercises thereof, or by any imperfect exercise thereof, and shall not be extinguished by any judgment entered pursuant thereto. Such authority and power may be exercised on one or more occasions, from time to time, in the same or different jurisdictions, as often as Lender shall deem necessary or desirable, for all of which this agreement shall be a sufficient warrant. Pursuant to and in accordance with the provisions of § 8.01-435 of the Code of Virginia (1950), as amended, Lender may appoint a substitute for any attorney-in-fact authorized to confess judgment that is specifically named in this Guaranty, by specifically naming the substitute attorney-in-fact in an instrument appointing the substitute attorney-in-fact and by recording such instrument in the Clerk's Office of the Circuit Court for the City of Richmond, Virginia.

16. Financial Information.

16.1 Guarantor shall deliver to Lender annually, on or before April 15 of each year, Guarantor's financial statement dated as of a date acceptable to Lender. Said financial statement shall disclose all of Guarantor's assets, liabilities, net worth, income and contingent liabilities, all in reasonable detail and acceptable to Lender and submitted on a form acceptable to Lender, signed by Guarantor and certified by Guarantor to Lender to be true, correct and complete.

16.1 Guarantor shall deliver to Lender, within 30 days of filing and in any event no later than October 15<sup>th</sup> of each year, complete copies of federal and state tax returns, as applicable, together with all schedules thereto, including, without limitation, K-1 statements for all Partnerships and Sub Chapter S Corporations, each of which shall be signed and certified by Guarantor to be true and complete copies of such returns. In the event an extension is filed, Guarantor shall deliver a copy of the extension within 30 days of filing.

17. Miscellaneous.

17.1 Expenses. Guarantor agrees to pay all reasonable costs and expenses incurred in enforcing the Obligations or the obligations of Guarantor under this Guaranty, including, without limitation, attorneys' fees, in the event this Guaranty is placed in the hands of the attorney for collection, or Lender finds it necessary or desirable to secure the services or advice of any attorney with regard to the collection of the Obligations or the obligations of Guarantor under this Guaranty.

17.2 Notices. Any notice, approval, disapproval, consent, waiver, or other communication (collectively "Notices") required or permitted to be given under this Agreement shall be in writing and shall be delivered personally or mailed, certified or registered United States mail, postage prepaid, return receipt requested, or sent by Federal Express or other reliable overnight carrier. All Notices shall be deemed delivered (a) if personally served or sent by Federal Express or other overnight carrier, when actually delivered to the address of the person to whom such Notice is given, (b) if by mail, three (3) days following deposit in the United States mail. All Notices shall be addressed to the party to whom such Notice is to be given at the party's address set forth below or as such party shall otherwise direct by Notice sent pursuant to this Section 17.2:

If to Guarantor:

W. Alexander McAllister  
173 Rainbow Circle  
P. O. Box 590  
Independence, VA 24348

If to Lender:

Virginia Small Business Financing Authority  
1220 Bank Street, P. O. Box 446  
Richmond, Virginia 23218-0446  
Attn: Regional Lending Manager

17.3 Amendments and Waivers. No provisions of this Guaranty may be modified, deleted, waived or amended in any manner except by an agreement in writing executed by the parties.

17.4 Successors and Assigns. This Guaranty shall be binding upon the undersigned and the heirs, personal representatives and assigns thereof, and shall inure to the benefit of and be enforceable by Lender and its successors and assigns.

17.5 Partial Invalidity. If any term or provision of this Guaranty shall be invalid or unenforceable to any extent, the remainder of this Guaranty shall not be affected thereby.

17.6 Cumulative Remedies. All of Lender's rights and remedies shall be cumulative, and any failure of Lender to exercise any right hereunder shall not be construed as a waiver of the right to exercise the same or any other right at any time thereafter.

17.7 Books and Records. The books and records of Lender showing the accounts between Lender and Borrower shall be admissible in evidence in any action or proceeding thereon as prima facie proof of the items set forth therein.

17.8 Governing Law. This Guaranty has been delivered to Lender in the Commonwealth of Virginia and shall be construed and enforced in accordance with the laws of such Commonwealth without regard to its rules with respect to choice or conflicts of law.

18. **Jurisdiction, Venue, Waiver of Jury Trial and Limitation of Damages.**

18.1 **Jurisdiction; Venue.** The forum having the proper jurisdiction and venue to adjudicate any claim, dispute or default which may arise out of the execution and delivery of this Guaranty and the performance of Guarantor's obligations hereunder shall be the Circuit Court of the City of Richmond, Virginia, and the proper appellate courts of the Commonwealth of Virginia, or the United States District Court of the Eastern District of Virginia, Richmond Division, and the proper appellate courts of the United States, unless the Lender in its sole discretion chooses to bring suit on its own behalf in some other court of competent jurisdiction. Guarantor expressly submits and consents to such jurisdiction and venue and specifically waives any and all rights it may have to contest the jurisdiction and/or venue of the above mentioned forums and to demand any other forums.

18.2 **WAIVER OF JURY TRIAL.** GUARANTOR BY EXECUTION HEREOF AND LENDER BY ACCEPTANCE HEREOF, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS GUARANTY, THE LOAN DOCUMENTS OR ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONNECTION WITH THIS GUARANTY, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY WITH RESPECT HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT TO LENDER TO ACCEPT THIS GUARANTY.

THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY GUARANTOR, AND GUARANTOR HEREBY REPRESENTS THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY INDIVIDUAL TO INDUCE THIS WAIVER OF TRIAL BY JURY OR IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. GUARANTOR FURTHER REPRESENTS THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS AGREEMENT AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

GUARANTOR AND LENDER AGREE THAT THEY SHALL NOT HAVE A REMEDY OF PUNITIVE OR EXEMPLARY DAMAGES AGAINST THE OTHER IN ANY DISPUTE AND HEREBY WAIVE ANY RIGHT OR CLAIM TO PUNITIVE OR EXEMPLARY DAMAGES THEY HAVE NOW OR WHICH MAY ARISE IN THE FUTURE IN CONNECTION WITH ANY DISPUTE WHETHER THE DISPUTE IS RESOLVED BY ARBITRATION OR JUDICIALLY.

*[Signature on following page]*

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of the date first above written.

\_\_\_\_\_  
Name: **W. Alexander McAllister, III**

STATE OF \_\_\_\_\_

CITY/COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by **W. Alexander McAllister, III**.

My commission expires: \_\_\_\_\_.

[SEAL]

\_\_\_\_\_  
NOTARY PUBLIC

1719566.2

*[SIGNATURE PAGE TO GUARANTY]*

**SECURITY AGREEMENT**

THIS SECURITY AGREEMENT (the "Agreement") is made as of the \_\_\_\_\_ day of March, 2015, by and between **McAllister Mills, Inc.**, a Virginia corporation, with a mailing address of 173 Rainbow Circle, Independence, VA 24348 ("**Owner**" or "**Debtor**"), and the **Virginia Small Business Financing Authority**, a public body corporate and a political subdivision of the Commonwealth of Virginia, whose address is P. O. Box 446, 1220 Bank Street, 3<sup>rd</sup> Floor, Richmond, Virginia 23218-0446 ("**Lender**").

Owner and the **Economic Development Authority of Grayson County, Virginia**, a public body politic and corporate of the Commonwealth of Virginia (the "**EDA**"; and collectively with Owner, "Borrower") and Lender have or intend to enter into that certain Loan Agreement between dated as of even date herewith, as amended from time to time (the "Loan Agreement"; capitalized terms used herein without definition have the meanings given to such terms in the Loan Agreement). Capitalized terms used herein without definition have the meanings given to such terms in the Loan Agreement.

**SECURITY INTEREST.** Owner grants to Lender a security interest in the following property:

All of the Goods, Equipment and Fixtures of Owner located at 326 Rainbow Circle, Independence, VA 24348 (the "Location") every kind and nature including: (i) all parts, replacements, substitutions, profits, products, Accessions and Supporting Obligations of any of the foregoing; whether now owned or hereafter acquired or arising (other than after-acquired consumer goods), (ii) all substitutions and replacements for such property; all property now or later installed in, attached to or used in connection with such property; (iii) all proceeds (cash and non-cash proceeds and including insurance proceeds payable by reason of loss or damage thereto) of such property (this is not an authorization to sell, lease or otherwise dispose of such property); and (iv) all written or electronically recorded books and records relating to any such property and other rights relating thereto.

Owner grants to Lender a security interest in all rights to which Owner may now or in the future become entitled by virtue of owning the property described above, including without limitation income, interest, dividends of any type, additional securities as proceeds from a stock split or dividend (which Owner will promptly deliver to Lender) and rights to acquire additional stock or other property. All of the property in which Lender is granted a security interest is referred to as "**Collateral**".

**OBLIGATIONS SECURED.** Owner gives Lender a security interest in the Collateral to secure the payment of the following (the "Secured Debt"):

All indebtedness, liabilities and obligations of Borrower (or any one of them, if more than one) to Lender of every kind and description, whether direct, indirect or contingent, whether now existing or hereafter arising or incurred, due or to become due, whether otherwise secured or unsecured and howsoever evidenced, incurred or arising, whether matured or unmatured, absolute or contingent. This includes the performance of this Agreement, all expenditures by Lender for maintenance and preservation of Collateral, and all costs and expenses incurred by Lender in the collection and enforcement of any obligations of Borrower to Lender.

**OWNER WARRANTS AND AGREES:**

**Location of the Collateral.** Owner will not permit the equipment which is Collateral to be taken outside of Virginia (except temporarily in its normal use) or permit the permanent location of the Collateral to be changed without Lender's prior written permission. The equipment which is Collateral will be kept at the Location.

**Ownership.** Owner is now, or will become, the sole owner of the Collateral with good and marketable title to the same and absolute right to grant a security interest in or assign all of the same to Lender. The Collateral is free from any prior lien, security interests or interest of any other person, except as described in the Loan Agreement between Owner and Lender of even date herewith. Owner will defend the

Collateral against all claims and demands of all persons at any time claiming the Collateral or any interest in the Collateral.

**Financing Statements and Other Documents.** No financing statement covering any of the Collateral or any proceeds thereof is on file in any public office, except as disclosed to Lender in writing or except as otherwise set forth in the Loan Agreement. Owner authorizes Lender to file such financing statements or other documents which Lender believes are appropriate to create, preserve, perfect or validate its security interest in the Collateral or to enable Lender to exercise or enforce its rights with respect to such security interest. Owner will reimburse Lender for all expenses incurred in the filing of such financing statements and other documents and for filing termination statements or other releases.

**Encumbrance or Sale of Collateral.** Until this Agreement is terminated by Lender, Owner will not, without Lender's prior written consent, sell, offer to sell, lease, give away or otherwise dispose of, transfer or encumber any of the Collateral, except as otherwise set forth in the Loan Agreement or this Agreement. The proceeds of any such disposition shall be given to Lender immediately in the form received; however, doing so will not preclude Lender from exercising any other default rights Lender deems appropriate.

**Change of Name.** Owner agrees that it will not change its name, or, if Owner is an organization, its name, identity or organizational structure (except as permitted in the Loan Agreement), without giving Lender at least 30 days' prior written notice.

**Representations.** The name and address of Owner as shown on Exhibit A are Owner's exact legal name and the address of its chief executive office. There has been no change in the name of Owner, or the name under which Owner conducts business, within the five years preceding the date hereof except as previously reported in writing to Lender on Exhibit A. Owner has not moved its chief executive office within the five years preceding the date hereof except as shown on Exhibit A. Owner is organized under the laws of the of the jurisdiction shown on Exhibit A and has not changed the jurisdiction of its organization within the five years preceding the date hereof except as shown on Exhibit A.

**Nature of Intangibles.** If the Collateral includes accounts, contract rights, instruments, documents, chattel paper, general intangibles or other intangibles, all such Collateral is and will continue to be in all material respects: (a) genuine and legally enforceable in accordance with its terms and in compliance with all applicable laws; (b) not subject to any assignment, claim or security interest of a person other than Lender, unless otherwise stated in this Agreement and except as permitted in the Loan Agreement; (c) not in default; and (d) not subject to any conditions of performance, setoff, credit, deduction, defense, stay of enforcement or counterclaim. Owner's interest in the Collateral has been (and will be) properly perfected by the filing or recording of all necessary financing statements, deeds of trust or other documents in the appropriate public offices. If the Collateral arose (or will arise) in connection with services (including the loan of money) or goods provided by Owner, the services have been (or will be) completely performed and the goods sold in the ordinary course of Owner's business; Owner has (and will maintain) evidence of complete performance, shipment or delivery; and Owner has complied and will comply with all applicable state and federal statutes and implementing regulations. Upon request, Owner will provide Lender with such evidence of performance, and of compliance with such laws and regulations, as Lender may reasonably request.

**Use and Preservation.** Owner will: keep the Collateral repaired and in good condition, ordinary wear and tear excepted; use the Collateral for its intended use in a normal fashion and not use it for any illegal purpose; maintain the Collateral in compliance with all laws, regulations, codes and safe practices (whether environmental, fire, safety, reclamation or otherwise); not use the Collateral for hire without Lender's prior written permission; notify Lender immediately if the Collateral is stolen, lost or damaged in any material way; and allow Lender to inspect the Collateral at any reasonable time. Owner will do everything necessary to maintain all of its rights against other parties liable with respect to any of the Collateral.

Lender will not be bound to take any action to maintain Owner's rights against other parties or to collect or enforce any obligations owed to Owner, even if Lender is holding the Collateral. Lender will not be (i)

2

responsible for discovering or informing Owner of any changes in value, maturities, calls, conversions, exchanges, tenders or similar matters relating to any of the Collateral; or (ii) under any duty or obligation whatsoever to make or give to Owner or to any other person any presentments, demands for performance, notices of non-performance, protests, notices of protest or notices of dishonor in connection with any of the Collateral or any notes or other evidences of indebtedness which constitute any part of the Secured Debt. Lender shall be deemed to have exercised reasonable care in the custody and preservation of any Collateral in Lender's possession if it takes such action for that purpose as Owner may reasonably request in writing, but no omission to take any action not requested by Owner shall be deemed a failure to exercise reasonable care and no omission to comply with any request of Owner (including without limitation to sell any Collateral) shall of itself be deemed a failure to exercise reasonable care of the Collateral. Even after taking possession of any Collateral, Lender shall not in any way assume any liability of Owner for compliance with any laws, regulations, codes or safe practices and in all such respects shall act only as Owner's agent.

**Insurance and taxes.** Owner will pay promptly when due all taxes, charges, liens and assessments against the Collateral, except to the extent such amounts are contested in good faith and Borrower has set aside adequate reserves therefor; provided, further that, in any event, payment of any such tax, assessment, charge, lien or claim shall be made before any of its property shall be seized or sold in satisfaction thereof. Upon the failure of Owner to do so, Lender, at its option may pay any of them and shall be the sole judge of their legality or validity and the amount necessary to discharge them.

Owner will keep all tangible Collateral fully insured at all times against loss and damage and such other risks as Lender may require. All such insurance policies shall (i) have a standard lender loss payable endorsement in favor of Lender, (ii) be issued by an insurer acceptable to Lender, (iii) provide for at least 10 days' prior notice to Lender of cancellation and (iv) contain terms including coverage satisfactory to Lender. Owner will provide evidence of insurance (or deliver the policies, if requested) to Lender promptly. If Lender cannot assure itself promptly upon reasonable inquiry that the required insurance coverage exists, Lender may obtain insurance protecting solely its own interest. Owner gives Lender a security interest in the insurance proceeds and any unearned premiums which Owner will have made payable to Lender. Lender may act on behalf of Owner in obtaining, adjusting, settling and canceling any insurance, and may receive payment of and endorse in the name of Owner payable to Lender any checks or drafts in payment of any insurance proceeds or refund of any premium and apply such amounts in any manner to repay the Secured Debt.

**Maintenance of Records.** Owner will maintain at its expense complete and current records, in such form and detail as Lender may reasonably require, of all Collateral, including, but not limited to: (a) if the Collateral includes inventory, records of all shipments received, deliveries made, accounts arising from sale of the same and other dealings therewith; and (b) if the Collateral includes accounts, records of all

payments received, credits granted thereon, or merchandise returned. Owner will protect such records, in a manner satisfactory to Lender, against fire, theft, loss of any kind. If requested by Lender, Owner will maintain duplicate back-up records maintained on separate premises. Upon request, Owner will provide Lender with written reports of the status of the Collateral with such frequency, as of such dates and in such form and detail as Lender may reasonable direct.

**Inspection of Collateral and Delivery of Records.** Lender or its agent may, at any reasonable time, inspect the Collateral (including without limitation accounts, notes and chattel paper) and the books and records of Owner pertaining to the Collateral. For the further security of Lender, Lender shall have a security interest in all books and records of Owner pertaining to accounts (including chattel paper) and Owner shall, at its own expense, deliver any such accounts (including chattel paper), books and records to Lender or any designated agent of Lender at any time upon request. Upon request, Owner will stamp all chattel paper hereby assigned in a form and manner satisfactory to Lender with an appropriate reference to the effect that the chattel paper has been assigned to Lender, and Owner will similarly stamp its account ledgers and other books and records pertaining to the assigned accounts.

**Enforcement, Collection and Application of Collateral and Proceeds.** Owner is authorized and agrees to enforce and collect all accounts (including leases), instruments, securities and other obligations or rights to receive payment given as Collateral or received as proceeds of Collateral, but Lender may,

3

without cause or notice, curtail or terminate such authority at any time. Owner shall remain liable to observe and perform all the covenants under any agreement constituting or relating to any Collateral. Under no circumstances shall Lender be required or obligated in any manner to perform any of the obligations of Owner pursuant or related to any Collateral.

At any time, and from time to time, whether before or after Default occurs, without notice, and at the expense of Owner, Lender, in its name or in the name of its nominee or of Owner, is authorized to, but shall not be obligated to: (a) notify the obligors on any Collateral of the security interest and assignment created by this Agreement; (b) notify the obligors on any Collateral to make payment directly to Lender of any accounts, rents, dividends, interest, principal payments and other sums now or hereafter payable in connection with the Collateral; (c) collect the same by legal proceedings or otherwise, and perform any contract, lease, obligation or other undertaking constituting or relating to any Collateral; and (e) apply the net amount received from the collection of any Collateral to reduce the outstanding balance of the Secured Debt.

**Performance by Lender.** If Owner fails to do anything it has agreed to do in this Agreement, or if Lender believes the Collateral or Lender's interest in the Collateral is in jeopardy, Lender may remedy Owner's failure or to protect the Collateral or Lender's interest in the Collateral. All advances, charges, insurance premiums, costs and expenses, including reasonable attorneys' fees, incurred or paid by Lender by exercising or protecting any right, power or remedy conferred under this Agreement or by law, or in the enforcement thereof, shall become part of the Secured Debt and shall be paid by Owner to Lender immediately and without demand, with interest at the highest rate provided for in the Loan Agreement.

**Default.** Each of the following is an event of default ("Default"): the occurrence of a Default under (and as defined in) the Loan Agreement, which continues beyond any applicable grace, notice and/or cure period.

**Default Rights.** Upon the occurrence of any Default and at any time thereafter, Lender may, without prior notice, hearing or judicial process, at the same or different times, and in any order and as frequently as Lender desires: (a) declare all or any portion of the Secured Debt immediately due and payable and proceed to enforce payment; (b) repossess any of the Collateral or render it unusable; (c) cause any Collateral to be transferred to Lender's name or the name of its nominee or any other person; (d) exercise as to any Collateral all the rights, powers and remedies of any owner (including without limitation to process the Collateral, to vote the Collateral, to enter into any extension, reorganization, deposit, merger or consolidation agreement or any agreement otherwise relating to or affecting the Collateral, and in connection therewith, Lender may deposit or surrender control of such Collateral thereunder, accept other property in exchange for such Collateral and do and perform such acts and things as Lender may deem proper); (e) exercise any and all of the rights and remedies provided by the UCC as well as all other rights and remedies possessed by Lender under this Agreement or otherwise. Lender or its agents may enter on or into any property where the Collateral is located without giving notice to anyone and without resort to judicial process for the purpose of repossessing the Collateral. If requested by Lender, Owner will assemble the Collateral and make it available to Lender at a place chosen by Lender that is reasonably convenient to both Lender and Owner.

Lender may sell, transfer, lease or otherwise dispose of any of the Collateral and apply the proceeds to pay any of the Secured Debt in any way Lender sees fit. Lender does not have to take action against any other person or property before using the Collateral to satisfy the Secured Debt. If notice is required by law, Owner agrees that reasonable notice is given if mailed to Owner's last address on Lender's records, or given in any other reasonable manner, at least ten (10) days in advance. Any collection costs, reasonable attorneys' fees and costs for repossessing, storing, preparing, processing and disposing of any Collateral will become part of the Secured Debt.

**Miscellaneous.** Each and every right granted to Lender under this or any other agreement, or allowed to Lender by law or equity, shall be cumulative and may be exercised from time to time, at the same or different times, and in any order Lender desires. No failure of Lender to exercise and no delay in exercising, any right shall operate as a waiver thereof, nor shall any single or partial exercise by Lender of any right preclude any other or future exercise thereof or in the exercise of any other right. The security

interest, rights and remedies granted to Lender under this Agreement are in addition to any other rights or other remedies which Owner has granted or may in the future grant to Lender by any other instrument or through the delivery of any paper or other Collateral. The terms of this Agreement shall be binding upon the heirs, personal representatives, successors and assigns of Owner and Lender. No part of this Agreement will be affected because any other part is unenforceable. All of the terms used in this Agreement, which are defined in the Virginia Uniform Commercial Code ("UCC"), shall have the same meaning herein as in the UCC. This Agreement is governed and shall be construed in accordance with Virginia Law. No agreements with respect to this Agreement or any Collateral, and no change in terms or conditions shall be binding on Lender unless the change is in writing and signed by an officer of Lender who is authorized to approve such a change.

**Jurisdiction, Venue, Waiver of Jury Trial and Limitation of Damages.**

**Jurisdiction; Venue.** The forum having the proper jurisdiction and venue to adjudicate any claim, dispute or default which may arise out of the execution and delivery of this Agreement and the performance of the Owner's obligations hereunder shall be the Circuit Court of the City of Richmond, Virginia, and the proper appellate courts of the Commonwealth of Virginia, or the United States District Court of the Eastern District of Virginia, Richmond Division, and the proper appellate courts of the United States, unless Lender in its sole discretion chooses to bring suit on its own behalf in some other court of competent jurisdiction. Owner expressly submits and consents to such jurisdiction and venue and specifically waives any and all rights it may have to contest the jurisdiction and/or venue of the above mentioned forums and to demand any other forums.

**WAIVER OF JURY TRIAL.** OWNER BY EXECUTION HEREOF AND LENDER BY ACCEPTANCE HEREOF, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT, THE LOAN DOCUMENTS OR ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONNECTION WITH THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY WITH RESPECT HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT TO LENDER TO ACCEPT THIS AGREEMENT.

OWNER AND LENDER AGREE THAT THEY SHALL NOT HAVE A REMEDY OF PUNITIVE OR EXEMPLARY DAMAGES AGAINST THE OTHER IN ANY DISPUTE AND HEREBY WAIVE ANY RIGHT OR CLAIM TO PUNITIVE OR EXEMPLARY DAMAGES THEY HAVE NOW OR WHICH MAY ARISE IN THE FUTURE IN CONNECTION WITH ANY DISPUTE HEREUNDER.

*[signature page follows]*

Witness the following signatures as of the date first written above:

**McAllister Mills, Inc.,**  
a Virginia corporation

By: \_\_\_\_\_ (SEAL)  
W. Alexander McAllister, III, President

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of March, 2014, by W. Alexander McAllister, III, President of **McAllister Mills, Inc.**, a Virginia corporation.

\_\_\_\_\_  
Notary Public

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

Notary Registration Number: \_\_\_\_\_.

1723433.2

*[signature page to Security Agreement]*

6

### **EXHIBIT A**

#### **Additional Representations and Warranties**

(1) The exact name of Debtor is: **McAllister Mills, Inc.**, a Virginia corporation. The Debtor has not used any other name within the previous ten (10) years, except as set forth below.

(2) Debtor is organized under the laws of **Virginia**.

(3) Debtor uses in its business and owns the following trade names:

**McAllister Mills**

(4) The chief executive office of Debtor is:

173 Rainbow Circle, Independence, VA 24348

(5) The mailing address of Debtor is:

173 Rainbow Circle, Independence, VA 24348

(6) Debtor owns or has an interest in personal property located elsewhere at:

173 Rainbow Circle, Independence, VA 24348

(7) Debtor's Federal Employer Identification Number is:

54-1139272

(8) Debtor's Virginia Identification Number is:

**0204749-6**

7

INSTRUMENT PREPARED BY  
Virginia Small Business Financing Authority  
P. O. Box 446  
1220 Bank Street, 3<sup>rd</sup> Floor  
Richmond, Virginia 23218-0446

TAX MAP NO.: \_\_\_\_\_

**THIS IS A CREDIT LINE DEED OF TRUST** within the meaning of § 55-58.2 of the Code of Virginia (1950), as amended. For purposes of such section, the name of the Lender secured by this Deed of Trust is **VIRGINIA SMALL BUSINESS FINANCING AUTHORITY**, a public body corporate and a political subdivision of the Commonwealth of Virginia, and its address to which communications may be mailed or delivered is P. O. Box 446, 1220 Bank Street, 3<sup>rd</sup> Floor, Richmond, Virginia 23218-0446. The maximum aggregate amount of principal to be secured shall not exceed \$337,162.00.

### **DEED OF TRUST, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT**

THIS DEED OF TRUST, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT (the "Deed of Trust") is made as of March \_\_\_\_\_, 2015, by **McAllister Mills, Inc.**, a Virginia corporation, with a mailing address of 173 Rainbow Circle, Independence, VA 24348 ("Grantor"), to be indexed as grantor, to **Patricia S. THORNE**, a resident of the County of Chesterfield, Virginia, and **Scott E. PARSONS**, a resident of the County of Hanover, Virginia, Trustees (the "Individual Trustees"), either of whom may act, each with a business address of P. O. Box 446, 1220 Bank Street, 3<sup>rd</sup> Floor, Richmond, Virginia 23218-0446, to be indexed as grantees, and **VIRGINIA SMALL BUSINESS FINANCING AUTHORITY**, a public body corporate and a political subdivision of the Commonwealth of Virginia ("Lender"), to be indexed as grantee.

**WITNESSETH**, that Grantor hereby grants and conveys with General Warranty and English Covenants of Title unto the Trustees (i) all those certain tracts of land in the **County of Grayson, Virginia**, all as more particularly described in **Exhibit A** attached hereto and made part hereof (the "Land"); (ii) all buildings and improvements now or hereafter erected on the Land; (iii) all fixtures, machinery, equipment and other articles of real, personal or mixed property attached to, situated or installed in or upon, or used in the operation or maintenance of, the Land or any buildings or improvements situated thereon, whether or not such real, personal or mixed property is or shall be affixed to the Land; (iv) all building materials, machinery and equipment delivered on site to the Land during the course of, or in connection with, any construction, repair or renovation of the buildings and improvements situated or to be situated thereon; (v) all leases, licenses or occupancy agreements of all or any part of the Land and all extensions, renewals, and modifications thereof, and any options, rights of first refusal or guarantees relating thereto; all rents, income, revenues, security deposits, issues, profits, awards and payments of any kind payable under the leases or otherwise arising from the Land; (vi) all contract rights, accounts and general intangibles relating to the Land or the use, occupancy, maintenance, construction, repair or operation thereof; all management agreements, franchise agreements, utility agreements and deposits; all maps, plans, surveys and specifications; all warranties and guaranties; all permits, licenses and approvals; and all insurance policies; (vii) all estates, rights, tenements, hereditaments, privileges, easements, and appurtenances of any kind benefiting the Land; all means of access to and from the Land, whether public or private; and all water and mineral rights; and (viii) all "Proceeds" of any of the above-described property, which term shall have the meaning given to it in the Uniform Commercial Code of the jurisdiction where this Deed of Trust is recorded (the "UCC"), whether cash or non-cash, and including insurance proceeds and condemnation awards; and all replacements, substitutions and accessions thereof (collectively, the "Property").

This conveyance is made IN TRUST to secure: (a) the payment of the indebtedness of Grantor and **Economic Development Authority of Grayson County, Virginia**, a public body politic and corporate of the Commonwealth of Virginia (collectively, "Borrower"), to Lender (the "Loan") as evidenced by that certain promissory note of even date herewith made by Borrower payable to Lender

1

(the "Note"), as well as any extensions, renewals, amendments or modifications thereof, in the amount of **\$337,162.00**, with interest thereon at the interest rate or rates stated therein; and (b) the reimbursement to Lender for any and all costs incurred in collecting the Note or enforcing or preserving the lien of the Deed of Trust or in obtaining possession of the Property, including attorney's fees and indemnification payments; (c) the payment and performance of all other indebtedness, obligations and liabilities of Borrower to Lender under the Loan Documents (as defined below). Such indebtedness may, but need not be, evidenced by a promissory note or notes made by Borrower or by Borrower's endorsement or guaranty of the obligations of another to Lender, all of which, together with above, are referred to as the "Obligations." The Note is issued pursuant to that certain Loan Agreement of even date herewith (as amended, supplemented or modified from time to time and including any agreement extending the maturity of, refinancing or otherwise restructuring all or any portion of the obligations of Borrower under such Agreement or any successor agreement, the "Loan Agreement"). Capitalized terms used herein without definition have the meanings given to them in the Loan Agreement.

Provided, however, that the principal amount of the Obligations secured by this Deed of Trust and described in this clause shall not exceed in the aggregate at any one time outstanding **\$337,162.00**, plus interest thereon, fees due with respect thereto, including, without limitation, any costs and expenses incurred by the Trustee or the Beneficiary in connection with the enforcement of this Deed of Trust.

Grantor assigns to Lender all present and future leases, rents, income and profits from the Property (or any part thereof) and irrevocably appoints Lender as attorney-in-fact with respect to the Property and the leases, including, but not limited to, the right to cure any default under the Obligations or under this Deed of Trust in any manner as Lender elects. Lender may elect in the name of Grantor to lease the property should it become vacant, to collect the rents, income and profits and to employ and to pay agents therefor. Rents, income and profits therefrom, less costs and expenses, may be applied to the Obligations as Lender may elect. Absent any default under the Obligations or Deed of Trust, Grantor shall remain in quiet use, possession and management of the Property and in the enjoyment of the rents, income and profits therefrom. Curing of any default shall not entitle Grantor to again collect said rents, income and profits without Lender's written consent. Lender or Trustees shall not be obligated to act hereunder or to assume any obligation under any lease of the Property or suffer any liability for the failure or inability to collect any rents, income and profits.

1. Grantor further covenants and agrees (subject to the requirements of any prior mortgagee):

(a) To pay promptly when due all taxes, assessments and public charges on the Property and to forward to Lender evidence of such payments, and at the option of Lender at any time during the term of this Deed of Trust to deposit with Lender such amounts as are necessary for Lender to make timely payments of such charges.

(b) To maintain extended coverage hazard and liability insurance and such other insurance on the Property as Lender may require, with such insurance in a sufficient amount to cover the Obligations with a loss payable clause in favor of the Lender, without contribution, and to deliver to Lender the original policy or policies and any renewal thereof. Lender may require Grantor to deposit with Lender such amounts as are necessary to enable the Lender to make timely payments of the premiums on said policy(ies). Lender may, after prior written notice to Grantor, change coverages, terms, amounts or insurers, or may surrender, cancel or reinsure the Property, or pay any premiums and receive premium refunds. In the event any insurance claim is not settled within 60 days after any loss, Lender may negotiate and make reasonable settlement of such claim without liability to Grantor. Insurance proceeds may be applied to the payment of the Obligations or, at Lender's option, to the cost of restoration of the damaged Property. Lender may retain any part thereof until the Property has been restored to the satisfaction of Lender.

(c) To keep the Property, including any private roads or easements, in good order and repair, including the making of replacements and prompt restorations as Lender may direct.

2

(d) To not permit, suffer or commit waste, impairment or deterioration of or allow any nuisance to exist on the Property.

(e) To comply with and to not permit violation of the terms of any lease, restrictive covenant, law or regulation applicable to the Property, including, but not limited to, all applicable environmental laws, rules, regulations or orders.

(f) To perfect the title to the Property in the Trustees and preserve the priority of the lien of the Deed of Trust.

(g) To pay promptly upon demand costs of collection, reasonable attorney's fees or other costs or expenses incurred in the enforcement of this Deed of Trust or the Obligations.

(h) To notify Lender immediately by certified mail of any taking or condemnation or threatened condemnation of any part of the Property under any power of eminent domain. If any part of the Property is taken or condemned thereby, Grantor will and hereby does assign and will pay over to Lender the proceeds and awards resulting therefrom to the extent of the unpaid balance of the Obligations hereby secured, to which balance such proceeds shall be applied.

2. Grantor represents and warrants that, except as set forth on **Exhibit B** and the documents referred to in such **Exhibit B**, (a) there are no "hazardous substances" (as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601 *et seq.*, as amended) on the Property; (b) there has been no release or any threat of release of any hazardous substance; (c) the Property is not subject to any governmental enforcement of any clean up action and is not the subject of any investigation under any law, rule or regulation or subject to any liability to any person because of the presence of petroleum products, underground storage tanks or the presence, release, threat of release, discharge, storage, treatment, generation or disposal of any "hazardous waste" (as defined in the Resource Conservation Act, 15 U.S.C. Section 2601 *et seq.*, as amended), including but not limited to asbestos, radon, polychlorinated biphenyls, urea formaldehyde, explosives, radioactive materials or petroleum products. Grantor agrees that Lender, its employees and agents may have access to, on, under and over the Property to undertake or cause to be undertaken, at Grantor's expense, a full or partial environmental audit and site inspection of the Property at any time and from time to time.

3. This Deed of Trust constitutes both a real property deed of trust and a "security agreement", and fixture filing within the meaning of the UCC, and the Property includes both real and personal property and fixtures and all other rights and interest, whether tangible or intangible in nature, of Grantor in the Property. Grantor by executing and delivering this Deed of Trust has granted, as security for the Obligations, a security interest in such of the Property as is governed by the UCC in favor of Lender. If a Default shall occur hereunder, Lender and Trustees, in addition to any other rights and remedies which they may have, shall have and may exercise immediately and without demand any and all rights and remedies granted to Lender upon such default under the UCC. Upon request or demand of Lender or Trustees, Grantor shall at its expense assemble such of the Property as is governed by the UCC and make it available to Lender and Trustees at a convenient place acceptable to Lender and Trustees. Grantor shall pay to Lender and Trustees on demand any and all expenses, including legal expenses and attorneys' fees, incurred or paid by Lender or Trustees in protecting their interest in such of the Property as is governed by the UCC and in enforcing the rights granted hereunder with respect to such of the Property as is governed by the UCC. Any notice of sale, disposition or other intended action by Lender or Trustees with respect to such of the Property as is governed by the UCC sent to Grantor in accordance with the provisions of this Deed of Trust at least ten (10) days prior to such action, shall constitute reasonable notice to Grantor, and the method of sale or disposition or other intended action set forth or specified in such notice shall conclusively be deemed to be commercially reasonable within the meaning of the UCC. The proceeds of any sale or disposition of such of the Property as is governed by the UCC, or any part thereof, may be applied by Lender to the payment of the Obligations in such order, priority and proportions as Lender in its discretion shall deem proper.

4. In the event of any Default under the Loan Agreement or the other Loan Documents, or any default hereunder or under the Obligations, then without prior notice and in addition to any other rights and remedies provided by law, Lender shall have the following rights or remedies, which are cumulative:

(a) To declare all sums due under the Obligations immediately due and payable without demand.

(b) At the request of Lender, the Trustees shall sell the Property, or, if the Property shall consist of more than one parcel, such parcel or parcels thereof as Lender may select, for cash or upon such terms and conditions as they may deem expedient. Such sale shall be at such time and place as they may consider advisable, at public auction, after having first given notice to the present owner of the Property as required by law. The Trustees shall advertise the time, place and terms of sale at least three (3) times, which may be on three (3) consecutive days, in a newspaper having general circulation in the county or city wherein the Property or any portion thereof lies. Out of the proceeds of any such sale, the Trustees shall (i) first, pay all the expenses attending the execution of this trust, including attorney's fees and auctioneer's fees, if any, and a reasonable trustees' commission on the gross proceeds of sale, (ii) second, discharge all taxes, levies and assessments, with costs and interest if they have priority over the lien of this Deed of Trust, including the due pro rata portion thereof for the current year, (iii) third, discharge in the order of their priority any remaining debts and obligations secured by this Deed of Trust and any liens encumbering the Property or any part thereof which are inferior to this Deed of Trust, with interest, and (iv) fourth, to pay the residue of the proceeds to Grantor or its assigns. At any sale made under the terms of this Deed of Trust, the Trustees may require a cash deposit from the successful bidder of not more than ten percent (10%) of the final amount bid by the successful bidder. In the event that the Property is advertised for sale as herein provided, but not sold pursuant to such advertisement, the Trustees shall be paid by Grantor their actual expenses incurred, together with a reasonable commission. If, prior to or at the time of the sale, the Trustees shall deem it proper for any reason to postpone or continue the sale, they may do so from time to time, in which event advertisement of the postponed sale shall be in the manner as required by law.

(c) To take such actions necessary to cure such default, employing agents and attorneys and expending such sums as deemed necessary to protect the security of this Deed of Trust or to insure performance of the covenants and agreements hereunder. For the purpose of carrying out the provisions of Section 3 hereof, Grantor hereby irrevocably appoints Lender and the Trustees, any one of whom may act, the true and lawful attorneys-in-fact for Grantor and authorizes them, or any one of them, to perform any act described in Section 3 and any and all actions necessary and incidental thereto. This power of attorney is a power coupled with an interest which cannot be revoked.

(d) To apply for and obtain appointment of a receiver for the Property with power to collect rents, income and profits therefrom without regard to the value of the Property or the solvency of any person liable for the payment of the Obligations. Grantor waives any and all defenses to the appointment of such receiver and consents to the appointment of such receiver without notice.

(e) To advance such sums as may be necessary to make payments on behalf of the Grantor under any prior lien hereto or under this Deed of Trust in order to protect the security of the Deed of Trust or insure the performance of any of the covenants and agreements contained herein.

5. This Deed of Trust is governed by and, except as modified elsewhere herein, construed to grant such power, rights, duties and obligations as are specified in § 55-59 and §§ 55-59.1 through 59.4 of the Code of Virginia (1950), as amended (the "Code"), and to incorporate the following short form reference to §§ 55-59.2 and 55-60 of the Code:

Exemptions waived,  
Subject to all (call) upon default,  
Renewal, extension or reinstatement permitted,

4

Any Trustee may act,  
Substitution of trustees permitted.

6. Except as otherwise permitted under the Loan Documents, in the event of a transfer of an interest in the Property without the prior written consent of Lender, Lender, at its option, may declare all sums secured by this Deed of Trust to be immediately due and payable or waive such default and deal with such successor or successors in interest in the same manner as with Grantor, without in any way releasing, discharging or otherwise affecting the liability of Grantor hereunder or for the indebtedness hereby secured. Any change in the legal or equitable title of the Property or in the beneficial ownership of the Property, whether or not of record and whether or not for consideration, and any sale, transfer, encumbrance or other disposition of any beneficial ownership in Grantor shall be deemed a "transfer of an interest in the Property". Without limiting the generality of the foregoing, a "transfer of an interest in the Property" shall also be deemed to have occurred if (a) Grantor shall sell, assign, transfer, convey, mortgage, encumber or otherwise dispose of or alienate the Property, or any part thereof or any interest therein, whether voluntarily, involuntarily or by operation of law, or engage in

subordinate financing with respect thereto prior to the satisfaction of this Deed of Trust, or (b) Grantor or any general partner or member of Grantor, is a corporation, partnership, limited liability company, trust or other business entity, upon the transfer, pledge, assignment or encumbrance (whether in one transaction or a series of transactions) of any stock, partnership, limited liability company or other ownership interests (for purposes hereof, "stock") in such corporation, partnership, limited liability company or entity including, without limitation, changes in stockholders, partners, members, managers, trustees, beneficiaries, or their respective interests; whether directly or indirectly; by which an aggregate of more than 25% of such entity's stock shall be vested in a party or parties who are not now owners of such equity interests.

"NOTICE --- THE DEBT SECURED HEREBY IS SUBJECT TO CALL IN FULL OR THE TERMS THEREOF BEING MODIFIED IN THE EVENT OF SALE OR CONVEYANCE OF THE PROPERTY CONVEYED."

7. If the Obligations are for business, commercial, investment or agricultural purposes (a) this Deed of Trust is a security agreement to the extent that it relates to personal property, (b) Grantor grants to Lender a security interest in such personal property to secure the Obligations, (c) and this Deed of Trust shall support any financing statement filed showing Lender's security interest as a secured party. Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

8. No delay or omission of the Trustees or the Lender to exercise any right or power hereunder shall impair any right or power or operate as a waiver of such default or acquiescence therein. Every right and remedy given by this Deed of Trust to the Trustees or to Lender may be exercised in any manner and frequency as deemed expedient. No waiver of any default shall extend to or be taken to affect any subsequent default.

8. The covenants contained herein shall bind, and the benefits and advantages herein contained shall inure to the respective heirs, personal representatives, successors and assigns of the parties hereto and of Lender and its successors and assigns. The singular shall include the plural and the plural shall include the singular. This Deed of Trust shall be governed by and interpreted in accordance with the laws of the Commonwealth of Virginia, without regard to conflicts of law principles.

9. Grantor agrees to (i) give notice to Lender immediately upon Grantor's acquiring knowledge of the presence of any Hazardous Materials on the Property or of any Hazardous Materials Contamination or of any Claim made or threatened against Grantor or the Property with respect to any Environmental Requirement with a full description thereof; (ii) at Grantor's sole cost and expense, promptly comply with any and all Environmental Requirements relating to the Property or such Hazardous Materials or Hazardous Materials Contamination and provide Lender with satisfactory evidence of such compliance; (iii) provide Lender, within sixty (60) days after a demand by Lender, with a bond, letter of credit or similar financial assurance evidencing to Lender's satisfaction that the

5

necessary funds are available to pay the cost of complying with such Environmental Requirements and removing, treating and disposing of such Hazardous Materials or Hazardous Materials Contamination and discharging any Lien which may be established on the Property as a result thereof; and (iv) take whatever other action as Lender may deem necessary or appropriate to restore to Grantor the full use and benefit of the Property as contemplated by the Loan Documents.

10. To the extent permitted by law, Grantor shall protect, indemnify, defend and hold Lender, Trustees, any Person owned or controlled by, owning or controlling, or under the common control of or affiliated with, Lender and/or Trustees, any participants in the Loan, the directors, officers, employees and agents of Lender, and/or such other Persons, and the heirs, personal representatives, successors and assigns of each of the foregoing, harmless from and against any and all Claims of any kind or nature whatsoever arising out of or in any way connected with any investigation, enforcement, cleanup, removal, containment, remedial or other private, governmental or regulatory action at any time threatened, instituted or completed pursuant to any applicable Environmental Requirement against Grantor, Trustees or Lender or against or with respect to the Property or any condition, use or activity on the Property or at any time threatened or made by any Person against Grantor, Trustees or Lender with respect to the Property (or against the Property) or any condition, use or activity on the Property relating to any damage, contribution, cost recovery, compensation, loss or injury resulting from or in any way arising in connection with any Hazardous Materials or Hazardous Materials Contamination. Upon demand by Lender, Grantor shall diligently defend any such Claim which affects the Property or is made or commenced against Lender, whether alone or together with Lender, Trustees, Grantor or any other Person, all at Grantor's sole cost and expense and by counsel to be approved by Lender in the exercise of its reasonable judgment. In the alternative, Lender may at any time, after consultation with Grantor, elect to conduct its own defense through counsel selected by Lender and at the cost and expense of Grantor. For purposes of this section, "Lender" shall include the United States Government and its agencies, departments, commissions, boards and bureaus. This paragraph shall not constitute an express or implied waiver of any applicable immunity afforded to Grantor.

As used in this Deed of Trust, the following terms have the following meanings:

"Claim" means any liability, suit, action, claim, demand, loss, expense, penalty, fine, judgment or other cost of any kind or nature whatsoever, including without limitation, fees, costs and expenses of attorneys, consultants, contractors and experts.

"Environmental Requirement" means any and all laws, rules, orders, regulations, statutes, ordinances, guidelines, codes, decrees, or other legally enforceable requirements (including, without limitation, common law) of any international authority, foreign government, the United States, or any state, local, municipal or other Governmental Authority, regulating, relating to or imposing liability or standards of conduct concerning protection of the environment or of human health, or employee health and safety, including, by way of example, but not limitation, the following: the Resource Conservation and Recovery Act 42 U.S.C. 6901, et seq., as amended by the Hazardous and Solid Waste Act Amendments of 1984 ("CERCLA"); the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601, et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986; the Hazardous Materials Transportation Act, 49 U.S.C. 1802, et seq.; the Rivers and Harbors Act of 1899, 33 U.S.C. 401, et seq., the Clean Water Act, 33 U.S.C. 1251, et seq.; the Clean Air Act, 42, U.S.C. 7401, et seq.; the Toxic Substances Control Act, 15 U.S.C. 2601, et seq.; the Safe Drinking Water Act, 42 U.S.C. 7901, 300f, et seq.; the Uranium Mill Tailings Radiation Control Act, 42 U.S.C. 7901, et seq.; the Federal Occupational Safety and Health Act, 29 U.S.C. 651, et seq.; the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 136, et seq.; the National Environmental Policy Act, 42 U.S.C. 4321, et seq., the Noise Control Act, 42 U.S.C. 4901, et seq.; the Emergency Planning and Community Right to Know Act of 1986, 42 U.S.C. 11001, et seq.; the Lead Based Paint Poisoning Prevention Act, 42 U.S.C. 4821, et seq.; the Chesapeake Bay Preservation Act, VA Code §10.1-2100 et seq., and any regulations now or hereafter promulgated pursuant thereto and, as to all of the foregoing, the amendments, regulations, orders, decrees, permits or licenses now or hereafter promulgated thereunder as any of the foregoing now exist or may be changed or amended or come into effect in the future.

6

"Governmental Authority" means any governmental or quasi-governmental entity, including, without limitation, any department, commission, board, bureau, agency, administration, service or other instrumentality of any governmental entity.

"Hazardous Materials" means any and all hazardous or toxic substances, wastes or materials which, because of their quantity, concentration, or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard or nuisance to human health, safety or welfare or to the environment when used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled, including without limitation, any substance, waste or material which is or contains asbestos, radon, polychlorinated biphenyls, urea formaldehyde, explosives, radioactive materials or petroleum products.

"Hazardous Materials Contamination" means the contamination (whether presently existing or occurring after the date of this Deed of Trust) of the Improvements, facilities, soil, ground water, air or other elements on, in or constituting a part of, the Property by Hazardous Materials, or the contamination of the buildings, facilities, soil, ground water, air or other elements on, in or constituting a part of, any other property as a result of Hazardous Materials at any time (whether before or after the date of this Deed of Trust) emanating from the Property.

"Improvements" means all buildings, structures and other improvements now or hereafter existing, erected or placed on the Land, or in any way used in connection with the use, enjoyment, occupancy or operation of the Land.

"Person" means an individual, a corporation, a partnership, a limited liability company, a joint venture, a trust, an unincorporated association, any Governmental Authority or any other entity.

[SIGNATURE PAGE FOLLOWS]

7

WITNESS the following signature(s) and seal(s) as of the day, month and year first written above.

**McAllister Mills, Inc. ("Grantor")**

By: \_\_\_\_\_ (SEAL)  
W. Alexander McAllister, III, President

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2015, by W. Alexander McAllister, III, President of **McAllister Mills, Inc.**, a Virginia corporation, for and on behalf of the corporation.

\_\_\_\_\_  
Notary Public

My commission expires the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Notary Registration Number: \_\_\_\_\_

1723441.2

[SIGNATURE PAGE TO DEED OF TRUST]

8

EXHIBIT A

Description of the Land

9

EXHIBIT B

Environmental Disclosure Schedule

10

**IMPORTANT NOTICE**

**THIS INSTRUMENT CONTAINS A CONFESSION OF JUDGMENT PROVISION WHICH CONSTITUTES A WAIVER OF IMPORTANT RIGHTS YOU MAY HAVE AS A DEBTOR AND ALLOWS THE CREDITOR TO OBTAIN A JUDGMENT AGAINST YOU WITHOUT ANY FURTHER NOTICE.**

**PROMISSORY NOTE**

Principal Amount: \$337,162.00

March \_\_\_\_\_, 2015  
Richmond, Virginia

FOR VALUE RECEIVED, the **McAllister Mills, Inc.**, a Virginia corporation ("McAllister") and the **Economic Development Authority of Grayson County, Virginia**, a public body politic and corporate of the Commonwealth of Virginia (the "EDA"; and collectively with McAllister, "Borrower"), jointly and severally promise to pay to the order of **Virginia Small Business Financing Authority**, a public body corporate and a political subdivision of the Commonwealth of Virginia ("Lender"), at P. O. Box 446, 1220 Bank Street, Richmond, Virginia 23218-0446, or at such other place as may be designated in writing by Lender, in immediately available funds and except as set forth herein as to the EDA without set-off, deduction or counterclaim, the principal sum of up to **Three Hundred Thirty Seven Thousand One Hundred Sixty Two and No/100 Dollars (\$337,162.00)** or so much thereof as may be advanced from time to time hereunder (the "Loan").

This Note is made pursuant to and is subject to the terms and conditions of that certain Loan Agreement between Borrowers and Lender dated as of even date herewith, as amended from time to time (the "Loan Agreement"; capitalized terms used herein without definition have the meanings given to such terms in the Loan Agreement). Any default in the payment or performance of any obligation under this Note, or any defined event of default under the Loan Agreement, shall constitute an "Event of Default" under this Note.

From the date hereof and continuing until this Note is paid in full, interest shall be charged on the unpaid principal balance of this Note at a fixed annual rate equal to **Two and 44/100ths Percent (2.44%)** (the "Interest Rate"). Upon the occurrence of a "Default" (as defined below), the Interest Rate shall, at Lender's option, be increased by five percentage points (5%) over the rate identified above (the "Default Rate") and shall remain at the Default Rate for so long as such Default continues or is waived.

This Note shall be payable as follows:

(a) Commencing on April \_\_\_\_, 2015 and continuing on the same day of each month thereafter until this Note is paid in full, Borrower shall make monthly installments of principal and interest each in the amount of **\$3,169.00**; provided, however, the unpaid principal balance of this Note and all accrued and unpaid interest, fees and other charges thereon shall be due and payable on March \_\_\_\_, 2025 (the "Maturity Date"), unless this Note shall be accelerated sooner pursuant to any provision hereof.

This Note may be prepaid at any time, in whole or in part, without premium or penalty. All payments received hereunder shall be applied in inverse order of maturity, first to late charges, if any, then to accrued interest and the balance, if any, to principal.

-1-

This Note and all other documents or agreements relating to or otherwise evidencing or securing this Note are hereinafter collectively referred to as the "Loan Documents."

If any payment due under to this Note is not paid within ten (10) days after its due date, Borrower jointly and severally agrees to pay to Lender as a late charge a sum equal to the lesser of five percent (5%) of the amount of such delinquent payment or \$250.00. If this Note is not paid when due, whether at maturity or by acceleration, Borrower agrees to pay all costs of collection, including attorneys' fees of thirty percent (30%) of the unpaid amount hereof, incurred by Lender, whether or not suit is filed hereon (and, if actual attorneys' fees incurred by Lender in connection with the collection or enforcement of this Note, exceeds thirty percent (30%) of the unpaid amount hereof, the amount of such fees actually incurred by Lender). Such costs of collection shall include, without limitation, (i) court costs, attorneys' fees, expenses of accountants and appraiser and the cost of all appeals, and (ii) all costs and expenses incurred in connection with the protection of or realization upon the collateral securing this Note or for the enforcement of any guaranty hereof and any defense or prosecution of legal proceedings involving any claims made or threatened against Lender arising out of or related to the Loan Documents and the transactions contemplated thereunder.

At the option of Lender, this Note shall become immediately due and payable and/or shall become payable at the Default Rate, without notice, upon the occurrence of any of the following (each a "Default"), and Lender may exercise any right, power or remedy permitted by law or as set forth in any of the Loan Documents, all of which shall be cumulative:

1. The occurrence of a Default under the Loan Agreement.
2. Borrower shall fail to pay when due (a) any principal of, or interest on the Note or (b) any other amount or indebtedness due Lender from Borrower and such failure shall continue for a period of ten (10) days after written notice from Lender, provided however, that such grace period shall only apply two (2) times during any twelve (12) consecutive month period.
3. The discovery that any representation or warranty made by Borrower to Lender in the Loan Documents, was or is false, inaccurate or untrue in any material respect.

**Borrower further acknowledges that all obligations evidenced by this Note and the Loan Documents are subject to collection pursuant to the Set-Off Debt Collection Program as authorized under the Virginia Debt Collection Act (§§ 58.1-520 through 58.1-535 of the Code of Virginia).**

The failure of Lender to exercise its option to accelerate this Note as provided above, or to exercise any other option or remedy granted to it hereunder or under any of the Loan Documents, or the acceptance by Lender of partial payments or partial performance, shall not constitute a waiver of any Default by Borrower, and all such options and remedies shall remain continuously in force. Acceleration of maturity may at Lender's option be rescinded by written acknowledgment to that effect, but the tender and acceptance of partial payment or partial performance alone shall not in any way affect or rescind such acceleration of maturity.

Whenever this Note matures, whether at the stated maturity or by acceleration, Lender may set-off against the balance hereof any and all credits, money, stocks, bonds or other security or property of any nature whatsoever on deposit with, owed or held by, or in the possession of, Lender, to the credit of or for the account of McAllister, without notice to or consent of McAllister.

Borrower and all others who may become liable for all or any part of this Note jointly and severally (i) waive and renounce any and all homestead exemption rights and the benefits of all valuation and appraisal privileges as against this debt or any renewal or extension hereof; (ii)

-2-

waive presentment, demand, protest, notice of nonpayment, notice of dishonor, and any and all lack of diligence or delays in the collection or enforcement hereof; (iii) consent to the release or substitution of any of the collateral securing this Note; and (iv) consent to any extension of the time for payment of this Note and any other indulgence or forbearance by Lender. Any such extension, release, substitution, indulgence, or forbearance may be made without notice to any party and without in any way affecting the personal liability of any party liable hereon.

This Note may not be changed orally, but only by an agreement in writing signed by the parties against whom enforcement of any waiver, change, modification or discharge is sought. This Note shall be binding upon Borrower and its successors and assigns and shall inure to the benefit of Lender and its successors and assigns. This Note shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without regard to conflicts of law principles.

Waiver of Jury; Jurisdiction. BORROWER KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NOTE, OTHER LOAN DOCUMENTS, ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HERewith, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF EITHER PARTY. BORROWER ACKNOWLEDGES THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR LENDER TO MAKE THE LOAN AND ENTER INTO THE OTHER LOAN DOCUMENTS. Any legal action or proceeding with respect to this Note or any other Loan Document or any document related hereto or thereto shall be brought in the courts of the Commonwealth of Virginia in Richmond, Virginia or of the United States of America for the Eastern District of Virginia, and by execution and delivery of this Note, Borrower hereby accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts. Borrower hereby irrevocably and unconditionally waives any objection, including without limitation, any objection to the laying of venue or based on the grounds of the forum non conveniens which it now or hereafter may have to the bringing of any action or proceeding in such respective jurisdictions.

Confession of Judgment. In accordance with § 8.01-431 et seq., of the Code of Virginia (1950), as amended, and any successor statute, each Borrower hereby constitutes and appoints Scott E. Parsons, Patricia S. Thorne, the Attorney General of the Commonwealth of Virginia, or his duly designated representative, or any officer or agent of the Lender as the Lender may from time to time designate (any of whom may act), as its true and lawful attorney-in-fact, for it and, upon the occurrence of a Default, to appear in Borrower's name, place and stead, and to confess judgment against Borrower, in either the Circuit Court for the City of Richmond, Virginia or the United States District Court for the Eastern District of Virginia - Richmond Division, at Lender's sole option, in favor of Lender for and in the amount of the unpaid principal balance of the Loan then outstanding plus interest accrued and unpaid thereon, all other amounts then due and payable hereunder, costs of suit and reasonable attorney's fees. The authority and power to appear for and enter judgment against Borrower shall not be exhausted by one or more exercises thereof, or by any imperfect exercise thereof, and shall not be extinguished by any judgment entered pursuant thereto. Such authority and power may be exercised on one or more occasions, from time to time, in the same or different jurisdictions, as often as Lender shall deem necessary or desirable, for all of which this Note shall be a sufficient warrant. Pursuant to and in accordance with the provisions of § 8.01-435 of the Code of Virginia (1950), as amended, the holder of this Note may appoint a substitute for any attorney-in-fact authorized to confess judgment that is specifically named in this Agreement, by specifically naming the substitute attorney-in-fact in an instrument appointing the substitute attorney-in-fact and by recording such instrument in the Clerk's Office of the Circuit Court for the City of Richmond, Virginia.

NOTWITHSTANDING ANY OTHER PROVISION HEREOF OR OF THE LOAN DOCUMENTS, WITH RESPECT TO THE EDA ONLY, THIS NOTE, THE PREMIUM, IF ANY, AND THE INTEREST HEREON ARE LIMITED OBLIGATIONS OF THE EDA PAYABLE SOLELY FROM THE REVENUES AND RECEIPTS OF THE PROJECT (AS DEFINED IN THE LOAN DOCUMENTS) RECEIVED BY THE EDA FROM THE COUNTY OF GRAYSON, VIRGINIA, UNDER A SUPPORT AGREEMENT DATED AS OF \_\_\_\_\_, 2015, WHICH REVENUES AND RECEIPTS HAVE BEEN PLEDGED AND ASSIGNED TO SECURE PAYMENT HEREOF. THE NOTE, THE PREMIUM, IF ANY, AND THE INTEREST HEREON SHALL NOT BE DEEMED TO CONSTITUTE A DEBT OR A PLEDGE OF THE FAITH AND CREDIT OF THE COMMONWEALTH OF VIRGINIA OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING

THE COUNTY OF GRAYSON, VIRGINIA AND THE EDA. NEITHER THE COMMONWEALTH OF VIRGINIA NOR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE EDA AND THE COUNTY OF GRAYSON, VIRGINIA SHALL BE OBLIGATED TO PAY THE PRINCIPAL OF OR PREMIUM, IF ANY, OR INTEREST ON THIS NOTE OR OTHER COSTS INCIDENT HERETO EXCEPT FROM THE REVENUES AND RECEIPTS PLEDGED AND ASSIGNED THEREFOR, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE COMMONWEALTH OF VIRGINIA, OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE EDA AND THE COUNTY OF GRAYSON, VIRGINIA, IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR PREMIUM, IF ANY, OR INTEREST ON THIS NOTE OR OTHER COSTS INCIDENT HERETO. THE EDA HAS NO TAXING POWER.

[signature page follows]

-4-

IN WITNESS WHEREOF, the undersigned have caused this Note to be executed, delivered, and sealed on the day and year first above written.

**MCALLISTER MILLS, INC.**

By: \_\_\_\_\_ (SEAL)  
W. Alexander McAllister, III, President

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2015, by W. Alexander McAllister, III, President of **MCALLISTER MILLS, INC.**, a Virginia corporation, for and on behalf of the corporation.

\_\_\_\_\_  
Notary Public

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

Notary Registration Number: \_\_\_\_\_.

-5-

SIGNATURE PAGE TO NOTE

**ECONOMIC DEVELOPMENT AUTHORITY OF GRAYSON COUNTY, VIRGINIA**

By: \_\_\_\_\_ (SEAL)  
Name:  
Title: Chairman

ATTEST:

By: \_\_\_\_\_ (SEAL)  
Name:  
Title: Secretary

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of March, 2015, by \_\_\_\_\_, the Chairman of the **ECONOMIC DEVELOPMENT AUTHORITY OF GRAYSON COUNTY, VIRGINIA**, a public body politic and corporate of the Commonwealth of Virginia, for and on behalf of the Authority.

\_\_\_\_\_  
Notary Public

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

Notary Registration Number: \_\_\_\_\_.

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of March, 2015, by \_\_\_\_\_, the Secretary of the **ECONOMIC DEVELOPMENT AUTHORITY OF GRAYSON COUNTY, VIRGINIA**, a public body politic and corporate of the Commonwealth of Virginia, for and on behalf of the Authority.

\_\_\_\_\_  
Notary Public

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

Notary Registration Number: \_\_\_\_\_.

1723371.2

**LOAN AGREEMENT**

This LOAN AGREEMENT (the "Agreement") is dated as of March \_\_\_\_, 2015, and is between the **Economic Development Authority of Grayson County, Virginia**, a public body politic and corporate of the Commonwealth of Virginia, whose address is 129 Davis Street, Independence, VA 24348 (the "EDA"), and **McAllister Mills, Inc.**, a Virginia corporation, whose address is 173 Rainbow Circle, Independence, VA 24348 ("McAllister" and together with the EDA, each a "Borrower" and collectively, "Borrowers"), and the **Virginia Small Business Financing Authority**, a public body corporate and a political subdivision of the Commonwealth of Virginia ("Lender"), whose address is P. O. Box 446, 1220 Bank Street, 3<sup>rd</sup> Floor, Richmond, VA 23218-0446. For purposes of Exhibits A, B and C attached hereto, references to "Borrower" shall mean only McAllister and not the EDA.

The parties hereto agree as follows:

**Section 1. The Loan**

(a) Lender agrees, on the terms and conditions set forth in this Agreement, to make a loan (the "Loan") to Borrowers, jointly and severally, in an amount not to exceed **\$337,162**. The Loan is not revolving in nature.

(b) The proceeds of the Loan shall be made available to Borrowers in order to finance the purchase by McAllister of the property located at 326 Rainbow Circle, Independence, VA, and to purchase new equipment to be located at the property and used by McAllister, all as approved by Lender, as described in the Deed of Trust (defined below) (said real property and facility are referred to herein as the "Location" or the "Project"). The Loan and all disbursements of the proceeds thereof will be used solely for the purposes set forth herein and will be in compliance with the Virginia Small Business Financing Act, § 2.2-2279 et seq. of the Code of Virginia (1950), as amended (the "Act"). The Project shall be completed on or before September 30, 2015 (the "Completion Date").

(c) Subject to the terms and conditions of this Agreement, the proceeds of the Loan may be made available to Borrowers in a single Advance or a series of Advances, not to exceed 5 in the aggregate. The minimum amount of each Advance shall be \$100,000. As used herein, "Advance" means an advance of Loan proceeds. No Advance shall be made after September 30, 2015.

(d) The Loan shall be evidenced by and repayable with interest in accordance with the promissory note of Borrowers of even date herewith in the principal amount of the Loan (as amended from time to time, the "Note"), payable as follows.

(i) Borrowers shall make monthly installments of principal and interest each in an amount which will amortize the principal balance of the Loan (together with interest at the rate set forth in the Note) over a term of one hundred twenty (120) months; provided, however, the unpaid principal balance of the Loan and all accrued and unpaid interest thereon shall be due and payable on \_\_\_\_\_, 2025 (the "Maturity Date"), unless the Loan shall be accelerated sooner pursuant to any provision hereof.

(e) Borrowers shall make each Loan payment on the date when due, in funds immediately available in Richmond, Virginia to Lender at its address referred to above. Whenever any payment on the Loan shall be due on a day which is not a business day, the date for payment shall be extended to the next succeeding business day. If the date for any payment of principal is extended by operation of law or otherwise, interest thereon shall be payable for such extended time.

(f) **No Warranty by Lender; Indemnification.** Nothing contained in this Agreement or any other Loan Document shall constitute or create any duty on or warranty by Lender regarding (i) the proper application by Borrowers, general contractor or any subcontractor of the Loan proceeds, (ii)

the quality or condition of the Project, or (iii) the competence or qualifications of the general contractor or any other party furnishing labor or materials in connection with construction of the Project. Each Borrower (1) acknowledges that each Borrower has not relied and will not rely upon any experience, awareness or expertise of Lender regarding such matters, and (2) to the extent allowed by applicable law, shall indemnify, hold harmless, and defend Lender from any costs, expenses, damages, judgments, or liabilities, including without limitation, attorneys' fees, arbitration fees, and expert witness fees, arising from or connected with (i) such matters, (ii) payment or non-payment for labor or materials furnished for construction of the Project, (iii) any claims of mechanics or materialmen, or (iv) any action or inaction by Borrower with respect to the foregoing.

(g) **Signage.** Lender shall have the right to erect one or more signs on the Property advertising its financing of the Project, all in compliance with local zoning regulations.

(h) **Pledge of Revenues.** Notwithstanding any other provision hereof, with respect to the EDA only, the Loan, this Agreement and the Note are limited obligations of the EDA payable solely from the revenues and receipts received by the IDA under the Support Agreement (defined below), which revenues and receipts (the "Revenues") are pledged and assigned to secure payment of the Loan, this Agreement and the Note. Lender acknowledges that any revenues and receipts that may be derived from the Support Agreement are subject to annual appropriation by the Board of Supervisors of Grayson County, Virginia. This pledge shall be valid and binding from and after the execution and delivery of this Agreement. The Revenues shall be held in trust by it solely for use and application as permitted and provided for by this Agreement and shall immediately be subject to the lien of this pledge without any physical delivery or further act. The Loan, this Agreement and the Note shall not be deemed to constitute a debt or a pledge of the faith and credit of the Commonwealth of Virginia or any political subdivision thereof, including Grayson County, Virginia (the "County") and the EDA, other than the limited obligation of the EDA in accordance with the terms of the Note and this Agreement. Neither the Commonwealth of Virginia nor any political subdivision thereof, including the EDA and the County, shall be obligated to pay the principal of or premium, if any, or interest on the Note or other costs incident thereto or this Agreement except from the revenues and receipts pledged and assigned therefor, and neither the faith and credit nor the taxing power of the Commonwealth of Virginia, or any political subdivision thereof, including the EDA and the County, is pledged to the payment of the principal of or premium, if any, or interest on the Note or other costs incident thereto or the obligations under this Agreement. The EDA has no taxing power.

## **Section 2. Conditions to Loan.**

**2.1 Conditions to Funding.** The obligation of Lender to proceed to the closing of the Loan is subject to the satisfaction of the following conditions precedent:

(a) Receipt by Lender of this Agreement, the Note, the Deed of Trust for the benefit of Lender, the Security Agreement from McAllister for the benefit of Lender (the "Security Agreement"), the Support Agreement ("Support Agreement") of the County, the personal guaranty of W. Alexander McAllister, III ("Personal Guarantor") and any and all other agreements, assignments, documents, certificates, financing statements or filings executed in connection with, or securing, evidencing or pertaining to, the Loan (all of the foregoing, as amended from time to time, are collectively, the "Loan Documents"), all in form satisfactory to Lender, appropriately completed and executed.

(b) Receipt by Lender of (A) evidence satisfactory to Lender that the Project is not within any area designated as having special flood hazards, or (B) evidence of flood insurance as required by applicable law.

(c) Receipt by Lender of a copy of the recorded deed of trust (the "Deed of Trust") on the Project, and the Clerk's receipt evidencing the recordation thereof, together with a title

-2-

commitment issued by a title insurance company ("Title Insurer") reasonably acceptable to Lender, together with copies of all items identified therein as exceptions, and pursuant to which the Title Insurer agrees to issue to Lender an ALTA form of Loan Policy acceptable to Lender insuring the Deed of Trust as a valid lien for the full amount of the Loan, free and clear of all liens (including mechanics' liens) and encumbrances, and subject only to such exceptions to title as may be approved by Lender.

(d) If requested by Lender, receipt by Lender of an ALTA survey, or other as-built survey of the Property, by a professional surveyor satisfactory to Lender, of the property comprising the Collateral, which survey shall be certified to Borrowers, Lender and the title insurer.

(e) The Loan Documents shall be effective to create in favor of Lender legal, valid and enforceable priority perfected liens and security interests in all of Borrower's property and assets covered thereby (the "Collateral"), subject only to the Permitted Liens (as hereinafter defined). All filings, recordings, deliveries of instruments and other actions or consents necessary or desirable in the opinion of Lender to grant, perfect, protect and preserve such liens and security interests shall have been duly effected. Lender shall have received evidence thereof in form and substance satisfactory to Lender.

(f) Receipt by Lender of Borrower's effective, paid-up policies of fire and all-risk replacement cost coverage of all insurable property with standard non-contributory mortgage clause in favor of Lender and with loss proceeds payable to Lender; builder's risk and general contractor's liability insurance, and comprehensive general public liability insurance with Lender as an additional insured. All policies must be written by insurers, in amounts, with endorsements, and on terms and conditions satisfactory to Lender.

(g) Receipt by Lender of (i) a certificate of fact for McAllister from the appropriate regulatory official of the state of McAllister's organization; (ii) a certificate of the secretary or a principal officer of McAllister certifying that the copies of the organizational and other charter documents attached thereto are true and correct copies of same as of the date of the closing and to such other matters as Lender may request; and (iii) a certified copy of the resolution or consent of the directors (or members or managers, as applicable) of McAllister authorizing the execution and delivery of the Loan Documents and the performance of the transactions contemplated thereby.

(h) Receipt by Lender of (i) a certificate of the EDA that it is a duly created and validly existing public body politic and corporate of the Commonwealth of Virginia vested with the rights and powers conferred upon the EDA by the Virginia Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2, Code of Virginia (1950), as amended (the "IDA Act") and a certificate of the County that it is a political subdivision of the Commonwealth of Virginia and stating that the Board of Supervisors of the County has authorized the execution and delivery of the Support Agreement; (ii) a certificate of the secretary or a principal officer of the EDA certifying that the copies of the organizational documents attached thereto are true and correct copies of same as of the date of the closing and to such other matters as Lender may request; and (iii) a certified copy of the resolution of the directors of the EDA authorizing the execution and delivery of the Loan Documents and the performance of the transactions contemplated hereby.

(i) Lender shall have received and approved evidence satisfactory to Lender as to the environmental condition of the Project.

(j) Receipt by Lender of an "as completed" appraisal of the Project in form and content acceptable to Lender.

(k) Compliance by Borrower with the additional conditions set forth on Exhibits A, B and C hereto.

(l) Receipt by Lender of a written opinion of the counsel of Borrower acceptable to Lender.

-3-

(m) Receipt and approval of the documents (all in form and substance satisfactory to Lender) evidencing, securing or pertaining to the loans provided to Borrower from Grayson National Bank (the "Bank") in the amount of \$310,000; and evidence of the closing and funding of the foregoing, together with evidence of cash equity and grants with respect to the Project of at least \$181,713.

(n) Satisfaction of all requirements set forth in the commitment letter from Lender to Borrower dated on or about March 9, 2015 (as the same may be amended, the "Commitment").

(o) Borrower shall have paid all of the fees and all expenses payable in connection with the Loan, including, without limitation, all fees set forth in the Commitment and all reasonable out-of-pocket costs and expenses incurred in connection with the preparation, negotiation, execution and closing of this Agreement and the transactions contemplated herein.

(p) Receipt by Lender of such additional supporting documents and information as Lender or its counsel may reasonably request.

**2.2 Advances.** The obligation of Lender to make any Advance is subject to the satisfaction of the following conditions:

(a) Satisfaction of the conditions set forth in Section 2.1;

(b) Receipt by Lender of a Draw Request - Notice of Borrowing in the form attached as Schedule 1 (a "Draw Request"), together with receipt and approval by Lender of invoices for the property to be purchased with the proceeds of the Loan or other evidence, satisfactory to Lender;

- (c) no Default has occurred or is continuing or would result from the Advance;
- (d) the representations and warranties of Borrower contained in this Agreement and in the other Loan Documents shall be true and accurate;
- (e) satisfaction of all conditions set forth in **Exhibit D** hereto, if any; and
- (f) all legal matters incident to the Advance and the transactions contemplated hereby and thereby shall be satisfactory to Lender and its counsel.

**2.3 Additional Conditions.** Each request and deemed request for any Advance shall be deemed to be a certification by McAllister to Lender as to the matters set forth in **Sections 2.2(c)** and **2.2(d)** and Lender may, without waiving any condition, consider the conditions specified in **Sections 2.2(c)** and **2.2(d)** fulfilled and a representation by McAllister to such effect made, if no written notice to the contrary is received by Lender prior to the making of the Advance then to be made.

**Section 3. Representations and Warranties.** McAllister and the EDA each represents, but only as to themselves, as applicable, that from the date of this Agreement and as of the date of each Advance, and until final payment in full of the Loan, or as otherwise specified herein:

(a) McAllister represents that it is duly created, validly existing and in good standing under the laws of Virginia, and has all powers, governmental licenses, authorizations, consents and approvals required to exist as a corporation under the laws of Virginia.

(b) The EDA represents that it is duly created, validly existing and in good standing under the laws of Virginia, and has all powers, governmental licenses, authorizations, consents and approvals required to exist as an "Authority" under and as defined by the IDA Act.

-4-

(c) The execution, delivery and performance by Borrowers of the Loan Documents to which it is a party are within its power, have been duly authorized as may be required and, if necessary, by making appropriate filings with any governmental agency or unit and are the legal, binding, valid and enforceable obligations of Borrowers; and do not (i) contravene, or constitute (with or without the giving of notice or lapse of time or both) a violation of any provision of applicable law, a violation of the organizational documents of Borrowers, or a default under any agreement, judgment, injunction, order, decree or other instrument binding upon or affecting Borrowers, (ii) result in the creation or imposition of any lien (other than the lien(s) created by the Loan Documents) on any of Borrowers' assets, or (iii) give cause for the acceleration of any obligations of Borrower to any other creditor.

(d) McAllister represents that it has good and marketable title to the Project, and the Project is free and clear of mortgages, security deeds, pledges, liens, charges, and all other encumbrances, except as otherwise disclosed to Lender by McAllister in writing and approved by Lender or as set forth on Schedule 2 ("Permitted Liens"). To McAllister's knowledge, no default has occurred under any Permitted Liens and no claims or interests adverse to McAllister's present rights in its properties and assets have arisen.

(e) All information describing Borrowers furnished to Lender by or on behalf of Borrowers in connection with the Loan is and will be true, correct and complete in all material respects. Any such information relating to Borrowers' financial condition in relation to the Project accurately reflects (in all material respects) Borrowers' financial condition as of the date(s) thereof, (including all contingent liabilities of every type), and Borrowers further represent that, as of the date of this Agreement and as of the date of each Advance, the financial condition of Borrowers in relation to the Project has not changed materially and adversely since the date(s) of such documents.

(f) Each Borrower has duly filed, paid and/or discharged all taxes or other claims that may become a lien on any of its property or assets, except to the extent that such items are being appropriately contested in good faith and an adequate reserve for the payment thereof is being maintained.

(g) Each Borrower is in compliance in all material respects with all Environmental Laws applicable to the Project, including, without limitation, all applicable federal, state and local laws and regulations relating to environmental matters and the release, handling and disposal of Hazardous Materials. Each Borrower has obtained and is in material compliance with all required governmental permits, certificates, licenses, approvals and other authorizations, and has filed all notifications relating to air emissions, effluent discharges and solid and hazardous waste storage, treatment and disposal required in connection with its ownership or use of the Project. No Hazardous Materials have been released, discharged or disposed of on the Project which could result in an action under any

environmental law which could have a material adverse effect on Borrower's business, financial position, results of operations or prospects or any facility or operation of such facility. There are no outstanding notices of violation, orders, claims, citations, complaints, penalty assessments, suits or other proceedings, administrative, criminal or civil, at law or in equity, pending against Borrower or its properties that would have a material adverse effect on Borrower's business, financial position, results of operations or prospects or on the Project or the operation of the Project, and no investigation or review is pending or to the knowledge of a Borrower threatened against Borrower by any governmental body, agency or official with respect to any alleged violation of any Environmental Law, regulation, ordinance, standard, permit or order in connection with its ownership or use of any real estate or the conduct of its business.

As used in this Agreement:

-5-

"Environmental Law" means and includes any present and future local, state, federal or international law or treaty (whether under common law, statute, rule, regulation or otherwise) relating to public health, safety or the environment, including, by way of example, but not limitation, the following: the Resource Conservation and Recovery Act 42 U.S.C. 6901, et seq., as amended by the Hazardous and Solid Waste Act Amendments of 1984 ("CERCLA"); the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601, et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986; the Hazardous Materials Transportation Act, 49 U.S.C. 1802, et seq.; the Rivers and Harbors Act of 1899, 33 U.S.C. 401, et seq., the Clean Water Act, 33 U.S.C. 1251, et seq.; the Clean Air Act, 42, U.S.C. 7401, et seq.; the Toxic Substances Control Act, 15 U.S.C. 2601, et seq.; the Safe Drinking Water Act, 42 U.S.C. 7901, 300f, et seq.; the Uranium Mill Tailings Radiation Control Act, 42 U.S.C. 7901, et seq.; the Federal Occupational Safety and Health Act, 29 U.S.C. 651, et seq.; the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 136, et seq.; the National Environmental Policy Act, 42 U.S.C. 4321, et seq., the Noise Control Act, 42 U.S.C. 4901, et seq.; the Emergency Planning and Community Right to Know Act of 1986, 42 U.S.C. 11001, et seq.; the Lead Based Paint Poisoning Prevention Act, 42 U.S.C. 4821, et seq.; the Chesapeake Bay Preservation Act, VA Code §10.1-2100 et seq., and any regulations now or hereafter promulgated pursuant thereto and, as to all of the foregoing, the amendments, regulations, orders, decrees, permits or licenses now or hereafter promulgated thereunder as any of the foregoing now exist or may be changed or amended or come into effect in the future.

"Hazardous Materials" means (i) any petroleum or petroleum products, flammable materials, explosives, radioactive materials, asbestos, urea formaldehyde foam insulation, and transformers or other equipment that contain polychlorinated biphenyls ("PCB's"), (ii) any chemicals or other materials or substances that are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted Hazardous wastes," "toxic substances," "toxic pollutants," "contaminants," "pollutants" or words of similar import under any Environmental Law and (iii) any other chemical or other material or substance, exposure to which is now or hereafter prohibited, limited or regulated under any Environmental Law.

"Person" means any natural person, corporation, unincorporated organization, trust, joint-stock company, joint venture, association, company, limited or general partnership, limited liability company, any government or any agency or political subdivision of any government, or any other entity or organization.

(h) As of the date hereof, there are no pending or (to Borrowers' knowledge) threatened suits, claims or demands against Borrower that have not been disclosed to Lender by Borrowers in writing.

(i) Each Borrower and any subsidiary of Borrower are in compliance in all respects with all federal, state and local laws, rules and regulations applicable to its properties, operations, business, and finances, including, without limitation, any federal or state laws relating to liquor (including 18 U.S.C. § 3617, et seq.) or narcotics (including 21 U.S.C. § 801, et seq.) and/or any commercial crimes; the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), if applicable (including the minimum funding standards of ERISA and all applicable regulations thereto and requirements thereof); and the Internal Revenue Code of 1986, as amended.

(j) Each Borrower is in compliance, in all material respects, with (i) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto, and (ii) the Uniting And Strengthening America By Providing Appropriate Tools Required To Intercept And Obstruct Terrorism (USA PATRIOT Act of 2001).

-6-

(k) Each Borrower is not a Sanctioned Person, has none of its assets in a Sanctioned Country and does not do business in or with, or derive any of its operating income from investments in or transactions with, Sanctioned Persons or Sanctioned Countries in violation of economic sanctions administered by OFAC. The proceeds of the Loan will not be used to fund any operations in, finance any investments or activities in, or make any payments to, a Sanctioned Person or a Sanctioned Country. "OFAC" means the U.S. Department of the Treasury's Office of Foreign Assets Control. "Sanctioned Country" means a country subject to a sanctions program identified on the list maintained by OFAC and available at <http://www.treas.gov/offices/enforcement/ofac/sanctions/>, or as otherwise published from time to time. "Sanctioned Person" means (i) a person named on the list of Specially Designated Nationals or Blocked Persons maintained by OFAC available at <http://www.treas.gov/offices/enforcement/ofac/sdn/>, or as otherwise published from time to time, or (ii) (A) an agency of the government of a Sanctioned Country, (B) an organization controlled by a Sanctioned Country, or (C) a person resident in a Sanctioned Country to the extent subject to a sanctions program administered by OFAC.

(l) The proceeds of the Loan shall be used for purposes outlined in Section 1(b) and for no other purpose. Each of the items of expense for which Borrowers have requested or will request disbursement of the proceeds of the Loan is an eligible "Cost", as defined in the IDA Act.

#### **Section 4. Affirmative Covenants.**

McAllister and the EDA each agrees, only as to itself and as specifically limited and set forth below, that, in relation to the Project, from the date hereof and until final payment in full of the Loan, unless Lender shall otherwise consent in writing:

(a) Each Borrower will comply with all terms and conditions contained in all Loan Documents.

(b) Each Borrower will allow Lender, or its agents, during normal business hours and (so long as no Default shall exist) after reasonable notice, access to the books, records and such other documents of Borrowers as Lender shall reasonably require, and allow Lender, at Borrower's expense, to inspect and examine the same and to make copies thereof. Lender agrees to use commercially reasonable efforts to minimize disruption or interference with Borrower's business operations.

(c) Each Borrower will comply with all applicable laws, ordinances, rules, regulations, and requirements of governmental authorities except where the necessity of compliance therewith is contested in good faith by appropriate proceedings and for which adequate reserves are provided.

(d) Each Borrower will conduct its business in substantially the same manner as such business is now and has previously been conducted.

(e) The EDA will comply with the terms of the Support Agreement, including, without limitation, requesting an appropriation of funds from the County sufficient to make required payments on the Note and providing Lender copies of any notice or communication the EDA gives or receives under or with respect to the Support Agreement.

(f) McAllister will maintain or cause to be maintained adequate insurance coverage with respect to the Project against loss or damage of the kinds and in the amounts as required by the provisions of the Deed of Trust.

(g) McAllister will maintain, preserve and keep, or cause to be maintained, preserved and kept, the Project in good repair, working order and condition (ordinary wear and tear excepted), making or causing to be made all needed replacements, additions and improvements thereto, to the extent allowed by this Agreement.

-7-

(h) Each Borrower will furnish to Lender immediately upon becoming aware of the existence of any condition or event which constitutes a Default (as defined in the Loan Documents) or any event which, upon the giving of notice or lapse of time or both, may become a Default, written notice specifying the nature and period of existence thereof and the action which each Borrower is taking or proposes to take with respect thereto.

(i) McAllister will pay and discharge when due, and before subject to penalty or further charge, and otherwise satisfy before maturity or delinquency, all obligations, debts, taxes, and liabilities of whatever nature or amount (including the withholding of income taxes and social security contributions), except those which McAllister in good faith disputes and for which adequate reserves are provided therefor, and shall post any bond or other security required by applicable law or by the

Lender against the payment thereof; provided, further that, in any event, payment of any such tax, assessment, charge, lien or claim shall be made before any of McAllister's property shall be seized or sold in satisfaction thereof.

(j) McAllister will if required, comply with Section 1809 of the Small Business Act relating to I.R.S. Code Section 6302(h)(2)(C)(i)(iv) and (ii)(iv) or deposit with a bank insured by the Federal Deposit Insurance Corporation or any successor thereto, when due, all F.I.C.A. and withholding taxes and such other taxes as may from time to time be owing, comply with all requirements of the Lender with respect thereto and furnish the Lender with such proof of payment thereof as the Lender may from time to time request.

(k) Each Borrower will promptly notify Lender in writing of (i) any material adverse change in its financial condition or business relating to the Project; (ii) any default under any material agreement, contract or other instrument relating to the Project to which it is a party, or any acceleration of the maturity of any indebtedness relating to the Project owing by a Borrower; (iii) any material adverse claim against or affecting the Project; (iv) the commencement of, and any material determination in, any material litigation with any third party or any proceeding relating to the Project, that, if decided against Borrower, would result in liability of a Borrower in excess of \$50,000; and (v) at least 30 days prior thereto, any change in Borrower's name or address as shown above, and/or any change in a Borrower's organizational structure.

(l) Each Borrower will deliver promptly such other information regarding the operation, business affairs, and financial condition of Borrowers which Lender may reasonably request.

(m) Each Borrower will deliver to Lender a copy of all financial statements, reports, notices, and regular or periodic reports relating to the Project required to be filed by Borrowers with any other lender or governmental authority.

(n) McAllister shall within three (3) year(s) of the date of the Loan, retain 43 permanent, full-time jobs at both McAllister Locations (both in the Commonwealth of Virginia) as a result of the Loan and shall, within three years of the date of the Loan, create 16 additional permanent, full-time jobs (collectively, "Required Jobs") as a result of the Loan. McAllister shall provide evidence of such Required Jobs and the average wage rate of its employees to Lender on a quarterly basis.

(o) McAllister will comply or cause to be complied with in all material respects with all Environmental Laws and not generate, store, handle, process, dispose of or otherwise use, and not knowingly permit any tenant or other occupant of the Location to generate, store, handle, process, dispose of or otherwise use, Hazardous Materials in, on, under or about the Location in a manner that could lead or potentially lead to imposition on Borrower or Lender or the Location of any liability or lien of any nature whatsoever under any Environmental Law.

-8-

(p) McAllister will notify Lender promptly in the event of any known spill or other release of any Hazardous Material in, on, under or about the Location which is required to be reported to a governmental authority under any Environmental Law, promptly forward to Lender copies of any written notices received by McAllister relating to any alleged violation of any Environmental Law and promptly pay when due any fine or assessment against Lender, McAllister or the Location relating to any Environmental Law, unless contested in good faith subject to maintenance of adequate reserves therefor.

(q) McAllister will conduct any further diligence recommended under any environmental site assessment and perform any and all remedial work necessary under all Environmental Laws applicable (now or in the future) to McAllister or its business with respect to the Project, unless contested in good faith subject to the maintenance of adequate reserves therefor.

(r) McAllister shall complete construction of the Project by no later than the Completion Date.

(s) On or April 1, 2016, McAllister shall provide Lender with evidence of capital expenditures of \$717,134 McAllister has incurred for the Project.

(t) On or before April 1, 2018, McAllister shall provide Lender with evidence of an additional equity injection in the aggregate amount of \$125,770 as evidenced by the purchase of equipment for the Project in the second and third year (2016 and 2017) of the Project.

**Section 5. Negative Covenants.** Each Borrower agrees for itself that from the date of this Agreement and until final payment in full of the Loan, unless Lender shall otherwise consent in writing, Borrowers will not:

- (a) Change its fiscal year.
- (b) Consolidate or merge with or into any other entity.

(c) In the case of McAllister, create, assume, or permit to exist any mortgage, security deed, deed of trust, pledge, lien, charge or other encumbrance on the Project, other than: (i) security interests required by the Loan Documents; (ii) liens for taxes contested in good faith by appropriate proceedings and for which adequate reserves are provided, so long as the execution or other enforcement thereof is effectively stayed; or (iii) Permitted Liens.

(d) In the case of McAllister, incur any indebtedness secured by the Project except: (i) obligations of Borrowers to Lender; (ii) unsecured trade liabilities incurred in the ordinary course of business; (iii) indebtedness described on Schedule 3 hereof; or (iv) indebtedness (not overdue) secured by Permitted Liens.

(e) In the case of McAllister, permit the entry of any judgment or the assessment against, the filing of any tax lien against, or the issuance of any writ of garnishment or attachment against the Project which is not discharged or execution is not stayed within 30 days of entry.

(f) In the case of McAllister, transfer one or more Required Jobs from one commuting area within the Commonwealth of Virginia (as described in Exhibit C attached hereto) to another either by closing an operation in one commuting area and increasing the number of jobs in another commuting area as a result of the Loan.

(g) Use any of the Loan proceeds, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any

-9-

improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

(h) (i) in the case of McAllister, repurchase or otherwise acquire any of its equity ownership interests, (ii) pay dividends or distributions of any kind to its equity holders or management, (iii) repay the principal of or interest on loans made to Borrower by its equity holders or management other than in accordance with subordination agreements acceptable to Lender, (iv) repay the principal of or interest on any subordinated debt other than in accordance with subordination agreements acceptable to Lender, or (v) set aside any sum or property for any such purpose; provided, so long as McAllister is a "pass-through" tax entity for United States federal income tax purposes but only so long as no Event of Default has occurred and is continuing or would result therefrom, Borrower may declare or pay to each shareholder, partner or member of Borrower (each an "Owner") cash dividends or distributions to the extent necessary to pay federal and/or state income tax on the income of each Owner directly attributable to such Owner's income derived from Borrower. Upon Lender's request, McAllister shall provide Lender with any documentation required by Lender to substantiate the appropriateness of amounts paid or to be paid, including, without limitation, the state and federal income tax returns (and all related schedules) of each Owner..

**Section 6. Information.** Borrowers shall deliver (or caused to be delivered) to Lender:

(a) As soon as available and in any event within one hundred twenty (120) days after the end of each fiscal year of McAllister, the annual financial statements of McAllister for such year, including, without limitation, a balance sheet, profit and loss statement and statement of cash flows, with supporting schedules, all in reasonable detail and reviewed by a public accounting firm selected by McAllister and acceptable to Lender, which financial statements shall present fairly the financial position of McAllister as of the date of such financial statements and the results of its operations for the period covered by such financial statements in conformity with generally accepted accounting practices ("GAAP") (except for changes in the application of which such accounting firm concurs). McAllister shall furnish to Lender immediately any audited financial statements that are required to be provided to any other lender. All such annual statements shall be certified as to their correctness by a principal financial officer of McAllister.

(b) As soon as available and in any event within one hundred twenty (120) days after the end of each fiscal year of the EDA, the audited financial statements of EDA for such year, including, without limitation, a balance sheet, profit and loss statement and statement of cash flows, with supporting schedules, all in reasonable detail and prepared by a public accounting firm selected by EDA and acceptable to Lender, which financial statements shall present fairly the financial position of EDA as of the date of such financial statements and the results of its operations for the period covered by such financial statements in conformity with generally accepted accounting practices ("GAAP") (except for changes in the application of which such accounting firm concurs). EDA shall furnish to Lender immediately any audited financial statements that are required to be provided to any other lender. All such annual statements shall be certified as to their correctness by a principal financial officer of EDA.

(c) As soon as available and in any event within one hundred eighty (180) days after the end of each fiscal year of the County, the audited financial statements of the County for such year, including, without limitation, a balance sheet, profit and loss statement and statement of cash flows, with supporting schedules, all in reasonable detail and prepared by a public accounting firm selected by the County and acceptable to Lender, which financial statements shall present fairly the financial position of the County as of the date of such financial statements and the results of its operations for the period covered by such financial statements in conformity with GAAP (except for changes in the application of which such accounting firm concurs) and, if audited shall not contain any "going concern" or like qualification or exception or qualifications arising out of the scope of the audit. All such annual statements shall be certified as to their correctness by a principal financial officer of the County.

-10-

(d) Cause Guarantor to furnish to Lender from time to time such financial data and information as Lender may reasonably request, including without limitation, annual personal financial statements and tax returns within 15 days after the filing thereof (and in any event no later than October 15 of each year).

(e) As soon as possible, but in no event more than five (5) calendar days after a Borrower obtains knowledge of a Default or any event, which with passage of time or giving of notice or both, would constitute a Default, a certificate of the chief executive officer or principal financial officer of Borrower setting forth the details of such Default or event and the action Borrowers have taken or propose to take with respect thereto.

(f) Borrowers shall provide to Lender copies of any notice or communication a Borrower gives or receives under or with respect to the Support Agreement, promptly upon the giving or receipt thereof.

(g) From time to time, any other such information with respect to Borrowers as Lender may reasonably require.

**Section 7. Default; Remedies.** If one or more of the following events ("Default") shall have occurred and be continuing:

(a) Borrowers shall fail to pay when due any principal of or interest on the Loan, or any fee or any other amount payable under the Loan Documents, after the expiration of any applicable grace or cure period;

(b) Borrowers shall fail to observe or perform any covenant or agreement contained in any of the Loan Documents, other than as specified in clause (a) above, which continues for 30 days after written notice thereof has been given to Borrowers by Lender;

(c) any representation, warranty, certification or statement made by Borrowers in this Agreement, in any other Loan Document or in any certificate, financial statement or other document delivered pursuant hereto or thereto, shall prove to have been incorrect in any material respect when made;

(d) any event or condition shall occur which results in the acceleration of the maturity of any indebtedness of Borrowers or enables (or, with the giving of notice or lapse of time or both, would enable) the holder of such indebtedness or any Person acting on such holder's behalf to accelerate the maturity thereof, unless such event or condition has been waived;

(e) Lender receives notice from the County that (i) the County is terminating its obligations under the Support Agreement, (ii) the County has failed to make a payment under the Support Agreement as and when due or (iii) any other "Event of Default" under the Support Agreement shall have occurred and not have been waived or cured;

(f) Any Borrower or Guarantor (each, an "Obligor") shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any action to authorize any of the foregoing;

-11-

(g) an involuntary case or other proceeding shall be commenced against an Obligor seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of 60

days; or an order for relief shall be entered against an Obligor under the federal bankruptcy laws as now or hereafter in effect;

(h) there shall exist or occur any event, circumstance or condition that Lender in good faith believes impairs the prospect of payment or performance by, any Obligor, or the general partner of either if such entity is a partnership, of its obligations under any of the Loan Documents;

(i) any change in ownership of any Obligor, or of entities that directly or indirectly control an Obligor, of greater than an aggregate of twenty five percent (25%) or more of the common stock, members' equity or other ownership interest (other than a limited partnership interest); or

(j) the death or incapacity of any Obligor if an individual; the dissolution or liquidation of any Obligor if a corporation, partnership, joint venture or other type of entity; or Borrower or any such Obligor, or any of its directors, stockholders or members, shall take action seeking to effect the dissolution or liquidation of Borrower or such Obligor.

Upon the occurrence of a Default, Lender may refuse to make any further Advances hereunder and may terminate Lender's commitment to make the Loan. Thereupon, Lender shall have the right, without further notice, to declare immediately due and payable the outstanding principal balance of the Note, all accrued and unpaid interest thereon and all other sums due in connection therewith, and Lender may exercise any right, power or remedy permitted by law or as set forth in any of the Loan Documents; provided however, that any liability of the EDA shall be limited to the availability of Revenues.

**Section 8. Waiver of Jury Trial; Submission to Jurisdiction.** Borrower hereby irrevocably and unconditionally waives all right to trial by jury in any action, proceeding, or counterclaim arising out of or related to any of the Loan Documents or any of the transactions contemplated hereby or thereby. Any legal action or proceeding with respect to any Loan Document or any document related hereto or thereto shall be brought in the courts of the Commonwealth of Virginia in Richmond, Virginia or of the United States of America for the Eastern District of Virginia, and by execution and delivery of this Agreement Borrower hereby accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts. Borrower hereby irrevocably and unconditionally waives any objection, including without limitation, any objection to the laying of venue or based on the grounds of the *forum non conveniens* which it now or hereafter may have to the bringing of any action or proceeding in such respective jurisdictions.

**Section 9. Reimbursement, Enforcement and Indemnification.** Borrowers and Guarantor, jointly and severally, agree to reimburse Lender for any payment made by Lender under the Agreement, together with interest and costs of collection, including reasonable attorney's fees. Borrower and Guarantor(s), jointly and severally, acknowledge and agree that Lender may at its option assume (and in such event shall be subrogated to) all rights and remedies of Lender under the Loan Documents and may enforce any such rights or remedies against any collateral for the Loan, and against Borrowers and Guarantor(s). Additionally, to the extent allowed by applicable law, Borrowers and Guarantor shall jointly and severally hold Lender harmless from, and hereby indemnify Lender against, and agree to pay to Lender any and all liabilities, damages, claims, costs and losses incurred or suffered by Lender, including reasonable attorneys' fees and costs, resulting from (a) any materially incorrect certification, statement, representation or warranty made by Borrower, Guarantor, or an agent of Borrowers or Guarantor, to Lender in connection with the Loan, this Agreement or any of the other Loan Documents or (b) any breach by Borrower or Guarantor of the terms and conditions of this Agreement or any of the

-12-

other Loan Documents. Borrower and Guarantor also acknowledge that any statement, certification or representation made by Borrower or any of the Guarantor in connection with the Loan is subject to the penalties provided in 18 U.S.C. § 1001.

**Section 10. Miscellaneous.**

(a) All notices and communications under this Agreement shall be in writing and shall be given by either (i) hand delivery, (ii) first class mail (postage prepaid), or (iii) reliable overnight commercial courier (charges prepaid) to the addresses listed above. Notice shall be deemed to have been given and received: (x) if by hand delivery, upon delivery; (y) if by mail, three (3) calendar days after the date first deposited in the United States mail; and (z) if by overnight courier, on the date scheduled for delivery. A party may change its address by giving written notice to the other party as specified herein.

(b) Borrowers, jointly and severally, shall pay to Lender immediately upon demand the full amount of all payments, advances, charges, costs and expenses, including reasonable attorneys' fees (to include outside counsel fees and all allocated costs of the Virginia Office of the Attorney General), expended or incurred by Lender in connection with (a) the negotiation and preparation of this Agreement and the other Loan Documents, Lender's continued administration hereof and thereof, and the preparation of any amendments and waivers hereto and thereto, (b) the enforcement of Lender's

rights and/or the collection of any amounts which become due to Lender under any of the Loan Documents, and (c) the prosecution or defense of any action in any way related to any of the Loan Documents, including without limitation, any action for declaratory relief, whether incurred at the trial or appellate level, in an arbitration proceeding or otherwise, and including any of the foregoing incurred in connection with any bankruptcy proceeding (including without limitation, any adversary proceeding, contested matter or motion brought by Lender or any other person) relating to Borrower or any other person or entity, together with all insurance, appraisal, survey, recording, environmental, engineering, closing, escrow and title, title insurance fees and costs, and the cost of any other reports or tests deemed necessary by Lender to satisfy the requirements of this Agreement.

(c) The covenants, conditions, waivers, releases and agreements contained in this Agreement shall bind, and the benefits thereof shall inure to the benefit of, the parties hereto and their respective heirs, personal representatives, successors and assigns. The Loan may not be assigned by Borrower without the prior written consent of Lender. This Agreement may not be modified, waived or terminated except by an agreement in writing signed by the party against whom enforcement of any waiver, modification or discharge is sought.

(d) This Agreement shall be governed by and construed in accordance with the substantive laws of the Commonwealth of Virginia without reference to conflict of laws principles.

(e) This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same instrument.

(f) Borrower acknowledges and agrees that Lender, pursuant to the Uniform Electronic Transactions Act, Chapter 42.1, Title 59.1, Code of Virginia (1950), as amended (the "Electronic Transactions Act"), is authorized to maintain, store and otherwise retain the Loan Documents in their original, inscribed tangible form or a record thereof in an electronic medium or other non-tangible medium which permits such record to be retrieved in a perceivable form; that a record of any of the Loan Documents in a non-tangible medium which is retrievable in a perceivable form shall be the agreement of Borrower to the same extent as if such Loan Document was in its original, inscribed tangible medium and such a record shall be binding on and enforceable against Borrower notwithstanding the same is in a non-tangible form and notwithstanding the signatures of the signatories hereof or thereof are electronic, typed, printed, computer generated, facsimiles or other

reproductions, representations and forms; and that Lender's certification and compliance with the Electronic Transactions Act that a non-tangible record of any of the Loan Documents is an accurate and complete copy or reproduction of the original, inscribed tangible form shall be conclusive, absent clear and convincing evidence of the incorrectness of said certification, and such non-tangible record or a reproduction thereof shall be deemed an original and have the same force and effect as the original, inscribed tangible form.

(g) **Patriot Act Notice.** To help fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. For purposes of this section, account shall be understood to include loan accounts.

*[Signature pages follow]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

**MCALLISTER MILLS, INC.**

By: \_\_\_\_\_(SEAL)  
W. Alexander McAllister, III, President

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of March, 2015, by W. Alexander McAllister, III, President of **MCALLISTER MILLS, INC.**, a Virginia corporation, for and on behalf of the corporation.

\_\_\_\_\_  
Notary Public

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

Notary Registration Number: \_\_\_\_\_.

-15-

SIGNATURE PAGE TO LOAN AGREEMENT

**ECONOMIC DEVELOPMENT AUTHORITY OF  
GRAYSON COUNTY, VIRGINIA**

By: \_\_\_\_\_ (SEAL)

Name:

Title: Chairman

ATTEST:

By: \_\_\_\_\_ (SEAL)

Name:

Title: Secretary

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of March, 2015, by \_\_\_\_\_, the Chairman of the **ECONOMIC DEVELOPMENT AUTHORITY OF GRAYSON COUNTY, VIRGINIA**, a public body politic and corporate of the Commonwealth of Virginia, for and on behalf of the Authority.

\_\_\_\_\_  
Notary Public

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

Notary Registration Number: \_\_\_\_\_.

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of March, 2015, by \_\_\_\_\_, the Secretary of the **ECONOMIC DEVELOPMENT AUTHORITY OF GRAYSON COUNTY, VIRGINIA**, a public body politic and corporate of the Commonwealth of Virginia, for and on behalf of the Authority.

\_\_\_\_\_  
Notary Public

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

Notary Registration Number: \_\_\_\_\_.

-16-

SIGNATURE PAGE TO LOAN AGREEMENT

Virginia Small Business Financing Authority

By: \_\_\_\_\_  
Name: Scott E. Parsons  
Title: Executive Director

1719528.2

-17-

SIGNATURE PAGE TO LOAN AGREEMENT

**EXHIBIT A [Additional Covenants]**

**Federal Requirements (ECONOMIC DEVELOPMENT REVOLVING LOAN FUND)**

Borrower: **McAllister Mills, Inc.**

**1. NOT LOCATED IN FLOOD PLAIN.** Borrower certifies that the building, either securing this Loan or containing assets that secure this Loan, (i) is not located within any area designated as having special flood hazards under applicable governmental regulations, or (ii) is covered by flood insurance as required by applicable law in accordance with paragraph 6 below.

**2. CIVIL RIGHTS**

(a) Borrower certifies that it is, and will be, in compliance with all Federal requirements and Federal and State laws regarding Civil Rights, including but not limited to:

- (1) Section 601 of Title VI of the Civil Rights Act of 1964, codified at 42 U.S.C. 2000d et seq. (proscribing discrimination on the basis of race, color or national origin), and the Department of Commerce's implementing regulations found at 15 CFR part 8;
- (2) 42 U.S.C. 3123 (Proscribing discrimination on the basis of sex);
- (3) 29 U.S.C. 794, as amended, and the Department of Commerce's implementing regulations found at 15 CFR part 8b (proscribing discrimination on the basis of disabilities);
- (4) 42 U.S.C. 6101, as amended, and the Department of Commerce's implementing regulations found at 15 CFR part 20;
- (5) 42 U.S.C. 6709 (proscribing discrimination on the basis of sex under the Local Public Works Program); and
- (6) Other Federal statutes, regulations and Executive Orders as applicable.

(b) Borrower will not intimidate, threaten, coerce, or discriminate against, any person for the purpose of interfering with any right or privilege secured by section 601 of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, 42 U.S.C. 3123, 42 U.S.C. 6709, and the Age Discrimination Act of 1975, or because the person has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part.

**3. ENVIRONMENT.** Borrower certifies that it is, and will be, in compliance with all Federal and State laws, including but not limited to:

- (a) The Clean Air Act, as amended (42 U.S.C. 7401 et seq.);
- (b) The Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.);
- (c) The Coastal Zone Management Act of 1972, P.L. 92-583, as amended (16 U.S.C. 1451, et seq.);
- (d) Executive Order 11988, Floodplain Management (May 24, 1977), and regulations and guidelines issued thereunder by the Economic Development Administration;

- (e) Executive Order 11990, Protection of Wetlands (May 24, 1977);
- (f) The Endangered Species Act of 1973 P.L. 93-205, as amended (16 U.S.C. 1531, et seq.);
- (g) The Safe Drinking Water Act, P.L. 93-523, as amended (42 U.S.C. 300f-300J-26);
- (h) The Wild and Scenic Rivers Act, as amended (16 U.S.C. 1271, et seq.);
- (i) The Resource Conservation and Recovery Act of 1976, P.L. 94-580, as amended (42 U.S.C. 6901);
- (j) Historical and Archeological Data Preservation Act, Pub. L. 86-523, as amended, 16 U.S.C. § 469a-1 et seq.;
- (k) National Historic Preservation Act of 1966, Pub. L. 89-665, as amended, 16 U.S.C. § 470 et seq.;
- (l) Flood Disaster Protection Act of 1973, Pub. L. 93-234, as amended, 42 U.S.C. § 4002 et seq.;
- (m) Farmland Protection Policy Act, Pub. L. 97-98, as amended, 7 U.S.C. § 4201 et seq.; and
- (n) Other Federal Environmental Statutes and Executive Orders, and state laws as applicable.

**4. ENVIRONMENTAL REQUIREMENTS**

Borrower agrees to be responsible for all liabilities that might be incurred as a result of providing an award to assist, directly or indirectly, in the preparation of site construction, renovation, or repair of any facility or site, if applicable, to the extent that such liabilities are incurred because of ground water, surface soil, or other conditions caused by operations of Borrower or any of its predecessors on the property.

Borrower further agrees to comply with applicable laws and statutes including, but not limited to, those listed in this Agreement.

**5. EARTHQUAKE REQUIREMENTS.** For new building construction projects: Borrower is aware of and intends to comply with one of three model Codes outlined by the Committee on Seismic Safety in Construction (ICSSC): 1991 ICBO Uniform Building Code; 1992 Supplement to the BUCA National Building Code; or 1991 Amendments to the SBCC Standard Building Code.

**6. FLOOD HAZARD INSURANCE.** Where applicable, Borrower will obtain flood hazard insurance pursuant to the Flood Disaster Protection Act of 1973, P.L. 93-234, as amended (42 U.S.C. 4002, et seq.)

**7. DAVIS-BACON ACT.** Borrower certifies that if construction is being financed in whole or in part by the Loan and when any related construction contract exceeds \$2,000, it will comply with the Davis-Bacon Act, as amended [40 U.S.C. 276a-276a-5); 42 U.S.C. §3222].

**8. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT 7 ANTI-KICKBACK ACT**

Borrower certifies that, if applicable, it will comply with the Contract Work Hours and Safety Standards Act, as amended (40 U.S.C. 327-333) and with the Anti-Kickback Act, as amended (40 U.S.C. 276 (c); 18 U.S.C. 874).

-19-

**9. ACCESS FOR THE HANDICAPPED.** Borrower certifies that if the Loan is used in whole or in part to finance a building or facility intended for use by the public or the employment of physically handicapped, it must be accessible to the physically handicapped, pursuant to Public Law 90-480, as amended (42 U.S.C. 4151, et seq.), and the regulations issued thereunder.

**10. CONFLICT OF INTEREST**

(a) Borrower certifies that, to its knowledge, no officer or employee of the Borrower is related by blood, marriage, law or business arrangement to Lender or an employee of Lender or any member of Lender's Board of Directors, or a member of any other Board (hereinafter referred to as "another Board") which advises, approves, recommends or otherwise participates in decisions concerning loans or the use of grant funds.

(b) Borrower certifies that it is aware that no officer, employee, or member of Lender's Board of Directors, or member of another Board, or person related to the officer, employee, or member of Lender's Board of Directors by blood, marriage, law, or business arrangement, may receive any benefits resulting from the use of loan or grant funds, unless the officer, employee, or Board member affected first discloses to Lender of public record the proposed or potential benefit and receives Lender's written determination that the benefit involved is not so substantial as to affect the integrity of Lender's decision process and of the services of the officer, employee or board member.

11. **NOTICE OF DEBARMENT.** Borrower agrees to notify the Lender immediately upon notification that it has been debarred, suspended, or otherwise excluded from receiving federal financial assistance.

**McAllister Mills, Inc .**

\_\_\_\_\_, 2015

By: \_\_\_\_\_ (SEAL)  
W. Alexander McAllister, III, President

-20-

**EXHIBIT B**

**Virginia Small Business Financing Authority**

**Certification Regarding Debarment, Suspension, and Other Responsibility Matters**

**McAllister Mills, Inc.**  
[Name of Applicant Business]

54-1139272  
[Tax Identification Number]

\_\_\_\_\_, 2015  
[Date]

- (1) The applicant business certifies, to the best of its knowledge and belief, that it and its principals:
  - (a) Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or State department or agency;
  - (b) Have not within a three-year period preceding the application for this loan been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local ) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification, and
  - (d) Have not, within a three-year period preceding the application for this loan, had any public transaction (Federal, State, or local) terminated for cause or default.
- (2) Where the applicant business is unable to certify to any of the statements in this certification, such applicant business shall attach an explanation to this proposal.
- (3) If Borrower is not the employer on the Project, Borrower represents and warrants to Lender that Borrower has advised the employer of the restrictions set forth above and has made all such investigations and inquiries it deems necessary to assure employer's compliance with the restrictions.

**McAllister Mills, Inc.**

By: \_\_\_\_\_ (SEAL)  
W. Alexander McAllister, III, President

-21-

## EXHIBIT C

### Certification And Assurance of Compliance With EDA's Nonrelocation Regulations

Borrower certifies to Lender and assures that, as an owner or employer on a project (the "Project") involving financial assistance provided by the Economic Development Administration of the U.S. Department of Commerce ("EDA"), it will comply with EDA's nonrelocation regulations at 13 CFR 309.3 (or any replacement thereof) (the "Regulations"). These regulations provide that EDA financial assistance will not be used directly or indirectly to assist employers who transfer one or more jobs from one commuting area to another. A commuting area is that area defined by the distance people normally travel to work in the locality of the project receiving EDA financial assistance (the "Project Area"). This restriction applies to the transfer of jobs, not of personnel.

Borrower certifies and assures that it has no intention to transfer one or more jobs from one commuting area to another by either (1) closing an operation in one commuting area and opening a new operation in the Project Area, which is in a new commuting area, or (2) curtailing its operations in another location and increasing the number of jobs of the existing operations located in the Project Area, for a period forty-eight (48) months from the date of approval by EDA of financial assistance.

Borrower certifies and assures that it has not located and that it will not locate in the Project Area prior to the date of EDA's approval of the proposed financial assistance, for the purpose of avoiding the restrictions of this nonrelocation rule.

Borrower understands that (a) EDA financial assistance is not prohibited with respect to the expansion of an employer through the creation of a new branch, affiliate, or subsidiary which will not result in a decrease in jobs in any area where Borrower conducts business operations, and (b) retail stores which open new outlets in EDA-funded facilities are exempt from this requirement, provided: (1) the retail store is not a direct recipient of EDA financial assistance; (2) the retail store is not engaged in a pattern of operation which would result in relocating a substantial portion of its operations from one multi-state region to another; and (3) the new outlet opening will not result in a significant reduction of employment in the retail store's entire operation.

If Borrower is not the employer on the Project, Borrower represents and warrants to Lender that Borrower has advised the employer of the Regulations and has made all such investigations and inquiries it deems necessary to assure employer's compliance with the Regulations.

\_\_\_\_\_, 2015

**McAllister Mills, Inc.**  
[Borrower]

By: \_\_\_\_\_  
W. Alexander McAllister, III, President

-22-

## EXHIBIT D

### Post Closing Disbursement Procedures

[These procedures are subject to waiver at Lender's discretion]

(1) All Advances shall be made from time to time upon written application of Borrower pursuant to a Draw Request in form satisfactory to Lender. Each Draw Request shall constitute a representation by Borrower that no Event of Default or event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default has occurred and is continuing.

(2) Borrower shall submit an Draw Request at least three (3) BUSINESS DAYS prior to the date on which the Advance is to be made. Such Draw Request shall include: (a) the amount requested; (b) a certification by Borrower that the proceeds of the Advance will be used for the purposes set forth in the Commitment; and (c) copies of invoices or other evidence, if required by the Inspector, evidencing amounts due or expenditures made by Borrower with respect to the Project. No more than five (5) of such Advances shall be made.

(3) Borrower shall comply with the "Additional Procedures" attached hereto.

(4) [OTHER] \_\_\_\_\_

-23-

**ADDITIONAL PROCEDURES IF CONSTRUCTION IS FINANCED WITH ADVANCES:**

[N/A]

-24-

**SCHEDULE 1**

**Draw Request - Notice of Borrowing**

TO: Virginia Small Business Financing Authority  
1220 Bank Street, 3<sup>rd</sup> Floor  
Richmond, Virginia 23218-0446  
Attn: \_\_\_\_\_, Project Finance Manager  
Facsimile No. (804) 225-3384

This Draw Request is given pursuant to Section 2 of that certain Loan Agreement dated as of \_\_\_\_\_, 2015 (the "**Loan Agreement**"), by and between **McAllister Mills, Inc** and the **Economic Development Authority Of Grayson County, Virginia** (individually and collectively, "Borrower"), and **Virginia Small Business Financing Authority** (the "Lender"). All initially capitalized terms used but not defined in this Draw Request shall have the meanings assigned to such terms in the Loan Agreement.

The undersigned hereby requests an advance as follows: \$\_\_\_\_\_.

The undersigned requests that such advance be made available on \_\_\_\_\_, 201\_\_\_\_, and deposited or disbursed to persons identified on and in accordance with **Attachment 1** hereto.

The undersigned certifies that, as of the date of the requested Advance:

(a) the representations and warranties of Borrower contained in the Loan Agreement and the Loan Documents are true and correct in all material respects on and as of such date, except (i) to the extent such representations and warranties expressly relate solely to an earlier date, or (ii) for changes contemplated and permitted by the Loan Agreement;

(b) no Event of Default or Default has occurred or will result from the proposed advance (except for those which have been waived by the Lender in writing);

(c) after giving effect to any advance requested hereby, the aggregate principal amount of advances outstanding will not exceed \$\_\_\_\_\_; and

(d) the proceeds of the Loan(s) requested hereby shall be used only for purposes permitted by the Loan Agreement.

**McAllister Mills, Inc.**

By: \_\_\_\_\_  
W. Alexander McAllister, III, President

Date: \_\_\_\_\_, 201\_\_\_\_

-25-

**DISBURSEMENTS AND WIRES**

1. \$ \_\_\_\_\_ shall be paid to \_\_\_\_\_ to pay \_\_\_\_\_  
\_\_\_\_\_ in accordance with the **attached invoice[s]**.
2. [other]

-26-

**SCHEDULE 2**

**Permitted Liens**

1. A Deed of Trust given by McAllister in favor of Grayson National Bank to secure indebtedness in the amount of \$310,000, including all amendments, modifications, corrections, extensions, replacements, and renewals thereof;
2. Liens for taxes, assessments, charges or other governmental levies not yet due or as to which the period of grace (not to exceed sixty (60) days), if any, related thereto has not expired or which are being contested in good faith by appropriate proceedings, provided that adequate reserves with respect thereto are maintained on the books of the Borrower;
3. carriers', warehousemen's, landlord's, mechanics', materialmen's, processor's, repairmen's or other like Liens arising in the ordinary course of business which are not overdue for a period of more than sixty (60) days or which are being contested in good faith by appropriate proceedings, provided that adequate reserves with respect thereto are maintained on the books of the Borrower;
4. pledges or deposits in connection with workers' compensation, unemployment insurance and other social security legislation and deposits securing liability to insurance carriers under insurance or self-insurance arrangements incurred in the ordinary course of business;
5. deposits to secure the performance of bids, trade contracts (other than for borrowed money), leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;
6. Purchase money Liens; provided that (a) no such Lien shall at any time be extended to cover property or assets other than the property or assets subject thereto and (b) the principal amount of the Indebtedness secured by such Liens shall not be increased, extended, renewed, refunded or refinanced;
7. easements, rights-of-way, restrictions (including zoning restrictions), minor defects or irregularities in title and other similar charges or encumbrances not, in any material respect, impairing the use of the encumbered Property for its intended purposes or the value or marketability of the encumbered Property;
8. Liens on equipment arising from precautionary UCC financing statements relating to the lease of such equipment .

-27-

**SCHEDULE 3**

**Existing Indebtedness and Guaranties**

-28-

**SUPPORT AGREEMENT OF  
THE COUNTY OF GRAYSON, VIRGINIA**

**THIS SUPPORT AGREEMENT**, dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 2015, by and between the **County of Grayson, Virginia**, a political subdivision of the Commonwealth of Virginia (**the “County”**) and the **Economic Development Authority of Grayson County, Virginia**, a public body corporate of the Commonwealth of Virginia (**the “Authority”**), recites and provides as follows.

**RECITALS**

1. The Authority was created under the Industrial Development and Revenue Bond Act (§15.2-4900 *et seq.*) of the *Code of Virginia*, 1950, as amended, to promote industry and develop trade.
2. In order to induce McAllister Mills, Inc. (**the “Company”**) to locate a manufacturing facility in the County of Grayson and thereby promote the industrial development and economy of the County, the Authority desires to assist the Company in the acquisition and equipping of such manufacturing facility (**the “Project”**).
3. The Authority and The Company have obtained a commitment from the Virginia Small Business Financing Authority (**“VSBFA”**) to lend to the Company and the Authority pursuant to a loan agreement dated of even date herewith (**the “Loan Agreement”**) up to \$337,162 (**the “Loan”**) as a portion of the projected costs of the Project, and as part of that commitment and as part of the security for the Loan, the VSBFA has required the County to enter into this Support Agreement (**this “Agreement”**).
4. The Loan is evidenced by a promissory note of even date herewith (**the “Note”**) executed by the Company and the Authority as joint and several obligors.

**AGREEMENT**

**NOW, THEREFORE**, for and in consideration of the premises, the promises and mutual benefits to be derived by the parties from entering into this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows.

1. In the event that (a) the Company fails to make any payment as and when due on the Note so that the Authority is obliged to make such payment to prevent a default under the Note, and (b) the Authority has no funds available to it to make such payment under the Note, then in such case the Authority shall request an appropriation of funds from the County sufficient to make such payment.
2. The Board of Supervisors of the County (**the “Board”**) hereby acknowledges that, to the extent permitted by law and subject to annual appropriation, it has a moral obligation

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to appropriate funds to the Authority in an amount that is sufficient for the Authority to make all payments on the Note as and when due.

3. The Board hereby undertakes a non-binding obligation to appropriate such amounts as may be requested from time to time pursuant to paragraph 1 to the fullest degree and in such manner as is consistent with the Constitution and laws of the Commonwealth of Virginia. The Board, while recognizing that it is not empowered to make any binding commitment to make such appropriations in future fiscal years, hereby states its intent to make such appropriations in future fiscal years, and hereby recommends that future Boards do likewise.
4. Following any failure of the Company to pay any amount as and when due on the Note, the County Administrator of the County (**the “County Administrator”**) shall include the regularly scheduled annual amounts due on the Note for the following fiscal year of the County (**the “Required Amount”**) in his budget submitted to the Board for the following fiscal year as an amount to be appropriated to the Authority in respect of the Project. The County

Administrator shall deliver to the Authority and the VSBFA, within fifteen days after the adoption of the County's budget for each fiscal year, but not later than July 15 of each year, a certificate stating whether the Board has appropriated to the Authority an amount equal to the Required Amount. If the Board shall fail to make any such appropriation or make a lesser appropriation, the County Administrator shall add the amount of such requested appropriation that was not included in the adopted budget to the proposed budget for the County's next fiscal year.

5. Nothing herein contained is or shall be deemed to be a lending of the credit of the County to the VSBFA, the Authority, the Project or to any other person or entity, and nothing herein contained is or shall be deemed to be a pledge of the faith and credit or the taxing power of the County; nor shall anything herein contained legally bind or obligate the Board to appropriate funds for the purposes described herein, all funds described herein being expressly made subject to annual appropriation by the Board.

6. For and in consideration of VSBFA making the Loan to the Company and the Authority, and to further secure the repayment of the Note and the Loan, the Authority hereby assigns, grants and conveys to VSBFA all of its right, title and interest, now existing or hereafter arising, in and to all moneys received from the County pursuant to the provisions of this Agreement. The Authority and the County shall make, execute and deliver any papers, instruments and documents that may be required by VSBFA to effectuate the purpose intended by this assignment. This Authority waives any right, legal or equitable, now existing or hereafter arising, to offset against, attach, levy upon, enjoin or otherwise delay the payment of such moneys hereby assigned on account of any claim or obligation between the Authority and the County.

7. If any clause, provision, or paragraph of this Agreement shall be held illegal or invalid by a court, the illegality or invalidity of such clause, provision, or paragraph shall not affect any of the remaining clauses, provisions, or paragraphs hereof, and this Agreement shall be construed and enforced as if such illegal or invalid clause, provision, or paragraph had not been contained herein. In case any question should arise as to whether any provision contained

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2

herein shall be in violation of law, then such provision shall be construed to the agreement of the parties hereto to the fullest extent permitted by law.

8. Any notices or requests required to be given hereunder shall be deemed given if delivered by hand, sent by nationally recognized overnight courier service or by registered or certified mail, postage prepaid, return receipt requested, addressed (i) if to the County, to County Administrator, P.O. Box 217, Independence, Virginia, 24348, and (ii) if to the Authority or VSBFA, to the notice address provided for them in the Loan Agreement. Any party may designate any other address for notices or requests by giving notice.

9. It is the intent of the parties hereto that this Agreement shall be governed by the laws of the Commonwealth of Virginia. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which together shall constitute but one and the same instrument.

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3

**IN WITNESS WHEREOF**, the County and the Authority have caused this Agreement to be executed in their names and on their behalves as of the date first above written.

**COUNTY OF GRAYSON, VIRGINIA**

By: \_\_\_\_\_  
Chairman

**ECONOMIC DEVELOPMENT AUTHORITY  
OF GRAYSON COUNTY, VIRGINIA**

By: \_\_\_\_\_  
Chairman

Attest:

\_\_\_\_\_  
Secretary, Economic Development Authority  
of Grayson County, Virginia

The undersigned authorized representative of VSBFA has executed this Agreement on its behalf as of the date first written above for the sole purpose of accepting the assignment to it made therein.

**VIRGINIA SMALL BUSINESS  
FINANCING AUTHORITY**

By: \_\_\_\_\_  
Scott E. Parsons  
Executive Director

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4

**RESOLUTION OF THE BOARD OF SUPERVISORS  
OF GRAYSON COUNTY, VIRGINIA**

**WHEREAS**, the Board of Supervisors of Grayson County, Virginia (**the "Board of Supervisors"**) has determined that it is in the best interests of the County of Grayson, Virginia (**the "County"**) to lend its assistance to the Economic Development Authority of Grayson County, Virginia (**the "Authority"**) in the issuance of the Authority's promissory note in the original principal amount of up to \$337,162 bearing interest at 2.44% per annum and due and payable in full in approximately ten years (**the "Note"**), by the pledging of its moral obligation to pay any amounts due on the Note that are not paid when due by the Authority or its co-obligor McAllister Mills Inc. (**"McAllister"**); and

**WHEREAS**, the proceeds of the Note and the loan evidenced thereby (**the "Loan"**) are to be used (i) to pay a portion of the costs of the acquisition and equipping of a commercial and industrial manufacturing facility located in Grayson County, Virginia (**the "Project"**) and (ii) to pay the costs of issuance of the Note, all to accomplish certain purposes of the Virginia Industrial Development and Revenue Bond Act (**the "Act"**); and

**WHEREAS**, there has been presented to the Board of Supervisors a plan for the financing of the Project involving the issuance of the Note jointly and severally by McAllister and the Authority and the pledge of the moral obligation of the County, which would not create debt of the County for purposes of the Virginia Constitution and would promote industry and increase commerce in the County and the Commonwealth of Virginia; and

**WHEREAS**, the Authority has received a proposal from the Virginia Small Business Financing Authority (**"VSBFA"**) for purchase of the Note, pursuant to a Loan Agreement among the Authority, McAllister and VSBFA providing for the purchase of the Note and the loan of the monies from the sale of the Note to pay the cost of the Project (**the "Loan Agreement"**), payment of which Note is secured by a lien on and security interest in the Project granted pursuant to a deed of trust (**the "Deed of Trust"**) and an Assignment of Rents and Leases between McAllister and VSBFA assigning to VSBFA leases and rental payments received from the Project (**the "Assignment"**), and in connection therewith, VSBFA has requested a moral obligation support agreement be entered into between the Authority and the County, and it is further expected that payment of the Note will be guaranteed under the personal guaranty agreement of W. Alexander McAllister for the repayment of the Note and the borrower's obligations under the Loan Agreement (**the "Guaranty Agreement"**); and

**WHEREAS**, there has been presented to this meeting a draft of a Support Agreement between the County and the Authority to undertake a non-binding obligation to appropriate from time to time monies in connection with payments due on the Note (**the “Support Agreement”**);

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF GRAYSON COUNTY, VIRGINIA:**

1

1. The following plan for financing the Project is hereby approved. The Authority will be requested to issue the Note in the maximum amount of \$337,162 and to use the proceeds therefrom to finance a portion of the Project and pay costs of issuance. The Authority will sell the Note to VSBFA and agree jointly and severally with McAllister to repay the same pursuant to the Loan Agreement. The obligation of the County to make any payments under the Support Agreement will be subject to the Board of Supervisors making appropriations for such purpose from time to time. It is expected that the Note will be secured by the Assignment, the Loan Agreement, the Deed of Trust, the Guaranty Agreement, and the Support Agreement. The issuance of the Note maturing in approximately ten years from the issuance date at a per annum interest rate of 2.44% is hereby approved.

2. The Board hereby selects Sands Anderson PC as Counsel to the County and the Authority has also selected such firm as Counsel to the Authority.

3. The Chairman or Vice Chairman of the Board of Supervisors, either of whom may act, is hereby authorized and directed to execute and deliver the Support Agreement.

4. The Chairman or Vice-Chairman of the Board of Supervisors, either of whom may act, is hereby authorized and directed to acknowledge and consent, as necessary, to the provisions of the Support Agreement and any other agreements, instruments, certificates or other documents required to be executed by the County in connection with the issuance of the Note, and to designate and confirm the final provisions and other terms of the Note.

5. The Support Agreement shall be in substantially the form submitted to this meeting, which is hereby approved, with such completions, omissions, insertions, and changes as may be approved by the officer executing it, his execution to constitute conclusive evidence of his approval of any such completions, omissions, insertions and changes.

6. The Board of Supervisors, while recognizing that it is not empowered to make any binding commitment to make appropriations beyond the current fiscal year, hereby states its intent to make annual appropriations in future fiscal years in amounts sufficient to make all payments due under the Note pursuant to the Support Agreement to the extent such payments are not made when due by McAllister and hereby recommends that future Boards of Supervisors do likewise during the term of the Note.

7. All other acts of the Chairman or Vice-Chairman of the Board and other officers of the County that are in conformity with the purposes and intent of this resolution and in furtherance of the plan of financing, the issuance and sale of the Note and the financing of the Project are hereby approved, ratified and confirmed.

8. Any authorization herein to execute a document shall include authorization to deliver it to the other parties thereto and to record such document where appropriate.

9. The County hereby agrees to the extent permitted by law to indemnify, defend and save harmless the Authority, its officers, directors, employees and agents from and against

2

all liabilities, obligations, claims, damages, penalties, fines, losses, costs and expenses in any way connected with the County, the issuance of the Note and the financing of the Project.

10. Nothing in this Resolution or the Support Agreement, the Note or any related documents shall constitute a debt or a pledge of the faith and credit or the taxing power of the County with respect to any sums which are or may become payable under the Support Agreement. All obligations of the County and the Board of Supervisors under the Support

Agreement. All obligations of the County and the Board of Supervisors under the Support Agreement are subject to and dependent upon annual appropriation of funds by the Board of Supervisors, and the Board of Supervisors shall have no legally binding obligation under this resolution or in the Support Agreement to make any such appropriation or the payments provided for in the Support Agreement, the Support Agreement being a statement only of the present intent of the Board of Supervisors.

11. This resolution shall take effect immediately.

3

PASSED AND ADOPTED this \_\_\_\_ day of March, 2015.

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Chairman  
Board of Supervisors  
County of Grayson, Virginia

ATTEST:

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Clerk  
Board of Supervisors  
County of Grayson, Virginia

The Resolution set forth above was adopted during an open meeting at a regular meeting of the Board of Supervisors of the County of Grayson, Virginia, held on March \_\_, 2015, all in accordance with law, by the following votes:

AYES:

NAYS:

ABSENT:

ABSTENTIONS:

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Clerk  
Board of Supervisors  
County of Grayson, Virginia

4

**RESOLUTION OF THE ECONOMIC DEVELOPMENT AUTHORITY  
OF GRAYSON COUNTY, VIRGINIA**

**WHEREAS**, McAllister Mills, Inc. (**“McAllister”**) has requested the Economic Development Authority of Grayson County, Virginia (**the “Authority”**) to (i) jointly and severally with McAllister enter into a loan agreement (**the “Loan Agreement”**) with the Virginia Small Business Financing Authority (**the “VSBFA”**) for a loan of up to \$337,162 (**the “Loan”**), the proceeds of which will be used for the acquisition and equipping of a commercial and industrial manufacturing facility located in Grayson County, Virginia and more particularly described in the Loan Agreement (**the “Project”**), (ii) enter into a promissory note jointly and severally with McAllister in a principal amount not to exceed the amount of the Loan for a term of approximately ten (10) years earning interest at two and forty-four hundredths percent (2.44%) (**the “Note”**), and (iii) pay the costs of issuance of the Note from the proceeds of the Loan, all to accomplish certain purposes of the Virginia Industrial Development and Revenue Bond Act (**the “Act”**); and

**WHEREAS**, the Board of Supervisors of Grayson County, Virginia (**the “County”**) has agreed to enter into a moral obligation support agreement to pledge its moral obligation to provide funds for the repayment of the Note should the Authority be called upon to pay the Note; and

**WHEREAS**, repayment of the Note is secured, among other things, by a second lien deed of trust on the Project, an assignment of leases and rents from the Project and the personal guarantee of W. Alexander McAllister (**together, the “Security Documents”**), drafts of which Security Documents have been presented to this meeting; and

**WHEREAS**, there have been presented to this meeting drafts of the following loan documents (**the “Loan Documents”**) which the Authority proposes to execute based on the request of McAllister to carry out the transactions described above, copies of which shall be filed with the records of the Authority:

- (a) the Loan Agreement among the Authority, McAllister and VSBFA providing for the issuance of the Note and the loan of the monies from the sale of the Note to McAllister and the Authority to pay a portion of the costs of the Project;
- (b) the Note in the original principal amount of \$337,162 payable to VSBFA, earning interest at two and forty-four hundredths percent (2.44%) per annum and due and payable in full over a term of approximately ten years; and

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1

- (c) a Support Agreement of the County providing for the moral obligation of the County to provide funds subject to annual appropriation to pay the amounts due on the Note (**the “Support Agreement”**).

**NOW, THEREFORE, BE IT RESOLVED BY THE ECONOMIC DEVELOPMENT AUTHORITY OF GRAYSON COUNTY, VIRGINIA THAT:**

1. The Authority finds and determines that the undertaking of the Loan, the financing of the Project and the issuance of the Note will be consistent with the purposes of the Act and promote industry and increase commerce in the County and the Commonwealth of Virginia.
2. The Authority agrees that Sands Anderson PC, Richmond, Virginia, be appointed as Counsel to the Authority (**the “Authority Counsel”**) and hereby appoints such firm to supervise the proceedings and approve the issuance of the Note.

3. All costs and expenses in connection with the financing of the Project and the issuance of the Note, including the Authority's expenses, VSBFA's expenses, and the fees and expenses of Authority Counsel for the sale of the Note, shall be paid from the proceeds of the Note or other funds of the Authority or the County.
4. The following plan for financing the Project is approved. The Authority shall use the proceeds from the issuance of the Note to finance a portion of the Project. The Authority will sell the Note to VSBFA and agree to repay the same pursuant to the terms of the Note and the Loan Agreement. The obligation of the Authority to pay principal and interest on the Note will be limited to appropriations of the County under the Support Agreement received by the Authority. The obligation of the County to make any payments under the Support Agreement will be subject to the Board of Supervisors making annual appropriations for such purpose. The Note will be secured by the Security Documents and the Support Agreement. The issuance of the Note maturing approximately 10 years from the issuance date at a per annum interest rate of 2.44% is hereby approved.
5. The Authority hereby authorizes the issuance of the Note pursuant to the Loan Agreement upon terms to be agreed upon and approved by the County, VSBFA and the Authority.
6. The Chairman or Vice Chairman of the Authority, either of whom may act, are hereby authorized and directed to agree, acknowledge and consent to the provisions of such other agreements, instruments, certificates or other documents as are necessary in their sole discretion in connection with the issuance of the Note, including designating and confirming the final provisions and other terms of the Note and the Loan.

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7. The Chairman or Vice Chairman of the Authority, either of whom may act, are hereby authorized and directed to execute the Note, the Loan Agreement and the other Loan Documents by manual or facsimile signature, and the Secretary or Assistant Secretary, either of whom may act, are hereby authorized and directed to affix the seal of the Authority to or print a facsimile thereof on the Note and attest the same by manual or facsimile signature, and the officers of the Authority are hereby authorized and directed to deliver the Note to VSBFA for authentication and delivery upon the terms provided in the Loan Agreement.
8. The Loan Documents and the Security Documents shall be in substantially the forms submitted to this meeting, which are hereby approved, with such completions, omissions, insertions, changes and revisions as may be approved by the officer executing them in his sole and absolute discretion, his execution thereof to constitute conclusive evidence of his approval of any such completions, omissions, insertions, changes and revisions.
9. Any authorization herein to execute a document shall include authorization to deliver it to the other parties thereto and to record such document where appropriate.
10. All other acts of the officers of the Authority that are in conformity with the purposes and intent of this resolution and in furtherance of the issuance and sale of the Note are hereby approved, ratified and confirmed.
11. Nothing in this Resolution, the Note or the Loan Documents shall constitute a debt or a pledge of the faith and credit of the Authority or the County, and the Authority shall not be obligated to make any payments under the Note or the Documents except from payments made by the County under the Support Agreement pursuant to annual appropriation thereof by the Board of Supervisors in accordance with applicable law.

12. This resolution shall take effect immediately.

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3

ADOPTED: This \_\_\_\_ day of March, 2015.

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Chairman  
Economic Development Authority of Grayson  
County, Virginia

ATTEST:

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Secretary,  
Economic Development Authority of Grayson  
County, Virginia

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4

The resolution set forth above was adopted during an open meeting at a regular meeting of the Economic Development Authority of Grayson County, Virginia, all in accordance with law, by the following votes:

AYES:

NAYS:

ABSTENTIONS:

ABSENCES:

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Secretary  
Economic Development Authority of  
Grayson County, Virginia

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5

**VIRGINIA TOBACCO COMMISSION – TOBACCO REGION OPPORTUNITY FUND  
PERFORMANCE AGREEMENT**

EDA member Greg Webb moved to approve the Virginia Tobacco Commission Performance Agreement and the two (2) proposed Letters of Credit proposal with Chair or Vice Chair to sign; duly seconded by Robert E. Williams. Motion carried 4-0 with Larry D. Osborne abstaining.

**PERFORMANCE AGREEMENT**

This Performance Agreement (this “Agreement”) is made and entered into this 6<sup>th</sup> day of February, 2015, by and among the Tobacco Indemnification and Community Revitalization Commission, a body corporate and political subdivision of the Commonwealth of Virginia (the “Commission”), the Grayson County Economic Development Authority (the “Grantee”), a political subdivision of the Commonwealth, and McAllister Mills, Inc., a Virginia corporation (the “Company”) whose Federal Employer Identification Number is 54-1139272.

**WITNESSETH:**

**WHEREAS**, the Grantee has been selected to receive a grant in the amount of \$110,000 (the “Grant”) from the Commission for the Grantee’s use in inducing the Company to construct or locate taxable assets and employ persons in Grayson County (the “Locality”); and

**WHEREAS**, the Grantee has indicated its desire to tender the Grant to the Company for its use and benefit, provided that the Company commits to the achievement of certain goals relating to employment and the construction or location of taxable assets in compliance with the terms hereof; and

**WHEREAS**, the Commission, the Grantee and the Company desire to set forth their understanding and agreement as to the use of the Grant, the obligations of each party hereto, the conditions under which the Grant must be repaid, and the obligations of each party hereto in the Event of Default (as defined herein); and

**WHEREAS**, the Commission has determined that the approval and funding of the Grant constitutes a valid public purpose for the expenditure of public funds and is consistent with and in furtherance of the Commission’s public purposes as outlined in Section 3.2-3100, *et. seq.* of the *Code of Virginia* of 1950, as amended;

**NOW, THEREFORE**, in consideration of the foregoing, the mutual benefits, promises, and undertakings of the parties to this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby represent, warrant, covenant, and agree as follows:

**Section 1. Disbursement of the Grant**

After receipt by the Commission of this Agreement fully executed by all parties hereto, and provided that the Grantee is not in default on its obligations to the Commission as of the date first written above, the Commission shall disburse the Grant to the Grantee on one of the following schedules to be selected by the Grantee:

*Schedule 1 – In Arrears.* Not more than two (2) installments as requested by the Grantee in writing at such times as the Grantee may elect, subject to the reasonable approval of the Commission. The amount of each disbursement shall be limited to that portion of the Grant which has been earned by the Company based upon information described in Section 5 or 6 of this

Agreement, as applicable, when the same is delivered to and approved by the Commission in its sole discretion.

*Schedule 2 – In Advance.* Not more than two (2) installments as requested by the Grantee in writing at such times as the Grantee may elect, subject to the reasonable approval of the Commission. The amount of each disbursement shall **not** be limited to that portion of the Grant which has been earned by the Company; however, each such disbursement shall only be made after the Grantee Certification attached hereto as **Exhibit B** has been completed by the Grantee and delivered to and approved by the Commission in its sole discretion.

Fifty percent (50%) of the Grant is allocated for the Company's taxable asset obligation set forth in Section 4 of this Agreement and fifty percent (50%) of the Grant is allocated for the Company's employment obligation set forth in Section 3 of this Agreement. Unless otherwise agreed to in writing by all parties to this Agreement, Grantee shall disburse all Grant proceeds to the Company or for the Company's benefit within 30 days of receipt of Grant proceeds from the Commission or return the undisbursed proceeds to the Commission.

## **Section 2. Grant Restrictions and Conditions**

Under this Agreement, the Commission places no restriction on the use of the Grant proceeds by the Company, and imposes no conditions beyond those described herein. Should any such restrictions or conditions be imposed by the Grantee, the same shall be described in **Exhibit A**, which shall be attached hereto and made a part hereof, but which shall be binding upon the Company only if signed thereon by an authorized representative of the Company. The Grantee shall be responsible for enforcement of any restrictions or conditions described in said **Exhibit A**.

## **Section 3. Employment Obligation**

The Company shall employ\* at least 16 persons in the Locality with a quarterly aggregate payroll of at least \$134,160. Said employment and payroll will be in addition to those already employed in the Locality by the Company and paid during the calendar quarter ending on *December 31, 2014*, hereinafter called the "Base Quarter." Persons employed by the Company in the Locality shall be counted as employed hereunder only to the extent that they (a) exceed the aggregate number of employees at all Company locations within the Commonwealth of Virginia during the Base Quarter, and (b) are not counted as fulfillment of any other employment obligation made to the Commission by the Company under any other agreement.

## **Section 4. Obligations Regarding Taxable Assets**

The Company shall locate or construct taxable assets in the Locality having an assessed value of at least \$1,046,000, as determined by the Locality's Commissioner of Revenue ("COR"). If the Locality elects to arrange for reimbursement to the Company of all, or any portion of, the tax paid by the Company on said taxable assets, or elects to waive all or any portion of such tax liability, the Company's aforementioned obligation to locate or construct taxable assets in the Locality shall

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\*For purposes of this Agreement the number of persons "employed" means the number of persons who received pay in any given quarter and is calculated by adding together the number of persons who received pay in each month of the quarter and dividing that sum by three (3).

not be waived or reduced. The Company shall receive credit for the value of all taxable assets so determined by the COR, notwithstanding the local taxing authority's election to waive or refund the taxes so levied. Said taxable assets will be in addition to those counted in fulfillment of any other taxable asset or capital investment obligation made to the Commission by the Company under any other agreement. If the Company is exempt from the payment of property taxes on certain assets by state law, the Company shall not be entitled to receive or keep any portion of the Grant allocated to its investment in those certain assets.

## **Section 5. Determination of Performance - Employment**

In order to earn the Grant, the Company must meet its employment obligations hereunder not later than thirty-six (36) months after the end of the Base Quarter. The Company's employment obligations will be deemed to have been fully met when it can document any three (3) consecutive calendar quarters after the Base Quarter in which:

- (i) the average number of employees who received pay from the Company during each of those three (3) consecutive quarters\* exceeds the average number of employees who received pay in the Base Quarter by at least the number promised in Section 3 above, AND

- (ii) the total wages paid by the Company to employees in each of those three quarters exceed the wages paid by the Company to employees in the Base Quarter by at least the amount promised in Section 3 above, AND
- (iii) all such employees worked in the Locality, AND
- (iv) all Company employees in Virginia have been reported to the Virginia Employment Commission (“VEC”) in accordance with VEC regulations. The Company’s failure to satisfy such requirements shall be a breach hereof, and shall constitute an Event of Default hereunder by Company. Employment gains by the Company in the Locality that are offset by employment losses elsewhere in Virginia shall not be counted as employment hereunder.

All determinations of performance made under this Section 5 shall be based upon reports made by, or on behalf of, the Company to the VEC including but not limited to *VEC Form FC-20 Employer’s Quarterly Tax Report* and *O.M.B. Form No 1220-0134 Multiple Worksite Report – BLS 3020* (or any successor forms designated by VEC, or accepted by VEC in lieu thereof). If such tax filings include Company employees who did not work in the Locality, it shall be the duty of the Company to provide additional information sufficient to identify those employees who did work in the Locality. Employees of control affiliates (e.g., subsidiary companies, parent companies, entities under common ownership or control) or employees of independent contractors hired by the Company shall not be counted as employees of the Company in fulfillment of its promise hereunder UNLESS such entities and their relationship to the Company are disclosed to and approved by the Commission in writing, AND such entities supply the Commission with the same employment documentation as described herein. Employees of temporary employment agencies (“temps”) who

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*\*The number of persons who received pay in any given quarter is calculated by adding together the number of persons who received pay in each month of the quarter and dividing that sum by three (3).*

are assigned to work for the Company in the Locality shall not be counted UNLESS evidenced by letter from the temporary employment agency setting forth the number of man-hours so assigned during the Base Quarter and the 36 months immediately following the Base Quarter. Such man hours shall be credited to the Company’s job-creation obligation at the rate of one job for one quarter for every 520 man hours evidenced by such letter.

## **Section 6. Determination of Performance – Taxable Assets**

In order to earn the Grant, the Company must meet its taxable asset obligations hereunder not later than thirty-six (36) months after the Base Year. For purposes of this Agreement, the calendar year that includes the Base Quarter shall be called the “Base Year.” The Company agrees that only those assets owned or leased by the Company, located in the Locality, subject to taxation, and on record with the COR in the name of the Company, all during the 36-month period following the Base Year shall be counted in fulfillment of the Company’s taxable asset obligation. Company assets located, constructed, or leased in the Locality prior to or during the Base Year will not be counted in fulfillment of the Company’s taxable asset obligation.

Leased assets not on record with the COR in the name of the Company will be counted in fulfillment of the Company’s taxable asset obligation only if a copy of the lease is submitted to the Commission indicating that the asset(s) under lease meet the other requirements listed above and were not leased from the Locality or its control affiliates at a substantial discount from market rates.

The Company’s achievement toward meeting its taxable asset obligation shall be based on asset values assessed by the COR for the Locality and shall be the sum of the following:

- a. the highest real property assessed value of record for any one of the three years following the Base Year, less and except the assessed value for the Base Year, PLUS
- b. the first personal property assessed value for each asset first appearing of record during the three calendar years following the Base Year.

The Commission shall rely upon the information described above as the same is reported to the Commission by the COR in writing, without exception.

Taxable assets owned by subsidiary companies, related entities, or entities under common ownership or control shall not be counted as taxable assets of the Company in fulfillment of its taxable asset obligation hereunder UNLESS such entities and their relationships to the Company are disclosed to and approved by the Commission in writing, AND such entities supply the Commission with the same taxable assets documentation as described herein.

**Section 7. Verification of Performance**

The Company hereby expressly grants its consent for (a) the COR for the Locality to release to the Tobacco Commission or the Grantee records necessary to disclose the information required in this Section, and (b) the Virginia Employment Commission to release to the Tobacco Commission all Company employment records of any kind held by the Virginia Employment Commission.

If any of the taxable assets described in Section 4 have been acquired or improved on behalf of the Company by a lessor, the Company shall be responsible for gathering and reporting to the Commission information regarding the taxable assets acquired or improved by the lessor on behalf of the Company.

**Section 8. Events of Default**

If any of the following should occur within the thirty-six (36) month period after the end of the Base Quarter, it shall constitute an "Event of Default" and the Commission may, at its election, accelerate the Company's obligation to repay the portion of the Grant that has not been earned as of the date of the Event of Default:

- a. The Company applies for or consents to the appointment of a receiver, trustee or liquidator of all or a substantial part of its assets, files a voluntary petition of bankruptcy, makes a general assignment for the benefit of creditors, files a petition or an answer seeking reorganization or arrangement with creditors, or if an order, judgment or decree shall be entered by any court of competent jurisdiction, on the application of a creditor, adjudicating the Company as bankrupt or insolvent or approving a petition seeking reorganization of the Company or appointing a receiver, trustee or liquidator of the Company or of all or a substantial part of its assets which remains undismissed, undischarged or unstayed for a period of forty-five (45) days;
- b. The Company ceases to be of record and in good standing with the Virginia State Corporation Commission, and such failure is not cured within sixty (60) days from notice thereof, unless Company obligations hereunder have been assumed by another entity and that assumption was approved by the Commission and the Grantee;
- c. The Company fails, for reasons other than an Event of Force Majeure (as defined herein), to fulfill at least twenty-five percent (25%) of either its employment obligation described in Section 3 above or its taxable asset obligation described in Section 4 above within eighteen (18) months after the end of the Base Quarter;
- d. The Company's employment level is less than 75% of that found in the Base Quarter in more than 2 consecutive calendar quarters following the Base Quarter other than as a result of an Event of Force Majeure;
- e. The Company fails to provide verification to the Commission as described in Section 7, within sixty (60) days from a written request from the Commission; or
- f. The Company closes its business in the Locality for a period of more than thirty (30) days during the thirty-six (36) months following the Base Quarter other than as a result of an Event of Force Majeure.

**Section 9. Repayment Obligation**

In the event that the Company does not meet its obligations hereunder within thirty-six (36) months after the end of the Base Quarter, or an Event of Default occurs, the Company shall repay to

the Grantee the unearned portion of the Grant that has been received by the Company, which is calculated as follows:

- a. A minimum increase in taxable assets is required before **any** portion of the Grant is earned by the Company, hereinafter called the Minimum Investment Requirement. The Minimum Investment Requirement is the greater of (a) \$1.0 million or (b) one-half of the taxable asset obligation described in Section 4 hereof.

- b. Subject to the terms of Section 9.d. below, after exceeding the Minimum Investment Requirement, the fraction of the Grant allocated to employment that is earned by the Company is determined by dividing the average number of employees receiving pay during the three consecutive quarters as determined in Section 5 above with the highest employee count by the number of jobs promised in Section 3.
- c. The method of computation set forth in Paragraph 8.b. above will be used only if the quarterly aggregate payroll for the three consecutive quarters described in Section 5 equals or exceeds that promised in Section 3. If that quarterly aggregate payroll is less than that promised in Section 3, the number of qualifying employees shall be reduced in proportion to the shortfall in quarterly aggregate payroll and the reduced number of employees shall be used to determine whether Company has satisfied its employment obligation hereunder.
- d. After exceeding the Minimum Investment Requirement, the fraction of the Grant allocated to taxable assets that is earned by the Company is determined by dividing the greatest value of assets attested to by the COR under Sections 6 and 7 above by the taxable assets promised in Section 4.
- e. All unearned portions of the Grant shall be repaid by the Company to the Grantee not later than thirty (30) days after the date on which the Company is notified of the unearned amount. The Grantee agrees to remit the same to the Commission. Any refund owed by the Company to the Grantee hereunder shall immediately constitute an obligation of the Grantee to repay the Commission and such Grantee's obligation shall **not** be contingent upon successful collection of any amount from the Company. **The Grantee shall be liable for repayment to the Commission that portion of the Grant determined by the Commission to be due under the terms of this Section and hereby agrees to make such repayment without regard to whether Grantee has received repayment from the Company as further certified on Exhibit B attached hereto.**
- f. Interest shall accrue on unpaid balances at the rate of three percent (3%) per annum beginning on the 31<sup>st</sup> day after the Company is notified of the amount due.
- g. Monies due to the Locality pursuant to this Agreement, if any, shall be considered to be owed to the Treasurer for the Locality and subject to the Treasurer's statutory powers provided for in the Code of Virginia.
- h. If the Company does not meet its employment obligations or taxable asset obligations hereunder by the date which is thirty-six (36) months after the end of the Base

Quarter because of an Event of Force Majeure (as defined herein), the date by which a requirement to meet such commitments shall be extended day-for-day for a period equal to the time elapsed during the Event of Force Majeure. "Event of Force Majeure" means without limitation any of the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or any kind of the government of the United States of America or of the Commonwealth of Virginia or any of their respective departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; tornadoes; storms; floods; washouts; draughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery, transmission pipes or canals not caused by the Company; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the Company.

- i. In the event the Commission is required to take legal action under this Agreement, the Grantee and the Company, jointly and severally, shall be liable for all of the Commission's costs expended for the administration and enforcement of this Agreement, including but not limited to reasonable attorney's fees and court costs.

**Section 10. Acknowledgment and Notice**

The Company and the Grantee each acknowledge and agree to its respective repayment obligation in accordance with this Agreement. Any notices required or permitted under this Agreement shall be given in writing, and shall be deemed to be received upon receipt or refusal after mailing of the same in the United States Mail by certified mail, postage fully pre-paid or by overnight courier (refusal shall mean return of certified mail, undelivered) and addressed as follows:

if to the Company, to:

NAME: McAllister Mills, Inc.  
ADDRESS: 173 Rainbow Circle  
Independence, VA 24348  
Attention: Alec McAllister, Owner & President

if to the Grantee, to:

NAME: Grayson County Economic Development Authority  
ADDRESS: 129 Davis Street  
Independence, VA 24348  
Attention: Jonathan Sweet, County Administrator

if to the Commission, to:

NAME: Tobacco Indemnification and Community Revitalization Commission  
ADDRESS: 701 East Franklin Street, Suite 501

Richmond, Virginia 23219  
Attention: Tim Pfohl, Interim Executive Director

This Agreement constitutes the entire agreement between the parties hereto and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The Company may not assign its rights or obligations under this Agreement without the prior written consent of the Grantee and the Commission; provided that the Company shall have the right, without the consent of the Grantee or the Commission, to assign its rights (not its obligations) under this Agreement to any entity that controls, is controlled by, or is under common control with, the Company.

This Agreement is made, and intended to be performed, in the Commonwealth and shall be construed and enforced by the laws of that state. Jurisdiction and venue for any litigation arising out of or involving this Agreement shall lie in the Circuit Court of the Locality and such litigation shall be brought only in such court.

This Agreement may be executed in one or more counterparts, each of which shall be an original, and all of which together shall be one and the same instrument. If any provision of this Agreement is determined to be unenforceable, then the remaining provisions of this Agreement shall, in the sole discretion of the Commission, be voidable by the Commission or interpreted as in effect as if such unenforceable provisions were not included therein.

The Company hereby warrants that from the date of this Agreement until all obligations hereunder have been satisfied that it is, and will remain, registered and in good standing with the Virginia State Corporation Commission and that the Company is, and will remain, legally authorized to conduct business in the Commonwealth of Virginia.

The provisions of this Agreement are intended to and shall survive closing, the delivery of any deed or other instrument, and any other event. If this Agreement has not been executed by all parties hereto and returned to the Commission within 90 days from the date hereof, the Grantee's and the Company's rights to the Grant Proceeds shall automatically terminate.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to become effective as of the date first written above.

TOBACCO INDEMNIFICATION AND  
COMMUNITY REVITALIZATION  
COMMISSION

By: Tim Pfohl  
Tim Pfohl, Interim Executive Director

Date: 3/24/15

GRAYSON COUNTY ECONOMIC  
DEVELOPMENT AUTHORITY

By: Ricky Anderson

Title: Chair

Date: 3-19-15

MCALLISTER MILLS, INC.

By: [Signature]

Title: President

Date: 3/16/15

**Exhibit A**

**Grant Restrictions**

NONE

**Exhibit B**

**Grantee Certification**

The Grayson County Economic Development Authority (the "Grantee"), a political subdivision of the Commonwealth, hereby certifies that (a) it unconditionally guarantees the Company's performance under and pursuant to the Performance Agreement (this "Agreement") dated as of February 6, 2015, by and among the Tobacco Indemnification and Community Revitalization Commission, a body corporate and political subdivision of the Commonwealth of Virginia (the "Commission"), the Grantee, and McAllister Mills, Inc., a Virginia corporation (the "Company"), and (b) it holds collateral security from the Company sufficient to provide a secondary source of repayment in the event that the Company cannot or will not repay the unearned portion of the Grant (as defined in the Agreement) to the Commission. Such collateral security is described as follows:

letter of credit

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The Grantee hereby acknowledges that the sufficiency of the collateral security for the Grant is the sole responsibility of the Grantee.

GRAYSON COUNTY ECONOMIC  
DEVELOPMENT AUTHORITY

By: Ricky Anderson

Title: Chair

Date: 3-19-15



**GRAYSON NATIONAL BANK**

EST. 1900

Irrevocable Standby Letter of Credit

Number: 7287185

Issue Date: April 8, 2015

BENEFICIARY

ECONOMIC DEVELOPMENT AUTHORITY  
OF GRAYSON COUNTY, VIRGINIA  
129 DAVIS STREET  
INDEPENDENCE, VA 24348

APPLICANT

MCALLISTER MILLS, INC.  
173 RAINBOW CIRCLE  
INDEPENDENCE, VA 24348

LETTER OF CREDIT ISSUE AMOUNT USD \$55,000.00 EXPIRY DATE DECEMBER 31, 2015

LADIES AND GENTLEMEN:

WE HEREBY OPEN OUR IRREVOCABLE STANDBY LETTER OF CREDIT IN YOUR FAVOR FOR THE ACCOUNT OF THE ABOVE REFERENCED APPLICANT IN THE AGGREGATE AMOUNT OF FIFTY FIVE THOUSAND AND 00/100 UNITED STATES DOLLARS (\$55,000.00) WHICH IS AVAILABLE BY PAYMENT UPON PRESENTATION OF THE FOLLOWING DOCUMENTS:

1. A DRAFT DRAWN ON US AT SIGHT MARKED "DRAWN UNDER GRAYSON NATIONAL BANK, STANDBY LETTER OF CREDIT NO. 7287185.
2. THE ORIGINAL LETTER OF CREDIT AND ANY AMENDMENTS ATTACHED THERETO.
3. A DATED STATEMENT ISSUED ON THE LETTERHEAD OF THE BENEFICIARY AND PURPORTEDLY SIGNED BY AN AUTHORIZED REPRESENTATIVE STATING: (A) THE APPLICANT HAS FAILED TO ACHIEVE THE PROPERTY INVESTMENT TARGET SET FORTH IN THE PERFORMANCE AGREEMENT SIGNED BY MCALLISTER MILLS, INC. DATED 02/06/2015; OR (B) BENEFICIARY HAS BEEN NOTIFIED THAT THIS LETTER OF CREDIT SHALL EXPIRE (INSERT DATE) AND REQUESTS PAYMENT IN ADVANCE THEREOF. WE THEREFORE DEMAND PAYMENT IN THE AMOUNT OF (INSERT AMOUNT) AS SAME IS DUE AND OWING.

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE DEEMED AUTOMATICALLY EXTENDED WITHOUT WRITTEN AMENDMENT FOR ONE YEAR PERIODS FROM THE PRESENT OR ANY FUTURE EXPIRY DATE UNLESS AT LEAST THIRTY (30) DAYS PRIOR TO SUCH EXPIRATION DATE, WE SEND THE BENEFICIARY NOTICE AT THE ABOVE STATED ADDRESS BY OVERNIGHT COURIER THAT WE ELECT NOT TO EXTEND THIS LETTER OF CREDIT BEYOND THE INITIAL OR ANY EXTENDED EXPIRY DATE HEREOF. THIS STANDBY LETTER OF CREDIT SHALL NOT BE EXTENDED BEYOND DECEMBER 31, 2017 WHICH WILL BE CONSIDERED THE FINAL EXPIRATION DATE. ANY REFERENCE TO A FINAL EXPIRATION DATE DOES NOT IMPLY THAT GRAYSON NATIONAL BANK IS OBLIGATED TO EXTEND THIS CREDIT BEYOND THE INITIAL EXPIRY DATE OR ANY EXTENDED DATED HEREOF.

*Independence Headquarters* | P.O. Box 186, Independence, VA 24348 | P 276/773-2811

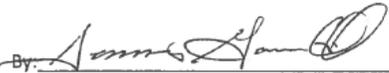
*Carroll* | P.O. Box 1185, Galax, VA 24333 | P 276/238-8112 *Elk Creek* | P.O. Box 17, Elk Creek, VA 24326 | P 276/655-4011 *Galax* | P.O. Box 795, Galax, VA 24333 | P 276/238-2411  
*Hillsville* | P.O. Box 1177, Hillsville, VA 24343 | P 276/728-2810 *Independence East* | P.O. Box 186, Independence, VA 24348 | P 276/773-2821  
*Sparta* | P.O. Box 1900, Sparta, NC 28675 | P 336/372-2811 *Troutdale* | P.O. Box 26, Troutdale, VA 24378 | P 276/677-3722

THIS IRREVOCABLE LETTER OF CREDIT SETS FORTH IN FULL THE TERMS OF OUR UNDERTAKING. THIS UNDERTAKING IS INDEPENDENT OF AND SHALL NOT IN ANY WAY BE MODIFIED, AMENDED, AMPLIFIED, OR INCORPORATED BY REFERENCE TO ANY DOCUMENT, CONTRACT OR AGREEMENT REFERENCED HEREIN.

WE HEREBY AGREE WITH YOU THAT DRAFT(S) DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THIS CREDIT SHALL BE DULY HONORED IF PRESENTED TOGETHER WITH DOCUMENT(S) AS SPECIFIED ABOVE AT OUR OFFICE LOCATED AT 113 W. MAIN STREET, P.O. BOX 186, INDEPENDENCE, VA 24348 , ATTENTION: CREDIT ADMINISTRATION DEPARTMENT ON OR BEFORE THE ABOVE STATED EXPIRY DATE, OR ANY EXTENDED EXPIRY DATE IF APPLICABLE.

EXCEPT AS OTHERWISE EXPRESSLY STATED HEREIN, THIS LETTER OF CREDIT IS SUBJECT TO THE INTERNATIONAL STANDBY PRACTICES 1998, INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 590 "ISP98").

Very Truly Yours,  
Grayson National Bank

By:   
Dennis Gambill, Commercial Loan Officer

Please direct any written correspondence or inquiries regarding this Letter of Credit, always quoting our reference number, to Grayson National Bank, Attention: Credit Administration Department, 113 West Main Street, P.O. Box 186, Independence, VA 24348.

Phone inquiries regarding this credit should be directed to our Credit Administration Department  
1-800-773-2811  
(Hours of Operation: 8:30 a.m. to 5:30 p.m. M-F)

Page 2 of 2



**GRAYSON NATIONAL BANK**

EST. 1900

Irrevocable Standby Letter of Credit

Number: 7287203

Issue Date: April 8, 2015

**BENEFICIARY**

ECONOMIC DEVELOPMENT AUTHORITY  
OF GRAYSON COUNTY, VIRGINIA  
129 DAVIS STREET  
INDEPENDENCE, VA 24348

**APPLICANT**

MCALLISTER MILLS, INC.  
173 RAINBOW CIRCLE  
INDEPENDENCE, VA 24348

LETTER OF CREDIT ISSUE AMOUNT USD \$55,000.00 EXPIRY DATE DECEMBER 31, 2015

**LADIES AND GENTLEMEN:**

WE HEREBY OPEN OUR IRREVOCABLE STANDBY LETTER OF CREDIT IN YOUR FAVOR FOR THE ACCOUNT OF THE ABOVE REFERENCED APPLICANT IN THE AGGREGATE AMOUNT OF FIFTY FIVE THOUSAND AND 00/100 UNITED STATES DOLLARS (\$55,000.00) WHICH IS AVAILABLE BY PAYMENT UPON PRESENTATION OF THE FOLLOWING DOCUMENTS:

1. A DRAFT DRAWN ON US AT SIGHT MARKED "DRAWN UNDER GRAYSON NATIONAL BANK, STANDBY LETTER OF CREDIT NO. 7287203.
2. THE ORIGINAL LETTER OF CREDIT AND ANY AMENDMENTS ATTACHED THERETO.
3. A DATED STATEMENT ISSUED ON THE LETTERHEAD OF THE BENEFICIARY AND PURPORTEDLY SIGNED BY AN AUTHORIZED REPRESENTATIVE STATING: (A) THE APPLICANT HAS FAILED TO ACHIEVE THE EMPLOYMENT OBLIGATION SET FORTH IN THE PERFORMANCE AGREEMENT SIGNED BY MCALLISTER MILLS, INC. DATED 02/06/2015: OR (B) BENEFICIARY HAS BEEN NOTIFIED THAT THIS LETTER OF CREDIT SHALL EXPIRE (INSERT DATE) AND REQUESTS PAYMENT IN ADVANCE THEREOF. WE THEREFORE DEMAND PAYMENT IN THE AMOUNT OF (INSERT AMOUNT) AS SAME IS DUE AND OWING.

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*Independence Headquarters* | P.O. Box 186, Independence, VA 24348 P| 276/773-2811

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Page 1 of 2

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1-800-773-2811  
(Hours of Operation: 8:30 a.m. to 5:30 p.m. M-F)

Page 2 of 2

## OLD BUSINESS

None

## EXECUTIVE SESSION

None

## INFORMATION AND UPDATES

None

## ADJOURN

Kenneth R. Belton made the motion to adjourn the Grayson County Board of Supervisors meeting; duly seconded by Glen E. Rosenbaum. Motion carried 4-0.

Larry D. Osborne made the motion to adjourn the Economic Development Authority meeting; duly seconded by Joe Killon. Motion carried 5-0.