


Prepared by and when recorded return to:

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11 Times Square  
New York, New York 10036

  
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Shelby Cnty Judge of Probate, AL  
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## **MORTGAGE MODIFICATION AGREEMENT**

between

**LEE BRANCH LLC**  
an Alabama limited liability company  
as Mortgagor

and

**MORGAN STANLEY PRIVATE BANK, NATIONAL ASSOCIATION**  
a national banking association  
as Mortgagee

Dated as of: November 26, 2018

**NOTE TO RECORDING CLERK: THIS INSTRUMENT MODIFIES THAT CERTAIN MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING, DATED AS OF NOVEMBER 13, 2015 AND RECORDED NOVEMBER 17, 2015, AS INSTRUMENT NO. 20151117000397580 IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA, WHICH MORTGAGE HAD A STATED LIMIT ON ITS RECOVERY TO AN AGGREGATE MAXIMUM PRINCIPAL AMOUNT OF \$4,070,000.00 AS TO WHICH AMOUNT DOCUMENTARY STAMP TAX AND INTANGIBLE TAX WERE PAID ON THAT MAXIMUM PRINCIPAL AMOUNT.**

**NOTE TO RECORDING CLERK: THE MORTGAGE SECURES THE NOTE IN THE MAXIMUM PRINCIPAL AMOUNT OF \$14,434,000.00. NOTWITHSTANDING, THE MORTGAGEE HAS AGREED TO LIMIT ITS RECOVERY UNDER THE MORTGAGE TO AN AGGREGATE MAXIMUM PRINCIPAL AMOUNT OF \$4,060,000.00. ACCORDINGLY, THE PRIVILEGE TAX PAYABLE ON THE MORTGAGE IS BASED ON A MAXIMUM RECOVERY AMOUNT OF \$4,060,000.00.**

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## MORTGAGE MODIFICATION AGREEMENT

**THIS MORTGAGE MODIFICATION AGREEMENT**, dated as of November 26, 2018 (this "Agreement"), is between **LEE BRANCH LLC**, an Alabama limited liability company ("Mortgagor"), and **MORGAN STANLEY PRIVATE BANK, NATIONAL ASSOCIATION**, a national banking association ("Mortgagee").

### W I T N E S S E T H :

**WHEREAS**, Mortgagor and Mortgagee entered into that certain Line of Credit Agreement (Secured by Real Property), dated as of November 13, 2015 (the "Original Loan Agreement");

**WHEREAS**, to secure the obligations under the Original Loan Agreement, Mortgagor executed that certain Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing, dated as of November 13, 2015, in favor of Mortgagee, which was recorded on November 17, 2015, as Instrument No. 20151117000397580 in the Probate Office of Shelby County, Alabama (the "Existing Mortgage"; the Existing Mortgage, as modified by this Agreement, the "Mortgage"), which security interest encumbers, among other things, the property legally described on Exhibit A attached hereto; and

**WHEREAS**, Mortgagor, certain affiliates of Mortgagor, and Mortgagee are entering into that certain Amended and Restated Loan Agreement (Secured by Real Property), dated as of even date herewith (the "Loan Agreement"), whereby the parties amended and restated the terms and conditions of the Original Loan Agreement.

**NOW, THEREFORE**, in consideration of the foregoing recitals and the covenants and conditions herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortgagor and Mortgagee hereby agree as follows:

1. Capitalized terms used herein without definition shall have the meanings ascribed to them or incorporated by reference in the Existing Mortgage.

2. Effective as of the date hereof, the Existing Mortgage is modified as follows:

(a) All references to the "Guaranty" shall be deemed to refer to the Guaranty, as such term is defined in the Loan Agreement.

(b) All references to the "Loan Agreement" shall be deemed to refer to the Loan Agreement, as the same may be amended, amended and restated, modified, supplemented or replaced from time to time.

(c) All references to the "Loan Documents" shall be deemed to refer to the Loan Documents, as such term is defined in the Loan Agreement.



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(d) All references to the "Note" shall be deemed to refer to the Note, as such term is defined in the Loan Agreement.

(e) All references to "Obligations" shall be deemed to refer to all present and future indebtedness, liabilities and obligations, direct or indirect, liquidated or contingent, of Mortgagor and the other Loan Parties (as defined in the Loan Agreement) owing to Mortgagee or any affiliate of Mortgagee under the Loan Agreement or any other Loan Document applicable to Mortgagor and the other Loan Parties including the obligations to pay the indebtedness from time to time evidenced by the Note and the obligations to pay interest, fees, expenses and other charges from time to time owed under the Loan Agreement or under any other Loan Document.

(f) All references to "Revolving Loan" shall be deemed to refer to the Revolving Loan, as such term is defined in the Loan Agreement.

(g) All references to "maturity date" shall be deemed to refer to the Termination Date, as such term is defined in the Loan Agreement.

(h) By modifying the first recital by deleting the references to (i) "FIVE MILLION FIVE HUNDRED THOUSAND AND 00/100 DOLLARS" and (ii) "\$5,500,000.00" and substituting "FOURTEEN MILLION FOUR HUNDRED THIRTY-FOUR THOUSAND AND 00/100 DOLLARS" and "\$14,434,000.00," respectively, therefor.

(i) By modifying the second recital by deleting "Jefferson" and substituting "Shelby" therefor.

(j) By modifying the Granting Clauses as follows:

(i) by adding additional granting clauses immediately after granting clause (10) as follows:

"(11) All notes, instruments or warrants (together with any necessary endorsements) owned by Mortgagor and all proceeds, income, profits and payments related thereto;

(12) All inventory in all of its forms (including, without limitation, all raw materials and work in process therefor, finished goods thereof and materials used or consumed in the manufacture, production, preparation or shipping thereof, and all accessions thereto) and products thereof and all documents of title therefor or other documents representing the same;

(13) All accounts, chattel paper, documents, deposit accounts, general intangibles, payment intangibles, choses in action, causes of action, intangible property, intellectual property (including any good will and royalties associated therewith), "non compete" agreements, tax refunds, books and records, interests in partnerships, corporations, limited liability companies and joint ventures of every kind, investment property and all other rights and obligations of any kind,

and all rights now or hereafter existing in and to all security agreements, leases and other contracts securing or otherwise relating to any of the foregoing; and”

(ii) by amending and restating granting clause (11) as follows:

“(14) All proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including, without limitation, proceeds of insurance and condemnation awards.”

(k) By modifying Section 1 by deleting “\$4,070,000.00” and substituting “\$4,060,000.00” therefor.

(l) By modifying Section 39(c) by deleting “\$4,070,000.00” and substituting “\$4,060,000.00” therefor.


3. The Loan Agreement increases the maximum amount of indebtedness secured by the Existing Mortgage to FOUR MILLION SIXTY THOUSAND AND 00/100 DOLLARS (\$4,060,000.00) plus other sums as described in Section 1 of the Existing Mortgage.

4. The Existing Mortgage, as modified hereby, is and will continue to be a valid mortgage lien against the Mortgaged Property in favor of Mortgagee.

5. Except as set forth in this Agreement, the Existing Mortgage shall remain in full force and effect in all respects and the terms and provisions of the Existing Mortgage are hereby ratified and affirmed in all respects. Mortgagor agrees that the Existing Mortgage, as modified by this Agreement, shall continue to constitute a first priority lien on and security interest in the Mortgaged Property, subject only to those permitted encumbrances included in the lender’s title insurance policy approved by Mortgagee and delivered in connection with this Agreement, securing the Obligations (as defined in the Mortgage).

6. Mortgagor will pay or cause to be paid any recording fees and taxes payable in connection with the execution, delivery and recording of this Agreement, the cost of the update to the lender’s title insurance policy delivered to Mortgagee in connection herewith and the fees and expenses of Mortgagee and Mortgagee’s counsel in connection with the preparation, execution and delivery hereof.

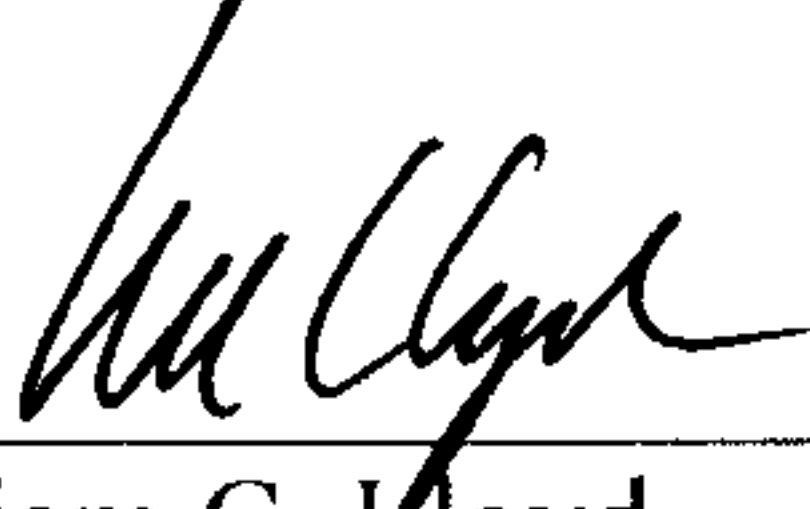
*[Signature Page Follows]*


  
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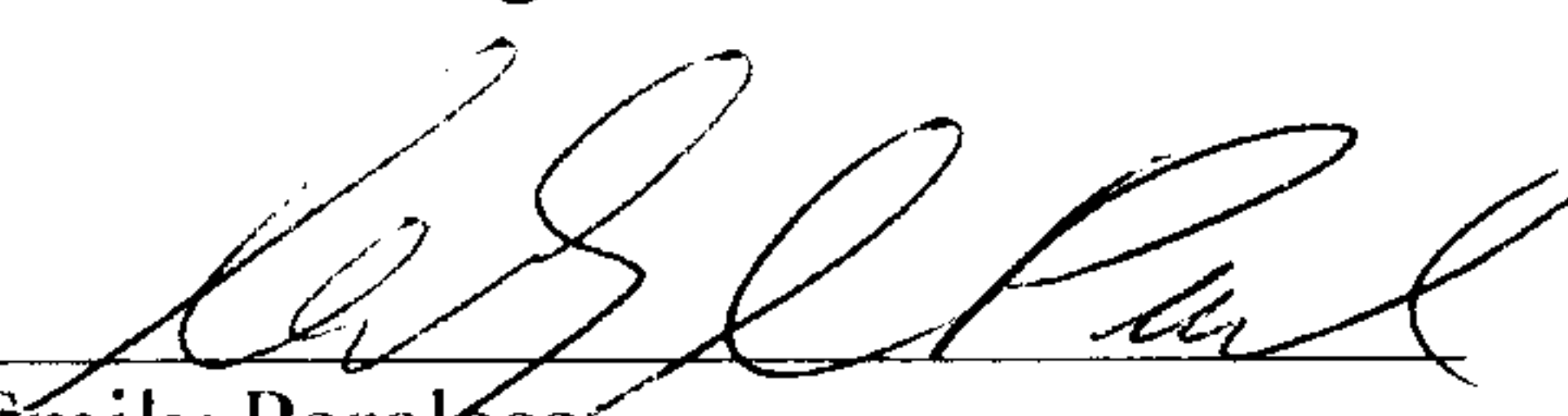
IN WITNESS WHEREOF, each of Mortgagor and Mortgagee has caused this Agreement to be duly executed as of the day and year first above written.


**LEE BRANCH LLC,**  
an Alabama limited liability company

By:   
William C. Lloyd  
Member

By:   
Richard K. Maloof  
Member

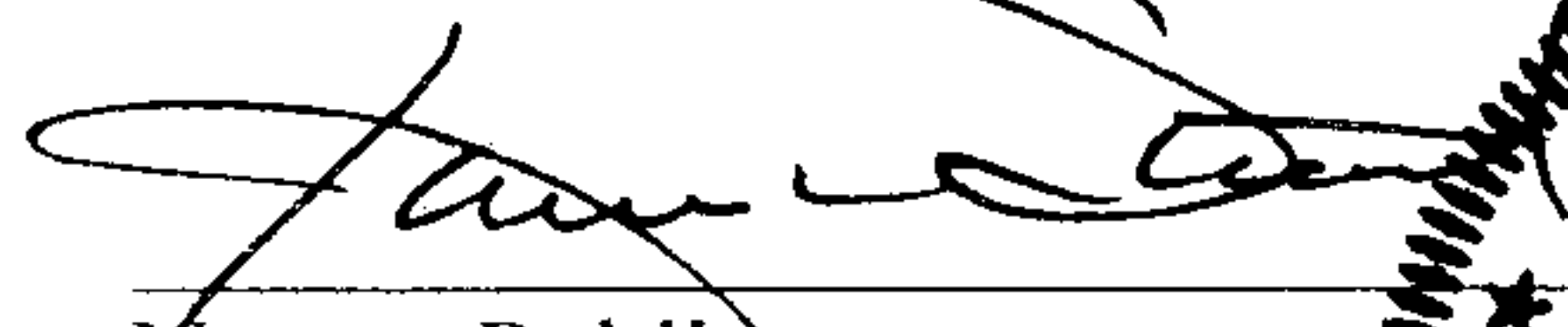
**MORGAN STANLEY PRIVATE BANK,  
NATIONAL ASSOCIATION,**  
a national banking association

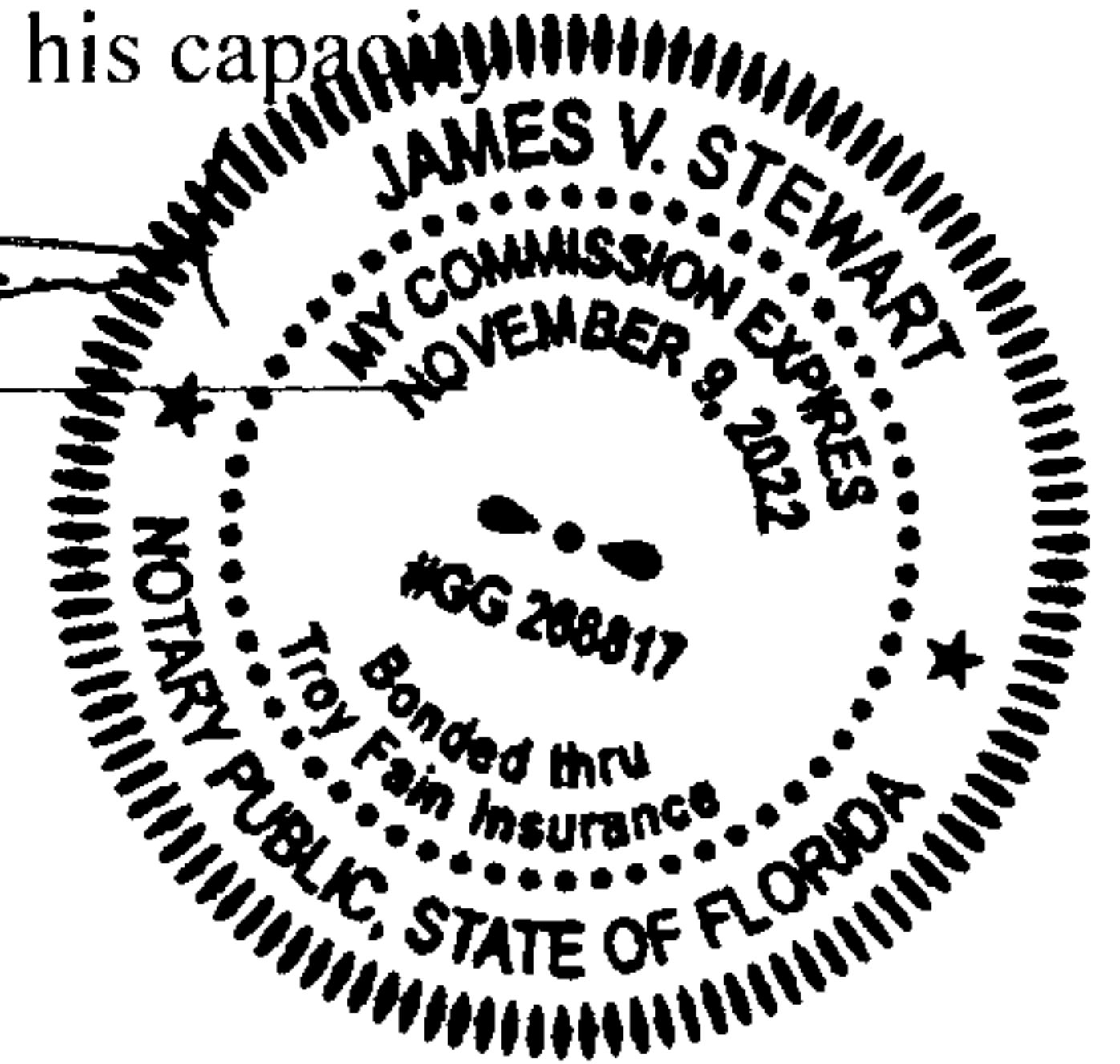
By:   
Emily Pereless  
Authorized Signatory

  
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11/27/2018 03:00:48 PM FILED/CERT

STATE OF Florida )  
 ) ss.:  
COUNTY OF Pinellas )

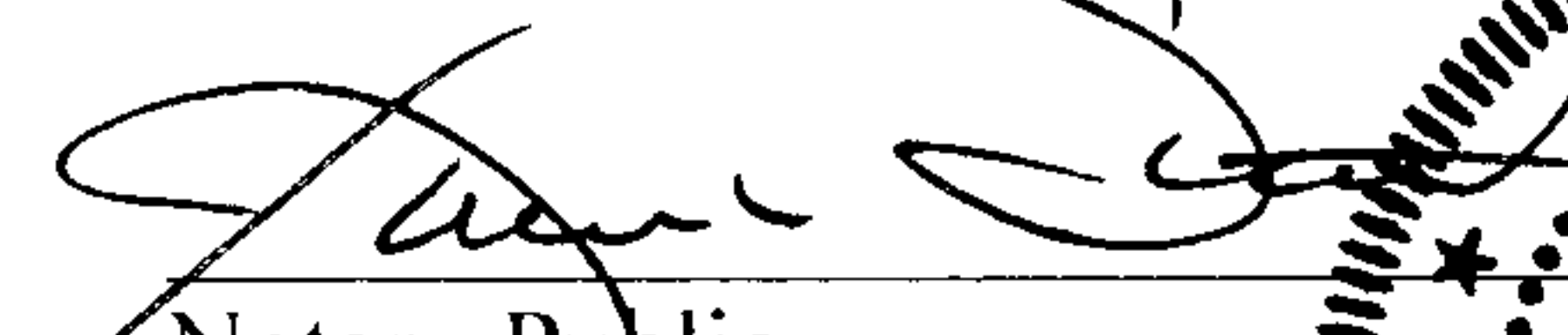
On this 26<sup>th</sup> day of November, 2018, before me, the undersigned, personally appeared William C. Lloyd, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that, being informed of the contents of the instrument, he executed the same in his capacity indicated therein.

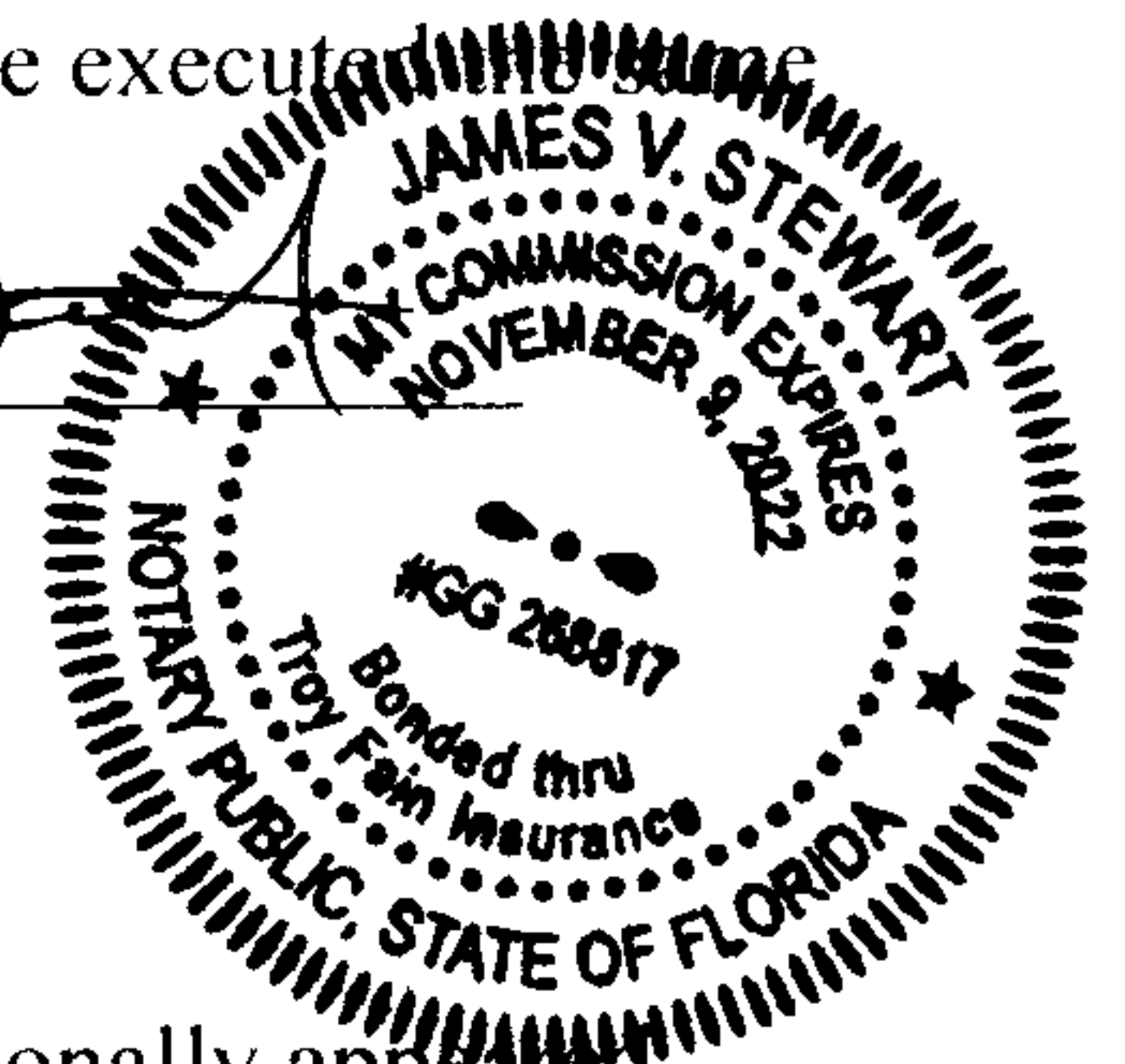
  
Notary Public



STATE OF Florida )  
 ) ss.:  
COUNTY OF Pinellas )

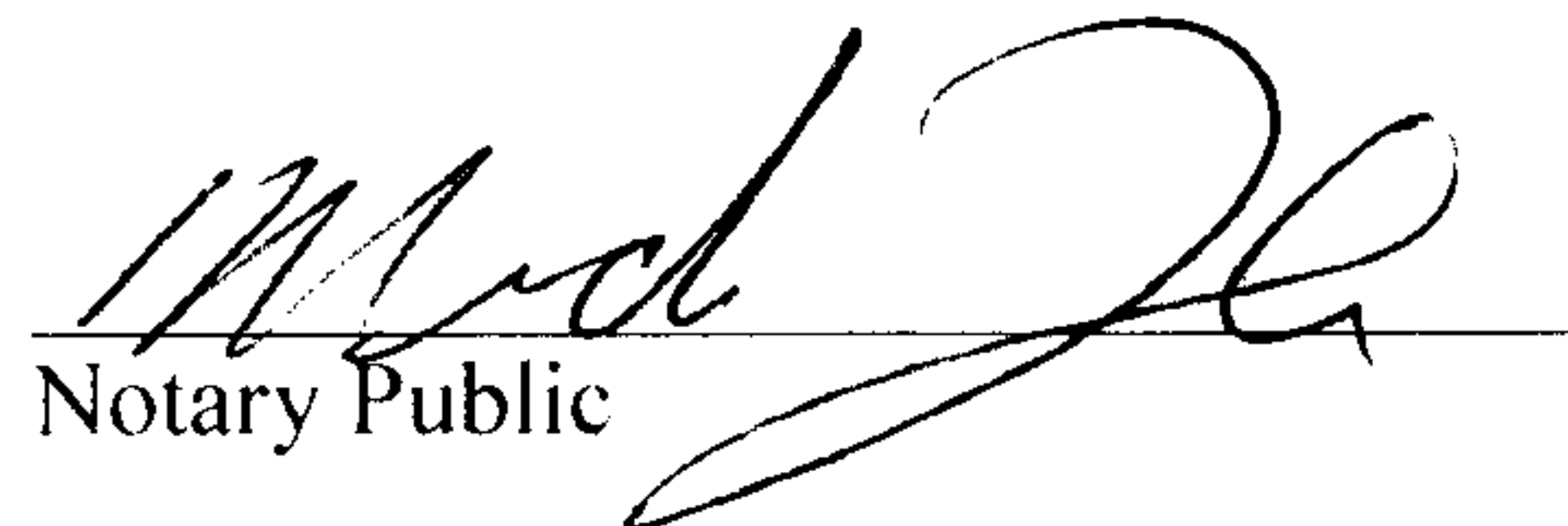
On this 26<sup>th</sup> day of November, 2018, before me, the undersigned, personally appeared Richard K. Maloof, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that, being informed of the contents of the instrument, he executed the same in his capacity indicated therein.


  
Notary Public



STATE OF New York )  
 ) ss.:  
COUNTY OF New York )

On this 19<sup>th</sup> day of November, 2018, before me, the undersigned, personally appeared Emily Pereless, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that, being informed of the contents of the instrument, he executed the same in his capacity indicated therein.

  
Notary Public

  
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MICHAEL LACKETT  
Notary Public - State of New York  
NO. 01LA6343089  
Qualified in New York County  
My Commission Expires Jun 6, 2020

**EXHIBIT A**

**LEGAL DESCRIPTION**

LOT 2A, ACCORDING TO THE RKM'S RESURVEY AT 280 SOUTH, AS RECORDED IN MAP BOOK 33, PAGE 52, IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA.

TOGETHER WITH EASEMENT RIGHTS CONTAINED IN THOSE CERTAIN NON-EXCLUSIVE EASEMENT AGREEMENTS RECORDED IN INST. NO. 20030701000412990 AS AMENDED IN INST. NO. 20030827000559970) AND INST. NO. 20030701000412980.



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