

**This Instrument Prepared by and,
After recording to be returned to:**

Cristina San Roman, Esq.
Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C.
425 West Capitol, Suite 1800
Little Rock, Arkansas 72201
(501) 688-8800

ABSOLUTE ASSIGNMENT OF RENTS AND LEASES

KNOW ALL PERSONS BY THESE PRESENTS:

THAT THIS ABSOLUTE ASSIGNMENT OF RENTS AND LEASES ("Assignment") is made and entered into to be effective as of the 1st day of August, 2008, and is given by **RILEY SLOAN RAINWATER, JR.**, an individual whose address is 915 Enterprise Drive, Jonesboro, Arkansas 72401 ("Assignor"), in favor of **BANK OF AMERICA, N.A.**, a national banking association with offices located at 200 West Capitol Avenue, Little Rock, Arkansas 72202 ("Assignee").

This Assignment is granted pursuant to the provisions of a Loan and Security Agreement of even date herewith between Assignor and Assignee.

WITNESSETH:

THAT FOR GOOD AND VALUABLE CONSIDERATION and the debt hereinafter mentioned, the receipt and sufficiency of which are hereby acknowledged, Assignor does hereby presently bargain, grant, sell, set over, transfer, assign, convey, deliver, confirm and warrant unto Assignee, its successors and assigns, as an absolute assignment and not merely one for security, all of the right, title and interest of Assignor in, under and to that certain Lease Agreement dated November 23, 2007, by and between BT Chelsea Associates, LLC, as Lessor, and Tractor Supply Company, as Lessee, demising the real property located in Shelby County, Alabama, and more particularly described in **Exhibit A** attached hereto (hereinafter referred to as the "Premises"), which is incorporated herein by reference, and that certain Assignment of Lessor's Interest in Lease Agreement dated July 18, 2008, by and between BT Chelsea Associates, LLC and Assignor, assigning Lessor's interest in said lease to Assignor and filed for record in the real estate records of Shelby County, Alabama as Instrument No. 20080721000293590, together with any and all amendments, modifications, extensions and renewals thereof (all such lease and assignments, amendments, modifications, extensions and renewals being hereinafter referred to as the "Leases"); together with any guarantees of the tenant's obligations thereunder, together with the immediate and continuing right to collect and receive all rents, earnings, issues, revenues, income, payments and profits arising out of said Leases or out of the Premises or any part thereof, together with the right to all proceeds payable to Assignor pursuant to any purchase options on the part of the tenants under the Leases, together with all payments derived therefrom including but not limited to claims for recovery of damages done to the Premises by any tenants or subtenants or for the abatement of any nuisance existing thereon as the result of the conduct of any tenant or subtenant, claims for damages

resulting from default under said Leases whether resulting from acts of insolvency or acts of bankruptcy or otherwise, and lump sum payments for the cancellation of said Leases or the waiver of any obligation or term thereof prior to the expiration date (hereinafter collectively referred to as the "Rents").

This Assignment is a perfected, present, absolute, direct and unconditional assignment and transfer of all Assignor's right, title and interest in and to the Leases and the Rents made in consideration of and as security for the repayment of the \$1,066,219 loan made by Assignee to Assignor.

AND ASSIGNOR FURTHER AGREES, COVENANTS AND ASSIGNS AS FOLLOWS:

1. Performance of Leases: To faithfully abide by, perform and discharge each and every obligation, covenant and agreement of said Leases by Lessor to be performed; to use its best efforts to enforce or secure the performance of each and every obligation, covenant, condition and agreement of said Leases by the tenants to be performed; not to borrow against, pledge or assign any rentals due under the Leases, nor consent to a subordination or assignment of the interests of the tenants thereunder to any party other than Assignee, nor anticipate the rents thereunder for more than one (1) month in advance or reduce the amount of the Rents and other payments thereunder. Assignor will, at Assignee's request, assign and transfer to Assignee a confirmatory assignment of leases as Assignee may from time to time require. Assignor will promptly (but in any event within five (5) business days from the time Assignor has actual knowledge thereof) notify Assignee if Assignor has reason to believe it will be unable to fulfill its obligations as landlord under any lease, or if Assignor has knowledge of any set of facts which, with the giving of notice or the passage of time or both, would constitute a default on the part of Assignor under any of the Leases.

2. Protect Security: At Assignor's sole cost and expense, to 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 Lessor thereunder and to pay all costs and expenses of Assignee, including attorney's fees in a reasonable sum, at any such action or proceeding in which Assignee in its sole discretion may appear.

3. Representations and Warranties: Assignor hereby represents and warrants that Assignor has full right and title to assign said Leases and Rents; that Assignor has presented Assignee with true and complete copies of all of the Leases; that no other assignment of any interest therein has been made by Assignor; that there are no existing defaults of a material nature under the provisions of said Leases; and that the tenants under the Leases have no defenses, setoffs or counterclaims against Assignor.

4. Absolute and Present Assignment: It is understood and agreed that Assignment granted herein shall constitute a perfected, absolute, and present assignment from Assignor to Assignee and not an assignment for security purposes only. Notwithstanding the foregoing, unless and until an Event of Default should exist under the terms of: (a) that certain Term Promissory Note of even date herewith in the principal amount of One Million Sixty Six Thousand Two Hundred Nineteen and NO/100 Dollars (\$1,066,219.00) executed by Assignor in favor of Assignee (the "\$1,066,219 Note"); (b) that certain Term Promissory note of even date herewith in the principal amount of Nine Hundred Thirty Three Thousand Seven Hundred Eighty One and NO/100 Dollars (\$933,781.00) (the "\$933,781 Note") executed by Assignor in favor of Assignee; (c) that certain Loan and Security Agreement of even date herewith by and between Assignor and Assignee (the "Loan Agreement"); and (d) that certain Absolute Assignment of Rents and Leases of even date herewith executed by Assignor in favor of Assignee in connection with the \$933,781 Note (the "\$933,781 Assignment") (the Loan Agreement and \$933,781 Assignment are sometimes collectively referred to herein as the "Security Documents"); Assignor shall have the right to collect, but not prior to accrual, all of the Rents and to retain, use and enjoy the same. The \$1,066,219 Note and the \$933,781 Note are collectively referred to herein as the "Note."

5. No Obligation Upon Assignee: Assignee's acceptance of the assignment of Leases and Rents provided for herein shall not obligate Assignee to appear in nor defend any proceeding relating to any of the Leases or to the Premises, take any action hereunder, expend any money, incur any expenses or perform any obligation or liability under the Leases, or assume any obligation for any deposits

delivered to Assignor by any tenant, except as is set forth in paragraph 8 hereof. Notwithstanding the foregoing, should Assignor fail to perform, comply with or discharge any obligations of Assignor under any Lease, or should Assignee become aware of or be notified by any tenant under any Lease of a failure on the part of Assignor to so perform, comply with or discharge its obligations under said Lease, Assignee may, at its sole discretion, and without waiving or releasing Assignor from any obligation contained in this Assignment, the Note, or any of the Security Documents, remedy such failure, and Assignor hereby agrees to repay upon demand all sums incurred by Assignee in remedying any such failure together with interest at the rate then in effect under the terms of the Note (which may be the Default Rate set forth in the Note or the Mortgage). All such sums, together with interest as aforesaid, shall become additional indebtedness due under the Note and secured by the Security Documents, but no such event shall be deemed to relieve Assignor from any default hereunder or thereunder.

6. Remedies: Upon or at any time after the occurrence of an Event of Default under the Note or one of the Security Documents, or a default in the performance of any obligation, covenant or agreement contained herein, taking into account any applicable grace or cure periods, Assignee may declare all indebtedness evidenced by the Note and secured by the Security Documents immediately due and payable, may revoke the privilege granted Assignor hereunder to collect the Rents, and may, at its option, without notice, either in person or by agent, with or without taking possession of or entering the Premises, with or without bringing any action or proceeding, or by receiver to be appointed by the Court, collect all the Rents payable under the Leases and enforce the payment thereof and exercise all the rights of Assignor under the Leases and all of the rights of Assignee hereunder; may enter upon, take possession of, manage and operate the Premises, or any part thereof; may cancel, enforce or modify the Leases and fix or modify the Rents, and do any acts which Assignee deems proper to protect the security hereof with or without taking possession of the Premises, and may apply the same to the costs and expenses of operation, management and collection, including attorneys' fees, to the payment of the expenses of any agent appointed by Assignee, to the payment of taxes, assessments, insurance premiums and expenditures for the upkeep of the Premises, to the performance of the lessor's obligations under the Leases and to any indebtedness evidenced by the Note or due pursuant to any of the Security Documents, all in such order as Assignee may determine. The entering upon and taking possession of the Premises, the collection of such Rents and the application thereof as aforesaid, shall not cure or waive any default or waive, modify or affect notice of default in any of the Security Documents or invalidate any act pursuant to such notice or in any way operate to prevent Assignee from pursuing any remedy which it now or hereafter may have under the terms or conditions of the Note, of the Mortgage or any other instrument securing the Note.

7. Assignor to Hold Assignee Harmless: Assignor shall and does hereby agree to defend (with counsel acceptable to Assignee) indemnify and hold Assignee harmless of and from any and all liability, loss or damage which it may or might incur under said Leases or by reason of this Assignment and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in said Leases. Should Assignee incur any such liability, or any costs or expenses in the defense of any such claims or demands, the amount thereof, including reasonable costs, expenses and attorneys' fees and expenses, shall be added to the indebtedness evidenced by the Note and secured by the Security Documents and Assignor shall reimburse Assignee therefor immediately upon demand, and the continuing failure of Assignor to do so shall constitute a default hereunder and an Event of Default under the Security Documents.

8. Security Deposits: Assignor agrees on demand to transfer to Assignee any security deposits held by Assignor under the terms of the Leases. Assignor agrees that such security deposits may be held by Assignee without any allowance of interest thereon, and shall become the absolute property of Assignee upon an Event of Default under the Note or the Security Documents to be applied in accordance with the provisions of the Leases. Until Assignee makes such demand and the deposits are paid over to Assignee, Assignee assumes no responsibility to the tenants for any such security deposits.

9. Authorization to Tenants: The tenants under the Leases are hereby irrevocably authorized and directed to recognize the claims of Assignee or any receiver appointed hereunder without

investigating the reason for any action taken by Assignee or such receiver, or the validity or the amount of indebtedness owing to Assignee, or the existence of any Event of Default under the Note or the Security Documents, or under or by reason of this Assignment, or the application to be made by Assignee or receiver. Assignor hereby irrevocably directs and authorizes the tenants to pay to Assignee or such receiver all sums due under the Leases and consents and directs that said sums shall be paid to Assignee or any such receiver in accordance with the terms of its receivership without the necessity for a judicial determination that a default has occurred hereunder, under the Note or under any of the Security Documents, or that Assignee is entitled to exercise its rights hereunder, and to the extent such sums are paid to Assignee for the same. The sole signature of Assignee or such receiver shall be sufficient for the exercise of any rights under this Assignment, and the sole receipt of Assignee or such receiver for any sums received shall be a full discharge and release therefor to any such tenants or occupants of the Premises. Checks for all or any part of the Rents collected under this Assignment shall upon notice from Assignee or such receiver be drawn to the exclusive order of Assignee or such receiver.

10. Satisfaction: Upon the payment in full of the indebtedness evidenced by the Note and secured by the Security Documents, this Assignment shall without the need for any further satisfaction or release become null and void and shall be of no further effect.

11. Assignee Creditor of the Tenants: Upon or at any time during the continuance of a default in payment of the indebtedness evidenced by the Note or in the performance of any obligation, covenant or agreement contained in this Assignment, the Note, or any of the Security Documents, and following the expiration of any applicable grace and/or cure period, Assignor agrees that Assignee, not Assignor, shall be and be deemed to be the creditor of the tenants in respect of assignments for the benefit of creditors and bankruptcy, reorganization, insolvency, dissolution or receivership proceedings affecting such tenants (without obligation on the part of Assignee, however, to file or make timely filings of claims of such proceedings or otherwise to pursue creditor's rights therein and reserving the right to Assignor to make such filing in such event) with an option to Assignee to apply any money received by Assignee as such creditor in reduction of the indebtedness evidenced by the Note.

12. Assignee Attorney In Fact: Assignor hereby irrevocably appoints Assignee and its successors and assigns as its agent and attorney in fact, which appointment is coupled with an interest, to exercise any rights or remedies hereunder and execute and deliver during the term of this Assignment such instruments as Assignee may deem necessary to make this Assignment and any further assignment effective.

13. No Mortgagee in Possession: Nothing herein contained and no actions taken pursuant to this Assignment shall be construed as constituting Assignee a "mortgagee in possession."

14. Continuing Rights: The rights and powers of Assignee or any receiver hereunder shall continue and remain in full force and effect until the indebtedness evidenced by the Note or secured by the Security Documents is paid in full, and shall continue after commencement of a foreclosure action and after foreclosure sale and until expiration of the equity of redemption if Assignee shall be purchaser at the foreclosure sale.

15. Successors and Assigns: This Assignment and each and every covenant, agreement and provision hereof shall be binding upon Assignor and its, his or her heirs, successors and assigns, including without limitation each and every record owner of the Premises or any other person having an interest therein and shall inure to the benefit of Assignee and its successors and assigns. As used herein, the words "successors and assigns" shall also be deemed to mean the heirs, executors, representatives and administrators of any natural person who is a party to this Assignment.

16. Governing Law: This Assignment is intended to be governed by the laws of the state of Alabama.

17. Validity Clause: It is the intent of this Assignment to confer to Assignee the rights and benefits hereunder to the full extent allowable by law. The unenforceability or invalidity of any provisions

hereof shall not render any other provision or provisions herein contained unenforceable or invalid. Any provisions found to be unenforceable shall be severable from this Assignment.

18. Notices: Any notice that any party hereto may desire or may be required to give to any other party shall be in writing given in the manner prescribed in the Loan Agreement.

19. Cumulative with Other Documents: This Assignment, and the covenants, agreements, obligations and liabilities of Assignor hereunder, are cumulative with, and shall not supersede or be superseded by any of the Security Documents or by any other instrument, agreement or other document executed by Assignor in connection with the Note, the Security Documents or otherwise.

IN WITNESS WHEREOF, Assignor has executed or has caused this Absolute Assignment of Rents and Leases to be executed as of the date first above written.

ASSIGNOR:


RILEY SLOAN RAINWATER, JR., Individually

20080827000343580 6/7 \$29.00
Shelby Cnty Judge of Probate, AL
08/27/2008 11:03:58AM FILED/CERT

STATE OF ARKANSAS)
COUNTY OF CRAIGHEAD)

ss:

ACKNOWLEDGMENT

On this day, before me, the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named **RILEY SLOAN RAINWATER, JR.**, to me personally well known (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 11th day of August, 2008.

Becky Rose
Notary Public

My commission expires:

July 7, 2012

(SEAL)

Becky Rose
Notary Public, State of Arkansas
Qualified in Craighead County
Commission Expires July 7, 2012


20080827000343580 7/7 \$29.00
Shelby Cnty Judge of Probate, AL
08/27/2008 11:03:58AM FILED/CERT

EXHIBIT A

Borrower/Debtor/
Mortgagor/Record Owner:

RILEY SLOAN RAINWATER, JR.
915 Enterprise Drive
Jonesboro, Arkansas 72401

Lender/Secured Party/
Mortgagee/Creditor:

BANK OF AMERICA, N.A.
200 West Capitol Avenue
Little Rock, Arkansas 72201

Facility:

Retail property located in Shelby County, Alabama

Legal Description:

Lot 2, according to the survey of Atchison Commercial Development, as recorded in Map Book 39, Page 70, in the Probate Office of Shelby County, Alabama.

AND all bridges, easements, rights-of-way, licenses, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, minerals, landscaping, flowers, plants, shrubs, trees, timber and other emblements now or hereafter located on the above-described real property under or above the same or any part thereof or appurtenant to the title to the above-described real property, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances, reversion and reversions, remainder and remainders, whatsoever, in any way belonging, relating or appertaining to the above-described real property or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired and all rights, titles and interests in and to any vacating or hereafter vacated streets or roads adjoining the above-described real property and any and all reversionary or remainder rights.

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