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Shelby Cnty Judge of Probate, AL
04/07/2011 09:56:42 AM FILED/CERT

**LOST ASSIGNMENT OF MORTGAGE AFFIDAVIT AND
INDEMNIFICATION AGREEMENT**

STATE OF ALABAMA)
COUNTY OF SHELBY)

MORTGAGOR NAME: H. BROWNE MERCER & MARY MERCER

ORIGINAL MORTGAGEE: MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC. AS
NOMINEE FOR WILMINGTON FINANCE,
INC.

DATED: 23RD DAY OF MARCH, 2006

RECORDED: INSTRUMENT NUMBER
20060323000136660

THIS LOST ASSIGNMENT OF MORTGAGE AFFIDAVIT AND INDEMNIFICATION AGREEMENT (this "Agreement") is made by VERICREST FINANCIAL, INC. (hereinafter "Vericrest") to and for the benefit of FIRST AMERICAN TITLE INSURANCE COMPANY and its partners, directors, officers, agents, and employees referred to herein collectively as "First American."

WITNESSETH

WHEREAS, Vericrest is the holder of that certain Promissory Note executed by H. Browne Mercer and Mary Mercer, husband and wife originally in favor of Wilmington Finance, Inc. and dated the 23rd day of March, 2006 (hereafter the "Note");

WHEREAS, an Assignment of Mortgage is used to memorialize the transfer of interest to Vericrest, and is customarily caused to be recorded in the office of the Judge of Probate of the county where the subject property is located;

WHEREAS, in this instance, the Assignment of the beneficial interest of the Mortgage (hereafter the "Assignment"), as herein defined, to Vericrest was not recorded in the office of the Judge of Probate of the county where the subject property is located;

WHEREAS, Vericrest did not have possession of the Assignment, nor did it have knowledge regarding the whereabouts of the Assignment, and furthermore Vericrest has used due diligence and its best efforts to locate this Assignment.

NOW THEREFORE, Vericrest represents, warrants and covenants as follows:

1. Vericrest represents:

- (a.) **KENDRA COOK**, executing this Agreement on behalf of Vericrest, is the A.V.P. of Vericrest and has the power and authority to enter into this Agreement and to execute same on behalf of Vericrest;
- (b.) That as of the date hereof, Vericrest is the holder of the Note, which is secured by that certain Mortgage recorded in Instrument Number 20060323000136660 in the Office of the Judge of Probate of Shelby County (hereafter the "Mortgage");

- (c.) That it is the understanding of Vericrest that the Assignment was duly executed and delivered by Wilmington Finance, Inc. predecessor in interest but was lost or misplaced, and Vericrest was unable to locate the Assignment despite diligent efforts to do so;
 - (d.) The assignment has since been located and Vericrest shall immediately forward for recording with Probate;
 - (e.) That Vericrest warrants it has not assigned, pledged, sold, endorsed, or in any way transferred or hypothecated the Note or any interest therein.
- 2. **Indemnity.** Vericrest shall indemnify, defend and hold harmless First American from and against any and all liability, claims, demands, losses, damages or expenses, including but not limited to, reasonable attorney's fees and costs, suffered by, incurred by or asserted against First American, or any of them, by reason of any claim by anyone that the representations and warranties set forth in Paragraph 1 hereof are false or inaccurate in any respect, or by reason of any claim that the Mortgage is unenforceable, insufficient, or impaired.
 - 3. **First American's Attorneys.** In the event of any litigation brought against First American which is covered by Paragraph 2 above, Vericrest agrees that First American shall have the right, in its sole discretion, to select and retain any attorneys to advise or defend them against said litigation, and Vericrest shall pay the reasonable attorney's fees and cost, as provided in Paragraph 2 above.
 - 4. **Joint and Several Liability** The obligations of Vericrest hereunder shall be joint and several.
 - 5. **Attorney's Fees.** In the event of any litigation between Vericrest and First American arising out of the parties' respective rights and/or obligations under the Agreement, or concerning the meaning or interpretation of any provision contained herein, the losing party shall pay the prevailing party's cost and expenses of such litigation, including, without limitation, reasonable attorney's fees and cost.
 - 6. **Construction.** This Agreement, or any instrument to be drafted in the future, shall be construed without regard to any presumption or rule requiring construction against the party drafting said Agreement.
 - 7. **Successors and Assigns.** This Agreement shall be binding on Vericrest, their respective heirs, executors, administrators, successors and assigns, and shall inure to the benefit of First American and its respective heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, VERICREST FINANCIAL, INC. has executed this Agreement on this 11th day of March, 2011.

VERICREST FINANCIAL, INC.

By: 

Kendra Cook

Its

Assistant Vice President



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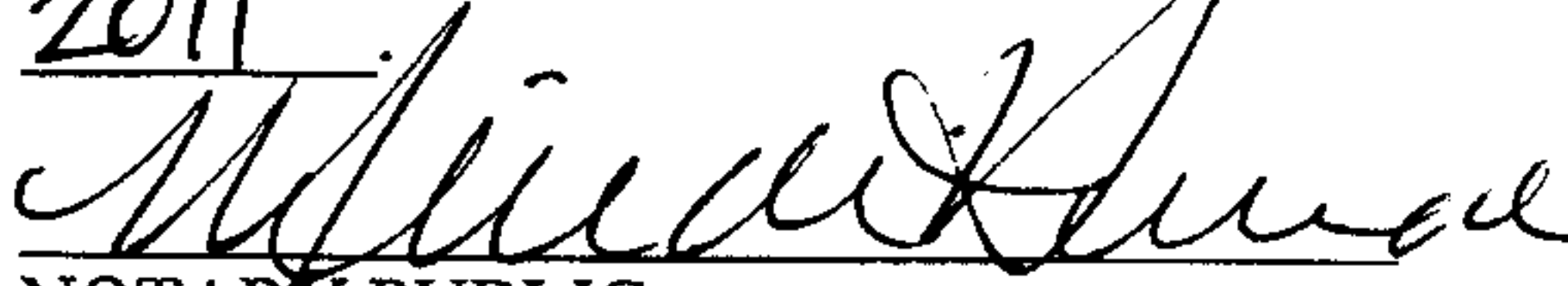
ACKNOWLEDGEMENT

STATE OF Oklahoma)

COUNTY OF Oklahoma)

I, the undersigned, a Notary Public, in and for said County in said State, hereby certify that KENDRA COOK, whose name as A.V.P. of Vericrest Financial, Inc., is signed to the foregoing Agreement, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he/she, as such officer, and with full authority, executed the same voluntarily for and as the act of said corporation.

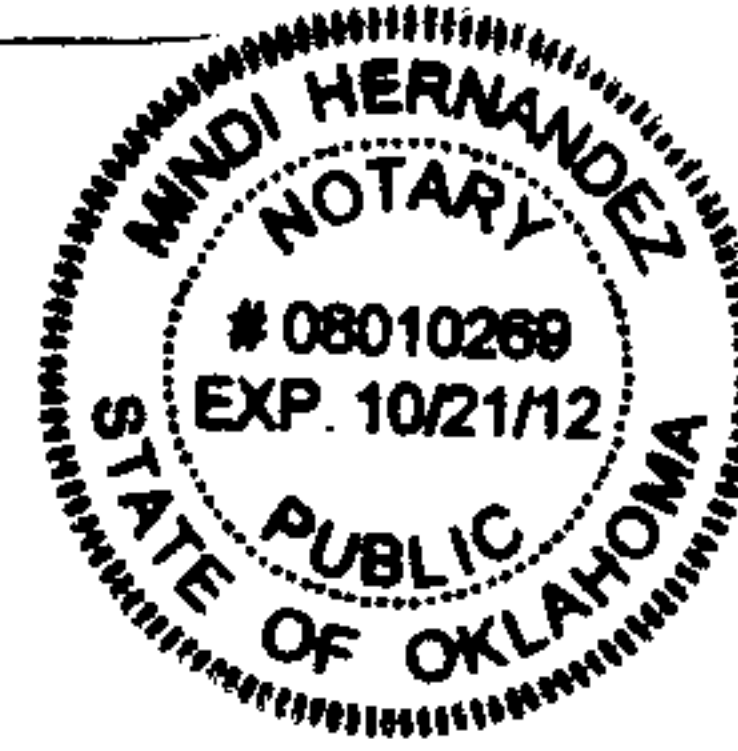
Given under my hand and official seal this 11th day of March, 2011.



NOTARY PUBLIC

My commission Expires:

OCT 21 2012



This instrument prepared by:
Jeff. G. Underwood
Sirote & Permutt, P.C.
P.O. Box 55727
Birmingham, AL 35255