  
20090710000265950 1/8 \$33.00  
Shelby Cnty Judge of Probate, AL  
07/10/2009 01:26:08 PM FILED/CERT

This instrument prepared by:

James L. Webb  
Bradley Arant Boult Cummings LLP  
One Federal Place  
1819 5<sup>th</sup> Avenue North  
Birmingham, AL 35203  
205-521-8000

STATE OF ALABAMA )

SHELBY COUNTY )

**FIRST AMENDMENT TO CROSS-COLLATERALIZATION,  
CROSS-DEFAULT AND MORTGAGE MODIFICATION AGREEMENT**

**THIS FIRST AMENDMENT TO CROSS-COLLATERALIZATION, CROSS-DEFAULT AND MORTGAGE MODIFICATION AGREEMENT** (this "Amendment") is made as of the 2nd day of July, 2009, by and among **Express Real Estate, LLC**, an Alabama limited liability company ("Express Real Estate"), **GDG Investments, LLC**, a Delaware limited liability company ("GDG Investments"), **Inde Express, LLC**, a Georgia limited liability company ("Inde Express", and together with Express Real Estate and GDG Investments, the "Borrowers" or individually as a "Borrower"), and **Regions Bank**, an Alabama state banking corporation (hereinafter called "Lender"), as mortgagee or beneficiary.

**RECITALS**

A. Borrower and Lender previously entered into that certain Cross-Collateralization, Cross-Default and Mortgage Modification Agreement dated as of April 10, 2009 and recorded in the Office of the Judge of Probate of Shelby County, Alabama as Instrument Number 20090430000159710, which cross-collateralized and cross-defaulted the loans more particularly described therein (the "Agreement").

B. As of the date hereof, Express Real Estate is indebted to Lender pursuant to a loan (the "McCalla Loan") in the original principal sum of \$750,000.00.

C. Borrower and Lender desire to amend the Agreement to cross-collateralize and cross-default the McCalla Loan with the loans more particularly described in the Agreement.

**AGREEMENT**

**RECORDING TAX WAS PAID ON THE INDEBTEDNESS SECURED BY THE MORTGAGE BEING AMENDED HEREBY AT THE TIME OF RECORDING THE MORTGAGE IN THE OFFICE OF THE JUDGE OF PROBATE OF SHELBY COUNTY, ALABAMA AS INSTRUMENT NUMBER 20070601000256570. THIS AMENDMENT DOES NOT INCREASE THE AMOUNT OF THE INDEBTEDNESS SECURED THEREBY OR EXTEND THE MATURITY DATE.**

GDG

1/1898844.1

**NOW, THEREFORE**, in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower and Lender agree to amend the Agreement as follows:

1. Recital F of the Agreement is hereby deleted in its entirety and replaced with the following:

The Covington Memphis Note, the Dromedary Memphis Note, the Trussville Note, the GDG Note, the Inde Express Note and the McCalla Note may be referred to collectively herein as the "Note". The Covington Memphis Mortgage, the Dromedary Memphis Mortgage, the Trussville Mortgage, the GDG Mortgage, the Inde Express Mortgage and the McCalla Mortgage may be referred to herein collectively as the "Mortgage". The Covington Memphis Loan Documents, the Dromedary Memphis Loan Documents, the Trussville Loan Documents, the GDG Loan Documents, the Inde Express Loan Documents and the McCalla Loan Documents may be referred to herein collectively as the "Loan Documents". The Covington Memphis Loan, the Dromedary Memphis Loan, the Trussville Loan, the GDG Loan, the Inde Express Loan and the McCalla Loan may be referred to herein collectively as the "Loans".

2. Recitals F, G and H in the Agreement are hereby revised to be Recitals G, H and I, respectively, and a new Recital F is hereby added to the Agreement as follows:

Express Real Estate is indebted to Lender pursuant to a loan (the "McCalla Loan") in the original principal sum of \$750,000.00, which Loan is evidenced by that certain Master Note dated July 2, 2009, from Express Real Estate to Lender in the principal amount of the McCalla Loan (as the same may hereafter be renewed, extended, modified, or amended, being hereinafter referred to as the "McCalla Note"), which Note is secured by, among other things, a Mortgage, Security Agreement and Assignment of Rents and Leases (the "McCalla Mortgage") dated as of July 2, 2009, and recorded in the Office of the Judge of Probate of Jefferson County, Alabama in Book LR200907, at Page 11778, encumbering the real property more particularly described in Exhibit "A" attached hereto and made a part hereof (the "McCalla Property"). The McCalla Note, the McCalla Mortgage, that certain Loan Agreement by and between Express Real Estate and Lender dated July 2, 2009, as amended, together with all other documents executed by Express Real Estate or others, evidencing, securing, or otherwise relating to the McCalla Loan are collectively referred to herein as the "McCalla Loan Documents".

3. Paragraph 1 of the Agreement is hereby deleted in its entirety and replaced with the following:

1. *Cross-collateralization.* The Mortgage is hereby amended to provide that the Covington Memphis Loan, the Dromedary Memphis Loan, the Trussville Loan, the GDG Loan, the Inde Express Loan and the McCalla Loan are hereby cross-collateralized with one another, and the Borrowers agree that the Property



(as defined in the Mortgage) shall secure, in addition to each individual Loan, the obligations of the Borrowers, including, without limitation, the obligations of the Borrowers to pay the principal of and interest on the Covington Memphis Note, the Dromedary Memphis Note, the Trussville Note, the GDG Note, the Inde Express Note and the McCalla Note and to pay all other indebtedness and other agreed charges and to perform all of the terms and conditions under all other Loan Documents, as the same may hereafter be renewed, modified, amended or extended.

4. Paragraph 2 of the Agreement is hereby deleted in its entirety and replaced with the following:

2. *Cross-default.* The Mortgage is hereby amended to provide that the Covington Memphis Loan, the Dromedary Memphis Loan, the Trussville Loan, the GDG Loan, the Inde Express Loan and the McCalla Loan are cross-defaulted with one another, and that the occurrence of an Event of Default, as defined in and pursuant to the Loan Documents of one Borrower, shall constitute an immediate Event of Default (without notice or the expiration of any cure period) under the Loan Documents of the other Borrowers.

5. Exhibit A of the Agreement is hereby amended to add the following:

McCalla


Lot 12-A, according to a Resurvey of Colonial Promenade at Tannehill, as recorded in Map Book 45, Page 69, in the Probate Office of Jefferson County, Alabama, Bessemer Division.

6. Binding Effect; Governing Law. This Amendment shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. This Amendment shall be governed under the laws of the State of Alabama.

7. Ratification. Except as expressly modified hereby, the terms and conditions of the Agreement shall remain in full force and effect and are hereby ratified and confirmed.


8. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original instrument, but all such counterparts together shall constitute one and the same instrument.

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**IN WITNESS WHEREOF**, the Borrowers and Lender have caused this Amendment to be properly executed as of the date set forth above.


**EXPRESS REAL ESTATE, LLC**

By:   
Name: Richard A. Brooks  
Title: Manager

**GDG INVESTMENTS, LLC**

By:   
Name: Richard A. Brooks  
Title: Managing Member

**INDE EXPRESS, LLC**

By:   
Name: Richard A. Brooks  
Title: Manager

**REGIONS BANK**

By: \_\_\_\_\_  
Name: Joe Medori  
Title: Vice President



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IN WITNESS WHEREOF, the Borrowers and Lender have caused this Amendment to be properly executed as of the date set forth above.

**EXPRESS REAL ESTATE, LLC**

By: \_\_\_\_\_  
Name: Richard A. Brooks  
Title: Manager

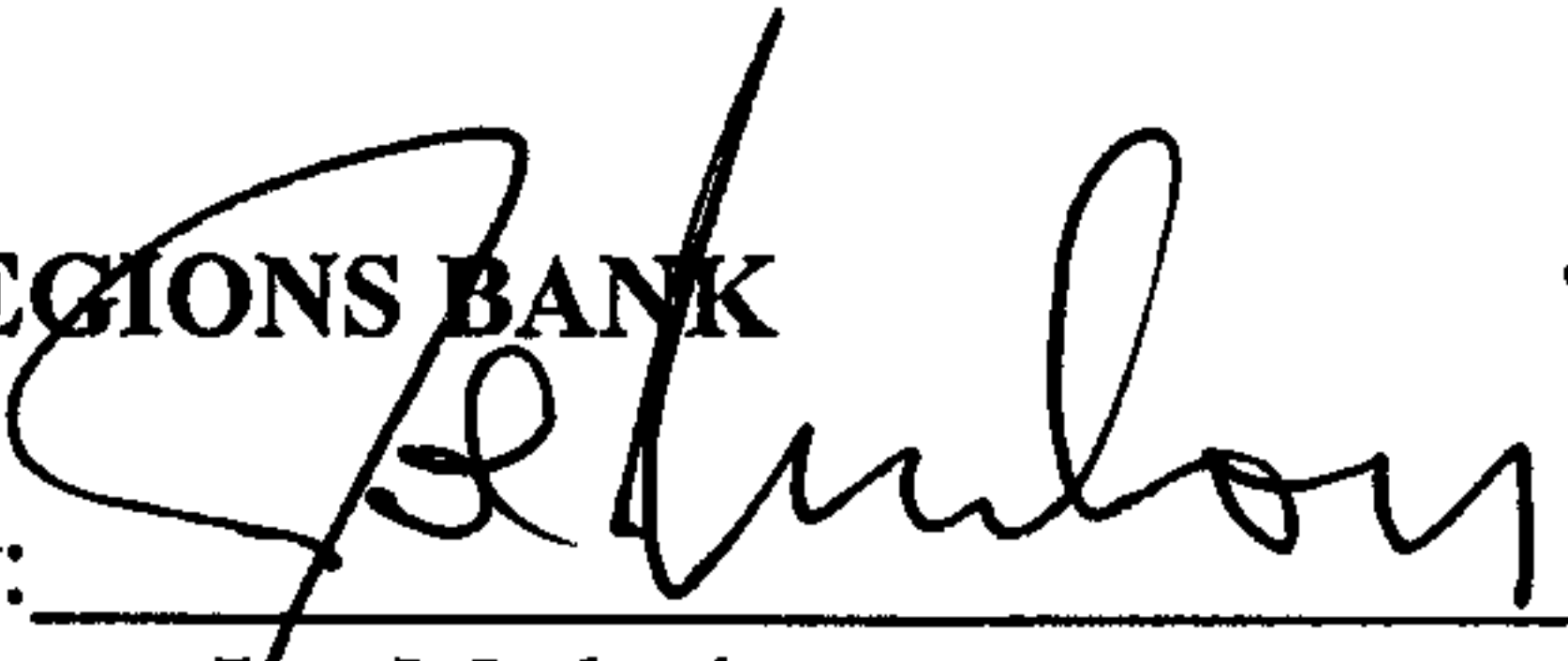
**GDG INVESTMENTS, LLC**

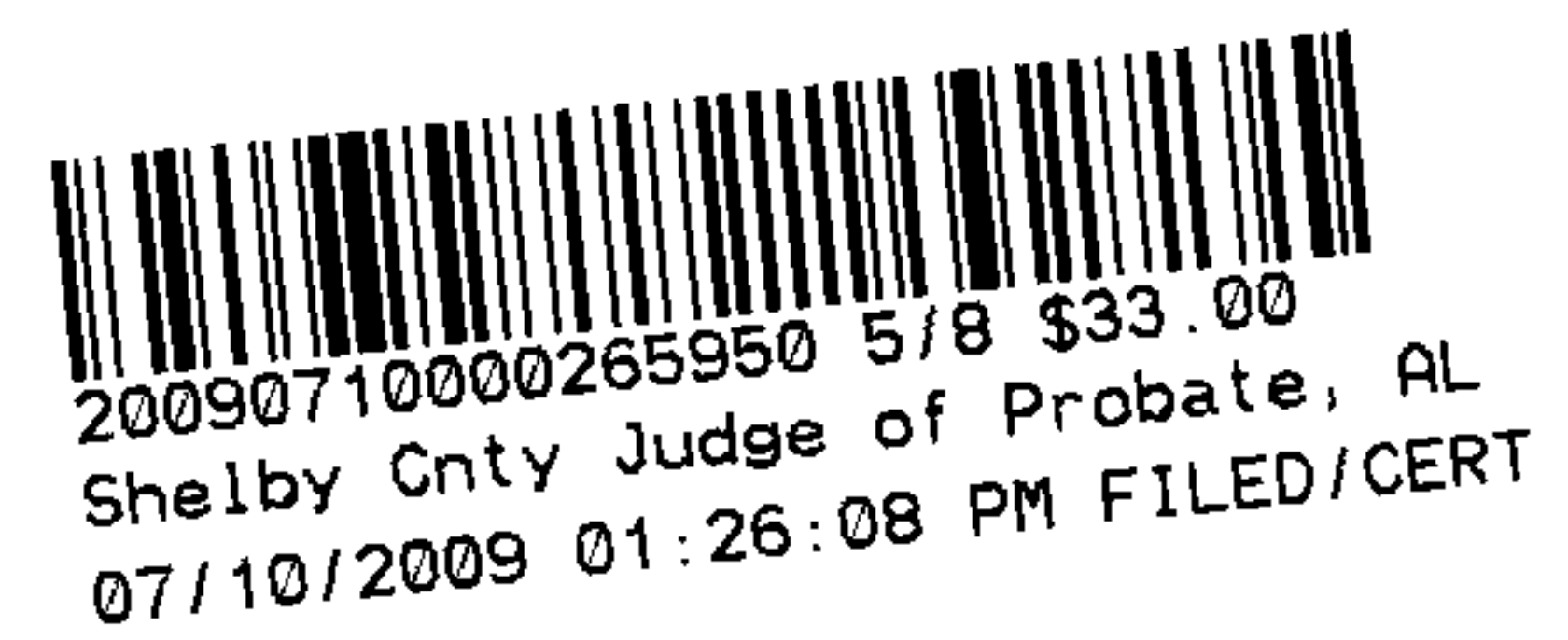
By: \_\_\_\_\_  
Name: Richard A. Brooks  
Title: Managing Member

**INDE EXPRESS, LLC**

By: \_\_\_\_\_  
Name: Richard A. Brooks  
Title: Manager

**REGIONS BANK**

By:  \_\_\_\_\_  
Name: Joe Medori  
Title: Vice President



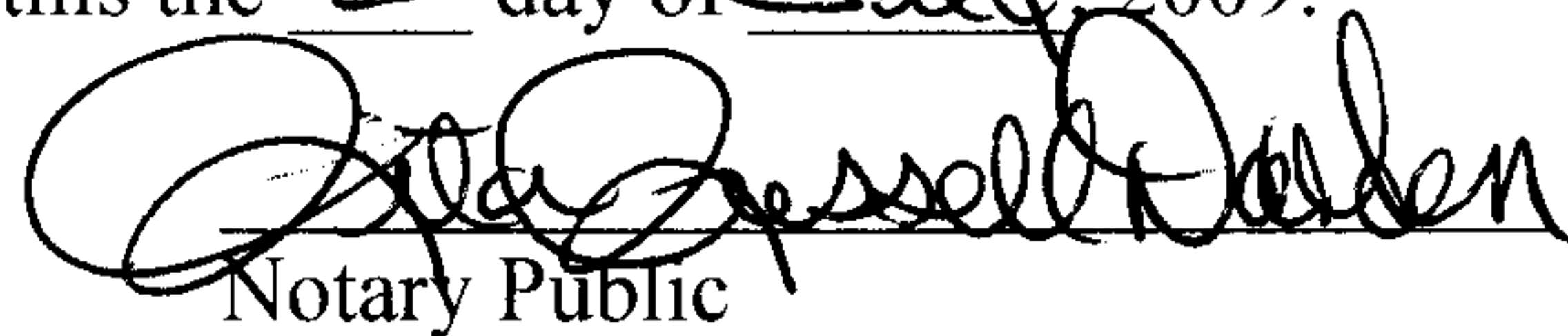


STATE OF ALABAMA     )

COUNTY OF JEFFERSON   )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Richard A. Brooks, whose name as Manager of Express Real Estate, 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 said instrument, he, as such manager and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this the 2 day of July, 2009.

  
Notary Public

AFFIX SEAL

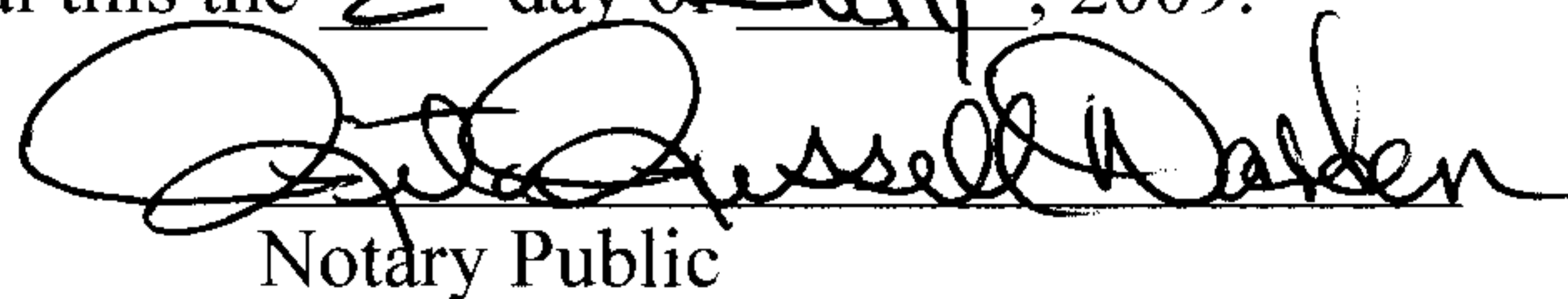
NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES Oct 17, 2012  
BONDED THRU NOTARY PUBLIC UNDERWRITERS

STATE OF ALABAMA     )

COUNTY OF JEFFERSON   )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Richard A. Brooks, whose name as managing member of GDG Investments, LLC, a Delaware 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 said instrument, he, as such managing member and with full authority, executed the same voluntarily for and as the act of said limited liability company.


Given under my hand and official seal this the 2 day of July, 2009.

  
Notary Public

AFFIX SEAL

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

NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: Oct 17, 2012  
BONDED THRU NOTARY PUBLIC UNDERWRITERS

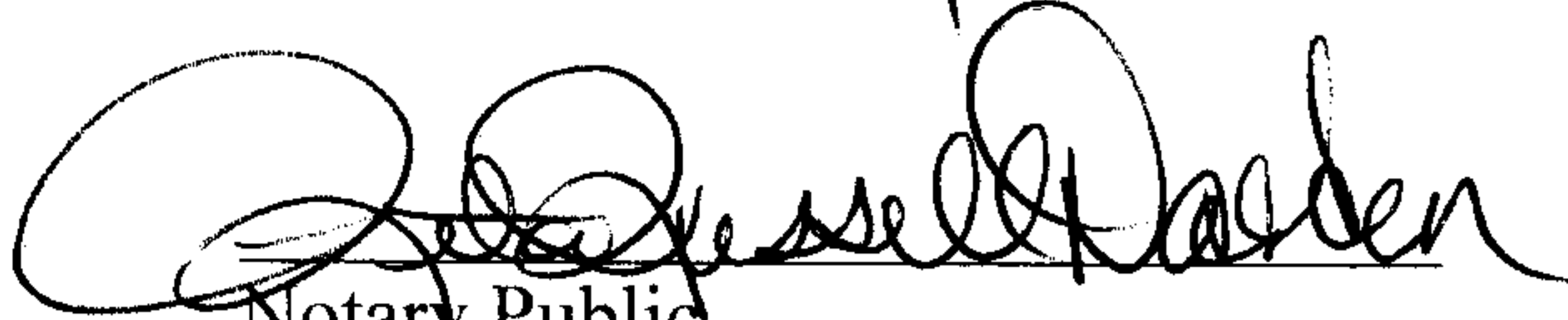
  
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STATE OF ALABAMA     )

COUNTY OF JEFFERSON   )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Richard A. Brooks, whose name as Manager of Inde Express, LLC, a Georgia 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 said instrument, he, as such manager and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this the 2 day of July, 2009.

  
Notary Public

AFFIX SEAL

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

NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: Oct 17, 2012  
BONDED THRU NOTARY PUBLIC UNDERWRITERS

STATE OF ALABAMA     )

COUNTY OF JEFFERSON   )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Joe Medori, whose name as Vice President of Regions Bank, an Alabama state banking corporation, 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 said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said banking corporation.

Given under my hand and official seal this the \_\_\_\_ day of \_\_\_\_\_, 2009.

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

AFFIX SEAL

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



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STATE OF ALABAMA )

COUNTY OF JEFFERSON )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Richard A. Brooks, whose name as Manager of Inde Express, LLC, a Georgia 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 said instrument, he, as such manager and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this the \_\_\_\_ day of \_\_\_\_\_, 2009.

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

AFFIX SEAL

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

STATE OF ALABAMA )

COUNTY OF JEFFERSON )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Joe Medori, whose name as Vice President of Regions Bank, an Alabama state banking corporation, 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 said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said banking corporation.

Given under my hand and official seal this the 9<sup>th</sup> day of July, 2009.

Sandra L. Ross  
Notary Public

AFFIX SEAL

MY COMMISSION EXPIRES APRIL 7, 2012

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



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