


THIS INSTRUMENT PREPARED BY
AND WHEN RECORDED RETURN TO:

Moore & Van Allen PLLC
100 North Tryon Street, Suite 4700
Charlotte, NC 28202-4003


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Shelby Cnty Judge of Probate, AL
10/10/2005 08:17:21AM FILED/CERT

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

Loan No.: 50-2853381

White Stone

SCHILLECI WHITE STONE, LLC,
as Assignor

to

WACHOVIA BANK, NATIONAL ASSOCIATION,
as Assignee

ASSIGNMENT OF LEASES AND RENTS

Dated as of October 6, 2005

ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF LEASES AND RENTS (this "*Assignment*") made as of October 6, 2005, by SCHILLECI WHITE STONE, LLC, an Alabama limited liability company ("*Assignor*"), whose address is c/o JMS Realty, LLC, 1761 Plat Place, Montgomery, Alabama 36117, in favor of WACHOVIA BANK, NATIONAL ASSOCIATION, a national banking association ("*Assignee*"), whose address is Commercial Real Estate Services, 8739 Research Drive URP - 4, NC 1075, Charlotte, North Carolina 28262.

W I T N E S S E T H:

THAT, WHEREAS, Assignor has executed that certain Promissory Note (the "*Note*") dated of even date herewith, payable to the order of Assignee in the stated principal amount of Nine Million One Hundred Sixty Thousand and No/100 Dollars (\$9,160,000.00); and

WHEREAS, the Note is secured by that certain Mortgage, Security Agreement and Fixture Filing (the "*Security Instrument*") dated of even date herewith, from Assignor, to Assignee, encumbering that certain real property situated in the County of Shelby, State of Alabama, as more particularly described on Exhibit A attached hereto and incorporated herein by this reference, and all buildings and other improvements now or hereafter located thereon (collectively, the "*Improvements*") (said real property and the Improvements are hereinafter sometimes collectively referred to as the "*Property*"); and

WHEREAS, Assignor desires to further secure to Assignee the performance of the terms, covenants and agreements hereof and of the Note, the Security Instrument and each other document evidencing, securing, guaranteeing or otherwise relating to the indebtedness evidenced by the Note (the Note, the Security Instrument, this Assignment and such other documents, as each of the foregoing may from time to time be amended, consolidated, renewed or replaced, being collectively referred to herein as the "*Loan Documents*").

NOW, THEREFORE, in consideration of the making of the loan evidenced by the Note by Assignee to Assignor and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor does hereby irrevocably, absolutely and unconditionally transfer, sell, assign, pledge and convey to Assignee, its successors and assigns, subject to the terms and conditions hereof, all of the right, title and interest of Assignor in and to:

(a) any and all leases, subleases, licenses, rental agreements and occupancy agreements of whatever form now or hereafter affecting all or any part of the Property and any and all guarantees, extensions, renewals, replacements and modifications thereof (collectively, the "*Leases*"); and

(b) all deposits (whether for security or otherwise), rents, issues, profits, revenues, royalties, accounts, rights, benefits and income of every nature of and from the Property, including, without limitation, minimum rents, additional rents, termination payments, forfeited security deposits, liquidated damages following an Event of Default (as defined in the Security Instrument) and all proceeds payable under any policy of insurance covering loss of rents resulting from untenability due to destruction or damage to the Property, together with the

immediate and continuing right to collect and receive the same, whether now due or hereafter becoming due, and together with all rights and claims of any kind that Assignor may have against any tenant, lessee or licensee under the Leases or against any other occupant of the Property, any award or other payment which Assignor may hereafter become entitled to receive with respect to any of the Leases as a result of or pursuant to any bankruptcy, insolvency or reorganization or similar proceedings involving the tenants under such Leases, and any and all payments made by or on behalf of any tenant of any part of the Property in lieu of Rent (collectively, the "**Rents**").

TO HAVE AND TO HOLD the same unto Assignee, its successors and assigns.

IT IS AGREED that this Assignment is made upon the following terms, covenants and conditions

1. Assignor represents, warrants and covenants to and for the benefit of Assignee: (a) that Assignor now is (or with respect to any Leases not yet in existence, will be immediately upon the execution thereof) the absolute owner of the landlord's interest in the Leases, with full right and title to assign the same and the Rents due or to become due thereunder; (b) that, other than this Assignment and those assignments, if any, specifically permitted in the Security Instrument, there are no outstanding assignments of the Leases or Rents; (c) that no Rents have been anticipated, discounted, released, waived, compromised or otherwise discharged, except for prepayment of rent of not more than one (1) month prior to the accrual thereof; (d) that, to the best of Assignor's knowledge, there are no material defaults now existing under any of the Leases by the landlord or tenant, and there exists no state of facts which, with the giving of notice or lapse of time or both, would constitute a default under any of the Leases by the landlord or tenant, except as disclosed in writing to Assignee; (e) that Assignor has and shall duly and punctually observe and perform all covenants, conditions and agreements in the Leases on the part of the landlord to be observed and performed thereunder; and (f) the Leases are in full force and effect and are the valid and binding obligations of Assignor, and, to the knowledge of Assignor, are the valid and binding obligations of the tenants thereto.

2. Notwithstanding that this instrument is a present, absolute and executed assignment of the Rents and of the Leases and a present, absolute and executed grant of the powers herein granted to Assignee, Assignor is hereby permitted, and is hereby granted a revocable license by Assignee, to retain possession of the Leases and to collect, receive, use, distribute and retain the Rents and such license cannot be revoked by Assignee unless and until there shall be an Event of Default under the terms of any of the Loan Documents. In the event of the occurrence and continuation of an Event of Default, the aforementioned license granted to Assignor shall terminate without notice to Assignor, and Assignee may thereafter, without taking possession of the Property, take possession of the Leases and collect the Rents. Further, from and after such termination, Assignor shall be the agent of Assignee in collection of the Rents, and any Rents so collected by Assignor shall be held in trust by Assignor for the sole and exclusive benefit of Assignee, and Assignor shall, within one (1) business day after receipt of any Rents, pay the same to Assignee to be applied by Assignee as hereinafter set forth. Furthermore, from and after such uncured Event of Default and termination of the aforementioned license, Assignee shall have the right and authority, without any notice whatsoever to Assignor and without regard to the adequacy of the security therefor, to: (a)

manage and operate the Property, with full power to employ agents to manage the same; (b) demand, collect, receive and sue for the Rents, including those past due and unpaid; and (c) do all acts relating to such management of the Property, including, but not limited to, negotiation of new Leases, making adjustments of existing Leases, contracting and paying for repairs and replacements to the Improvements and to the fixtures, equipment and personal property located in the Improvements or used in any way in the operation, use and occupancy of the Property as in the sole subjective judgment and discretion of Assignee may be necessary to maintain the same in a tenable condition, purchasing and paying for such additional furniture and equipment as in the sole subjective judgment of Assignee may be necessary to maintain a proper rental income from the Property, employing necessary managers and other employees, purchasing fuel, providing utilities and paying for all other expenses incurred in the operation of the Property, maintaining adequate insurance coverage over hazards customarily insured against and paying the premiums therefor. Assignee may apply the Rents received by Assignee from the Property, after deducting the costs of collection thereof, including, without limitation, attorneys' fees and a management fee for any management agent so employed, against amounts expended for repairs, upkeep, maintenance, service, fuel, utilities, taxes, assessments, insurance premiums and such other expenses as Assignee incurs in connection with the operation of the Property and against interest, principal, required escrow deposits and other sums which have or which may become due, from time to time, under the terms of the Loan Documents, in such order or priority as to any of the items so mentioned as Assignee, in its sole subjective discretion, may determine. The exercise by Assignee of the rights granted Assignee in this paragraph, and the collection of the Rents and the application thereof as herein provided, shall not be considered a waiver by Assignee of any Event of Default under the Loan Documents or prevent foreclosure of any liens on the Property nor shall such exercise make Assignee liable under any of the Leases, Assignee hereby expressly reserving all of its rights and privileges under the Mortgage and the other Loan Documents as fully as though this Assignment had not been entered into.

3. Without limiting the rights granted hereinabove, in the event Assignor shall fail to make any payment or to perform any act required under the terms hereof and such failure shall not be cured within any applicable grace or cure period, then Assignee may, but shall not be obligated to, without prior notice to or demand on Assignor, and without releasing Assignor from any obligation hereof, make or perform the same in such manner and to such extent as Assignee may deem necessary to protect the security hereof, including specifically, without limitation, appearing in and defending any action or proceeding purporting to affect the security hereof or the rights or powers of Assignee, performing or discharging any obligation, covenant or agreement of Assignor under any of the Leases, and, in exercising any of such powers, paying all necessary costs and expenses, employing counsel and incurring and paying attorneys' fees. Any sum advanced or paid by Assignee for any such purpose, including, without limitation, attorneys' fees, together with interest thereon at the Default Interest Rate (as defined in the Note) from the date paid or advanced by Assignee until repaid by Assignor, shall immediately be due and payable to Assignee by Assignor on demand and shall be secured by the Security Instrument and by all of the other Loan Documents securing all or any part of the indebtedness evidenced by the Note.

4. This Assignment shall not operate to place responsibility for the control, care, management or repair of the Property upon Assignee, nor for the performance of any of the terms and conditions of any of the Leases, nor shall it operate to make Assignee responsible or

liable for any waste committed on the Property by the tenants or any other party or for any dangerous or defective condition of the Property or for any negligence in the management, upkeep, repair or control of the Property. Assignee shall not be liable for any loss sustained by Assignor resulting from Assignee's failure to let the Property or from any other act or omission of Assignee in managing the Property other than Assignee's gross negligence or willful misconduct. This Assignment shall not be construed as making Assignee a mortgagee-in-possession. Assignee is obligated to account to Assignor only for such Rents as are actually collected or received by Assignee.

5. Assignor shall and does hereby indemnify and hold Assignee harmless from and against any and all liability, loss, claim, demand or damage which may or might be incurred by reason of this Assignment, including, without limitation, claims or demands for security deposits from tenants of space in the Improvements deposited with Assignor, and from and against any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in any of the Leases other than those finally determined by a court of competent jurisdiction to have resulted solely from the gross negligence or willful misconduct of Assignee. Should Assignee incur any liability by reason of this Assignment or in defense of any claim or demand for loss or damage as provided above, the amount thereof, including, without limitation, costs, expenses and attorneys' fees, together with interest thereon at the Default Interest Rate from the date paid or incurred by Assignee until repaid by Assignor, shall be immediately due and payable to Assignee by Assignor upon demand and shall be secured by the Security Instrument and by all of the other Loan Documents securing all or any part of the indebtedness evidenced by the Note.

6. Assignor hereby irrevocably appoints Assignee as its attorney-in-fact to, from and after the occurrence of an Event of Default by Assignor hereunder or under any of the other Loan Documents, do, make or perform any act, right or privilege which Assignee shall have under or by virtue of this Assignment, which power of attorney is coupled with an interest by virtue of this Assignment and is irrevocable so long as any sums are outstanding under the loan evidenced by the Note.

7. Assignor covenants and agrees that Assignor shall not, without the prior written consent of Assignee: (a) exclusive of security deposits, accept any payment of Rent or installments of Rent for more than one (1) month in advance of the due date; (b) enter into any Lease in violation of any provision of the Mortgage; (c) except as otherwise permitted in the Mortgage, cancel or terminate any Lease (other than for non-payment of Rent or any other material default thereunder) or, except as otherwise permitted in the Mortgage, amend or modify any Lease; (d) take or omit to take any action or exercise any right or option which would permit the tenant under any Lease to cancel or terminate said Lease; (e) anticipate, discount, release, waive, compromise or otherwise discharge any Rents payable or other obligations under the Leases; (f) further pledge, transfer, mortgage or otherwise encumber or assign the Leases or future payments or Rents, except as otherwise expressly permitted by the terms of the Mortgage; (g) incur any material monetary indebtedness to any tenant, lessee or licensee under the Leases, except for tenant improvement costs and tenant improvement allowances under Leases made in accordance with the terms of the Mortgage; or (h) permit any lease to become subordinate to any lien other than the lien of the Mortgage; provided, however, that Assignor may take any of the

actions described in subsection (c), (d), (e) or (g) above so long as such actions are taken by Assignor in the ordinary course of business and are consistent with sound customary leasing and management practices for similar properties.

8. Upon the occurrence and continuation of an Event of Default, Assignor covenants and agrees that Assignor shall, at its sole cost and expense, appear in and defend any action or proceeding arising under, growing out of, or in any manner connected with the Leases or the obligations, duties or liabilities of the landlord or tenant thereunder, and if Assignor shall fail to do so, Assignee, at its option but without obligation, may do so. Assignor shall pay on demand all costs and expenses, including, without limitation, reasonable attorneys' fees, which Assignee may actually incur in connection with Assignee's appearance, voluntary or otherwise, in any such action or proceeding, together with interest thereon at the Default Interest Rate from the date incurred by Assignee until repaid by Assignor.

9. At any time, Assignee may, at its option, notify any tenants or other parties of the existence of this Assignment. After revocation of the license granted Assignor hereunder, Assignee may demand and collect the Rents from any tenant, lessee or licensee. Assignor does hereby specifically authorize, instruct and direct each and every present and future tenant, lessee and licensee of the whole or any part of the Property to pay all unpaid and future Rents to Assignee upon receipt of demand from Assignee to so pay the same, and Assignor hereby agrees that each such present and future tenant, lessee and licensee may rely upon such written demand from Assignee to so pay said Rents without any inquiry into whether there exists an Event of Default hereunder or under the other Loan Documents or whether Assignee is otherwise entitled to said Rents. Assignor hereby waives any right, claim or demand which Assignor may now or hereafter have against any present or future tenant, lessee or licensee by reason of such payment of Rents to Assignee, and any such payment shall discharge such tenant's, lessee's or licensee's obligation to make such payment to Assignor.

10. Assignee may take or release any security for the indebtedness evidenced by the Note, may release any party primarily or secondarily liable for the indebtedness evidenced by the Note, may grant extensions, renewals or indulgences with respect to the indebtedness evidenced by the Note and may apply any other security therefor held by it to the satisfaction of any indebtedness evidenced by the Note without prejudice to any of its rights hereunder or under any of the Loan Documents.

11. The acceptance of this Assignment and the collection of the Rents in the event Assignor's license is revoked, as discussed above, shall be without prejudice to Assignee. The exercise or failure to exercise by Assignee of the rights granted Assignee in this Assignment, and the collection of the Rents and the application thereof as herein provided, shall not be considered a waiver by Assignee of any Event of Default under the Loan Documents or prevent foreclosure of any liens on the Property nor shall such exercise make Assignee liable under any of the Leases, Assignee hereby expressly reserving all of its rights and privileges under the Security Instrument and the other Loan Documents as fully as though this Assignment had not been entered into. The rights of Assignee hereunder are cumulative and concurrent, may be pursued separately, successively or together and may be exercised as often as occasion therefor shall arise, it being agreed by Assignor that the exercise of any one or more of the rights provided for herein or in any of the other Loan Documents shall not be construed as a waiver of any of the

other rights or remedies of Assignee, at law or in equity or otherwise, so long as any obligation under the Loan Documents remains unsatisfied.

12. All rights of Assignee hereunder shall inure to the benefit of its successors and assigns; and shall pass to and may be exercised by any assignee of Assignee. All obligations of Assignor shall bind its successors and assigns and any subsequent owner of the Property. Assignor hereby agrees that if Assignee gives notice to Assignor of an assignment of said rights, upon such notice the liability of Assignor to the assignee of the Assignee shall be immediate and absolute. Assignor will not set up any claim against Assignee or any subsequent assignee as a defense, counterclaim or set-off to any action brought by Assignee or any subsequent assignee for any amounts due hereunder or for possession of or the exercise of rights with respect to the Leases or the Rents.

13. It shall be an "Event of Default" hereunder (a) if any representation or warranty made herein by Assignor is determined by Assignee to have been false or misleading in any material respect at the time made, or (b) upon any failure by Assignor to comply with the provisions of Section 7 above, (c) if an Event of Default under the Mortgage or any of the other Loan Documents shall occur, or (d) upon any failure by Assignor in the performance or observance of any other covenant or condition hereof and, to the extent such failure described in this subsection (d) is susceptible of being cured, the continuance of such failure for thirty (30) days after written notice thereof from Assignee to Assignor; provided, however, that if such default is susceptible of cure but such cure cannot be accomplished with reasonable diligence within said period of time, and if Assignor commences to cure such default promptly after receipt of notice thereof from Assignee, and thereafter prosecutes the curing of such default with reasonable diligence, such period of time shall be extended for such period of time as may be necessary to cure such default with reasonable diligence, but not to exceed an additional ninety (90) days. Any such default not so cured shall be a default under each of the other Loan Documents, entitling Assignee to exercise any or all rights and remedies available to Assignee under the terms hereof or of any or all of the other Loan Documents, and any default under any other Loan Document which is not cured within any applicable grace or cure period shall be deemed a default hereunder subject to no grace or cure period, entitling Assignee to exercise any or all rights provided for herein.

14. If any provision under this Assignment or the application thereof to any entity, person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Assignment and the application of the provisions hereof to other entities, persons or circumstances shall not be affected thereby and shall be enforced to the fullest extent permitted by law.

15. This Assignment may not be amended, modified or otherwise changed except by a written instrument duly executed by Assignor and Assignee.

16. This Assignment shall be in full force and effect continuously from the date hereof to and until the Security Instrument shall be released of record, and the release of the Security Instrument shall, for all purposes, automatically terminate this Assignment and render this Assignment null and void and of no effect whatsoever. This Assignment shall continue and remain in full force and effect during any period of foreclosure with respect to the Property.

17. In case of a conflict between any provision of this Assignment and any provision of the other Loan Documents, the provisions of the Note or the Security Instrument, if such document shall be the conflicting other Loan Document, shall prevail and be controlling over this Assignment.

18. All notices, demands, requests or other communications to be sent by one party to the other hereunder or required by law shall be given and become effective as provided in the Security Instrument.

19. THIS ASSIGNMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED, EXCEPT TO THE EXTENT THAT ANY OF SUCH LAWS MAY NOW OR HEREAFTER BE PREEMPTED BY FEDERAL LAW, IN WHICH CASE SUCH FEDERAL LAW SHALL SO GOVERN AND BE CONTROLLING.

20. Assignor, to the full extent permitted by law, hereby knowingly, intentionally and voluntarily, with and upon the advice of competent counsel, waives, relinquishes and forever foregoes the right to a trial by jury in any action or proceeding based upon, arising out of, or in any way relating to the debt or any conduct, act or omission of Assignee or Assignor, or any of their directors, officers, partners, members, employees, agents or attorneys, or any other persons affiliated with Assignee or Assignor in each of the foregoing cases, whether sounding in contract, tort or otherwise.

21. This Assignment may be executed in any number of counterparts, each of which shall be effective only upon delivery and thereafter shall be deemed an original, and all of which shall be taken to be one and the same instrument, for the same effect as if all parties hereto had signed the same signature page. Any signature page of this Assignment may be detached from any counterpart of this Assignment without impairing the legal effect of any signatures thereon and may be attached to another counterpart of this Assignment identical in form hereto but having attached to it one or more additional signature pages.

22. In addition to, but not in lieu of, any other rights hereunder, Assignee shall have the right to institute suit and obtain a protective or mandatory injunction against Assignor to prevent a breach or Event of Default, or to enforce the observance, of the agreements, covenants, terms and conditions contained herein as well as the right to damages occasioned by and breach or default by Assignor.

23. Assignee may sell, transfer and deliver the Note and the Loan Documents to one or more investors in the secondary mortgage market. In connection with such sale, Assignee may retain or assign responsibility for servicing the loan evidenced by the Note or may delegate some or all of such responsibility and/or obligations to a servicer, including, but not limited to, any subservicer or master servicer, on behalf of the investors. All references to Assignee herein shall refer to and include, without limitation, any such servicer, to the extent applicable.

24. Assignee shall, as a matter of absolute right, be entitled, upon application to a court of applicable jurisdiction, and without notice to Assignor, to the appointment of a receiver

to obtain and secure the rights of Assignee hereunder and the benefits intended to be provided to Assignee hereunder.

25. If Assignee determines at any time to sell, transfer or assign this Assignment, the Note, the Security Instrument and the other Loan Documents, and any or all servicing rights with respect thereto, or to grant participations therein (the "*Participations*") or issue mortgage pass-through certificates or other securities evidencing a beneficial interest in a rated or unrated public offering or private placement (the "*Securities*"), Assignee may forward to each purchaser, transferee, assignee, servicer, participant, investor, or their respective successors in such Participations and/or Securities (collectively, the "*Investor*") or any Rating Agency rating such Securities, each prospective Investor and each of the foregoing's respective counsel, all documents and information which Assignee now has or may hereafter acquire relating to the debt evidenced by the Note and to Assignor, any guarantor, any indemnitor and the Property, except and to the extent a lease specifically requires confidentiality, which shall have been furnished by Assignor, any guarantor or any indemnitor as Assignee determines necessary or desirable.

26. Notwithstanding anything to the contrary contained in this Assignment, the liability of Assignor and its officers, directors, general partners, managers, members and principals for the indebtedness secured hereby and for the performance of the other agreements, covenants and obligations contained herein and in the Loan Documents shall be limited as set forth in Section 2.6 of the Note and the terms and provisions of such Section 2.6 are incorporated herein by reference and made a part hereof as if set forth in full.

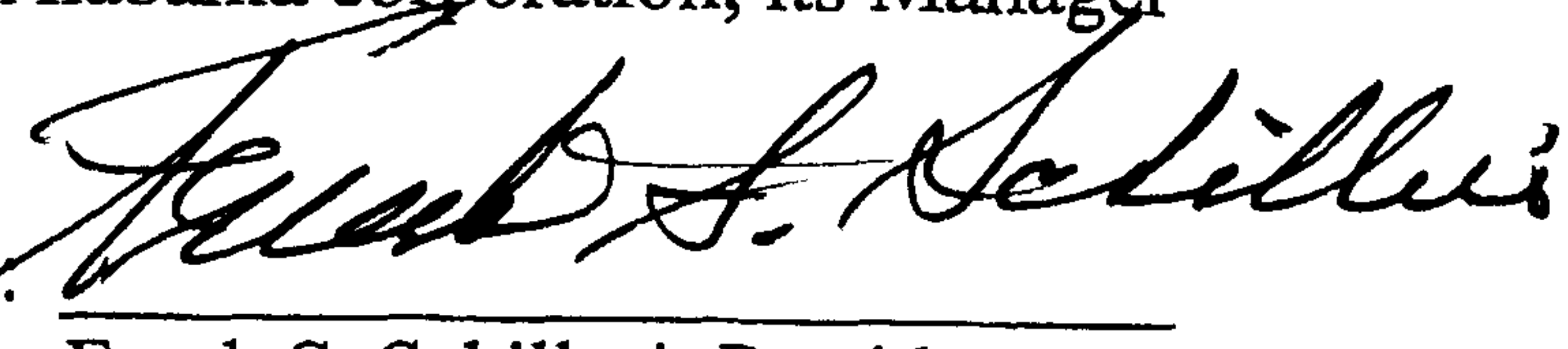
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IN WITNESS WHEREOF, Assignor has executed this Assignment as of the day and year first written above.

ASSIGNOR:


SCHILLECI WHITE STONE, LLC,
an Alabama limited liability company

By: Schilleci White Stone Management, Inc.,
an Alabama corporation, its Manager

By: 
Frank S. Schilleci, President

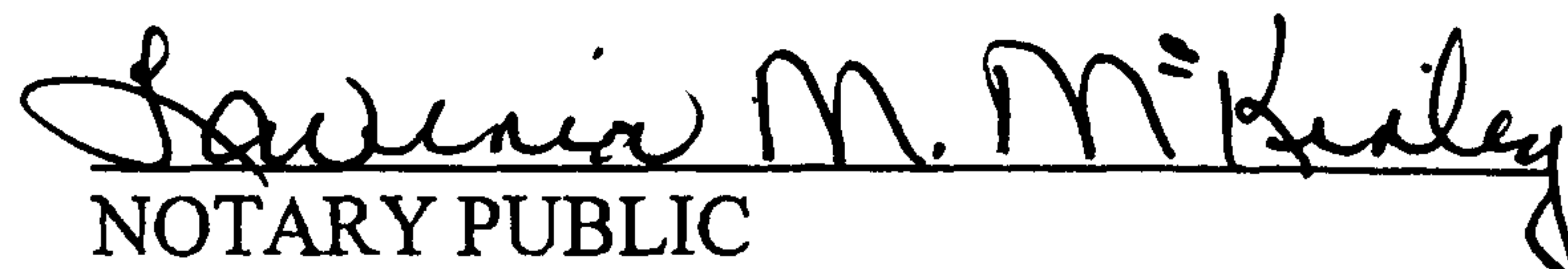
THE STATE OF ALABAMA

COUNTY OF MONTGOMERY


20051010000525310 11/13 \$47.00
Shelby Cnty Judge of Probate, AL
10/10/2005 08:17:21AM FILED/CERT

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Frank S Schilleci, whose name as President of Schilleci White Stone Management, Inc., an Alabama corporation, the manager of Schilleci White Stone, LLC, an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, s/he as such officer and with full authority, executed the same voluntarily for and as the act of said corporation, acting in its capacity as manager of said limited liability company.


Given under my hand and official seal this the 4th day of October, 2005.


NOTARY PUBLIC
My Commission Expires: 6/26/06

(AFFIX NOTARIAL SEAL)

EXHIBIT A
Legal Description

White Stone Shopping Center
Alabaster, Alabama


20051010000525310 12/13 \$47.00
Shelby Cnty Judge of Probate, AL
10/10/2005 08:17:21AM FILED/CERT

PARCEL 1:

Lot 7, according to the Map of the White Stone Center Subdivision, as said map appears of record in the Office of the Judge of Probate of Shelby County, Alabama in Map Book 33, at pages 138-A and 138-B.

PARCEL 2:

SLOPE EASEMENT FOR THE BENEFIT OF PARCELS 1 THRU 7 AS CREATED BY THAT CERTAIN EASEMENT AGREEMENT BETWEEN DOUGLAS M. KENT AND NINA KENT AND ALABASTER RETAIL PROPERTY, L.L.C., DATED JANUARY 27, 2003, RECORDED IN INSTRUMENT NUMBER 20030210000081000, OVER, UNDER AND ACROSS THE FOLLOWING DESCRIBED PROPERTY:


An easement located in the Northeast quarter of the Northwest quarter of Section 14, Township 21 South, Range 3 West, Shelby County, Alabama and being more particularly described as follows:

Commence at the Northwest corner of Section 14; thence run South 89 degrees 03 minutes 42 seconds East and along the section line 2343.49 feet; thence run South 25 degrees 30 minutes 31 seconds West 617.60 feet to the POINT OF BEGINNING; thence continue South 25 degrees 30 minutes 31 seconds West 589.55 feet; thence run North 44 degrees 42 minutes 44 seconds East 69.92 feet; thence run North 25 degrees 30 minutes 31 seconds East 355.71 feet; thence run North 17 degrees 42 minutes 15 seconds East 169.38 feet to the POINT OF BEGINNING.

PARCEL 3:

Non-exclusive and perpetual right, privilege and easement for vehicular and pedestrian access, ingress, and egress over and across all roadways, driveways, entrance ways and sidewalks from time to time located on the Common Area of the Shopping Center Tract, each of Outparcels 1 thru 5, both inclusive, and Future Development Area #2 for the purpose of providing pedestrian and vehicular access, ingress, and egress, but not parking, between the Shopping Center Tract, each of Outparcels 1 thru 5, both inclusive, and Future Development Area #2 and for providing such access, ingress and egress to and from publicly dedicated rights of way abutting the Shopping Center Tract, each of Outparcels 1 thru 5, both inclusive, and Future Development Area #2 and the non-exclusive and perpetual right, privilege and easement in, to, over, along, and across those portions of the Common Area on each Tract necessary for the installation, operation, flow, passage, use, maintenance, connection, repair, relocation and removal of utility lines, including but not limited to sanitary sewers, storm drains, water (fire and domestic), gas,

electrical, telephone and communication lines, all as set forth in the Declaration of Restrictions, Covenants and Conditions and Grant of Easements as recorded under Instrument Number 20031124000768400, as amended by that certain Clarification Regarding Curb Cuts Between Outparcel 2 and The Shopping Center Tract recorded under Instrument No. 20040329000157920.



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