


THIS INSTRUMENT PREPARED BY AND
FOLLOWING RECORDING RETURN TO:
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Shelby Cnty Judge of Probate, AL
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STATE OF ALABAMA

COUNTY OF SHELBY

ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF LEASES AND RENTS (this "Assignment") is made this 10TH day of August, 2012, from 7 S&M Land, LLC, an Alabama limited liability company (hereinafter called "Borrower"), which utilizes a mailing address of 3900 Montclair Road, Suite 300, Birmingham, Alabama 35213, to Southern States Bank, an Alabama banking corporation (hereinafter called "Lender"), which, for purposes of this Assignment, is utilizing a mailing address of 7 Office Park Circle, Birmingham, Alabama 35223.

WITNESSETH:

FOR VALUE RECEIVED, as additional security for the obligations described in subparagraphs (a) and (b) below, Borrower hereby grants, transfers and assigns to Lender, and its successors and assigns, all right, title and interest of Borrower in and to all that certain lease or those leases which are now, *or hereafter*, in effect with respect to the occupancy of the real estate described on Exhibit "A" attached hereto and by this reference made a part hereof (hereinafter referred to as the "Property") together with: (i) any extensions, modifications or renewals thereof; (ii) any guarantees of the lessees' obligations thereunder (all of said leases, together with all such guarantees, modifications, extensions or renewals thereof, being hereinafter collectively referred to as the "Leases" or, individually, where the context requires, a "Lease"); and (iii) any and all security deposits received by Borrower or any agent of Borrower in connection therewith, for the purpose of securing: (a) payment of all sums now or at any time hereafter due Lender and secured by a certain Mortgage and Security Agreement executed by Borrower in favor of Lender, dated of even date herewith and recorded on or about the date hereof in the Probate Office of Shelby County, Alabama (as the same may be amended from time to time, the "Mortgage"), together with any future advances made thereunder to the extent permitted under Alabama law, and (b) performance and discharge of each obligation, covenant and agreement of Borrower contained herein or contained in the Mortgage for One Million Fifty Three Thousand Four Hundred Twenty One and 75/100 (\$1,053,421.75) Dollars or in the Promissory Note secured thereby (hereinafter, as the same may be amended, renewed, extended or restated, the "Note"; the Note, together with the Mortgage, this Assignment and any other instruments now or hereafter evidencing, securing or otherwise relating to the indebtedness evidenced by the Note are collectively referred to as the "Loan Documents"). This Assignment is intended to be an absolute, present assignment from Borrower to Lender. The rents, issues and profits of the Property are hereby assigned absolutely by Borrower to Lender, contingent

only upon the occurrence of an Event of Default as defined hereinbelow.

ARTICLE I
WARRANTIES AND COVENANTS

1.01 Warranties of Borrower. Borrower hereby warrants and represents to Lender that:

(a) Borrower is the sole owner of landlord's interest under the Leases, is entitled to receive the rents, issues, profits and security deposits under the Leases and from the Property, and has good right to sell, assign, transfer and set over the same and to grant to and confer upon Lender the rights, interests, powers and authorities herein granted and conferred.

(b) Borrower has neither made nor permitted to be made any assignment other than this Assignment of any of its rights under the Leases to any person or entity.

(c) Borrower has not done any act or omitted to do any act which might prevent Lender from, or limit Lender in, acting under any of the provisions of this Assignment.

(d) Borrower has not accepted rent under any of the Leases more than thirty (30) days in advance of its due date except as approved in writing by Lender.

(e) To the best knowledge of Borrower, there is no default by any of the lessees under the terms of any of the Leases.

(f) Borrower is not prohibited under any agreement with any other person or entity or under any judgment or decree from the execution and delivery of this Assignment or of the Leases, from the performance of each and every covenant of Borrower hereunder and under the Leases, or from the meeting of each and every condition contained herein or in the Leases.

(g) No action has been brought or threatened which in any way would interfere with the right of Borrower to execute this Assignment and perform all of Borrower's obligations herein contained.

1.02 Covenants of Borrower. Borrower hereby covenants and agrees with Lender as follows:

(a) Borrower shall (i) fulfill, perform and observe each and every condition and covenant of Borrower contained in the Leases; (ii) at the sole cost and expense of Borrower, diligently seek to enforce, short of termination of the Lease, the performance and observance of each and every covenant and condition of the Leases to be performed or observed by the lessees thereunder; and (iii) appear in and defend any action growing out of, or in any manner connected with, any of the Leases or the obligations or liabilities of Borrower, as lessor thereunder, or of any of the lessees or guarantors thereunder.

(b) Borrower shall not, without the prior written consent of Lender, (i) waive, or release any other lessee from, the performance or observance by such lessee of any obligation or condition of such lessee's Lease; or (ii) except as approved in writing by Lender, permit the prepayment of any rents (other than a security deposit, if any) under any of the Leases for more than thirty (30) days prior to the accrual thereof. Notwithstanding the foregoing to the contrary, the termination of any Lease, the termination of any lessee's right to possession or the filing of bankruptcy proceedings by or against any lessee (and such lessee does not assume such Lease in such bankruptcy proceedings) shall not constitute an Event of Default hereunder if Borrower is able to (aa) provide evidence satisfactory to Lender of a replacement tenant with a rental rate equal to or greater than such Lease; or (bb) maintain a debt service coverage ratio of not less than 1.10 to 1.0 without the rental income from such Lease. In the event that Borrower is not able to satisfy the conditions above, Borrower shall have one hundred eighty (180) days, following notice from Lender, to obtain a replacement lease satisfactory to Lender in order to cure the default under this Section.

(c) Upon the occurrence of an Event of Default hereunder, Borrower shall authorize and direct and does hereby authorize and direct each and every present and future tenant under the Leases to pay rental directly to Lender upon receipt of written demand from Lender to pay the same.

(d) Lender shall not be obligated to perform or discharge any obligation of Borrower under any of the Leases, and Borrower agrees to indemnify and hold Lender harmless from and against any and all liability, loss or damage which Lender may incur under any of the Leases or under or by reason of this Assignment and from and against all claims and demands whatsoever which may be asserted against it by reason of any act of Lender under this Assignment or under any of the Leases.

1.03 Covenants of Lender. Lender, by acceptance hereof, covenants and agrees with Borrower that:

(a) Although this Assignment constitutes a present and current assignment of all rents, issues and profits of the Property, so long as there shall exist no Event of Default as hereinafter defined Borrower shall have the right (i) to collect, but not more than thirty (30) days prior to accrual (except as approved in writing by Lender), all such rents, issues and profits from the Property and to retain, use and enjoy the same, and (ii) to maintain the security deposits in a separate, identifiable account in a bank in which funds are federally insured acceptable to Lender.

(b) Upon the payment in full of all indebtedness secured hereby, as evidenced by the recording or filing of an instrument of satisfaction or full release of the Mortgage without the recording of another mortgage in favor of Lender affecting the Property, this Assignment shall become and be void and of no further effect.

ARTICLE II DEFAULT

2.01 Events of Default. The occurrence of any one or more of the following events shall constitute a "Default" or an "Event of Default" hereunder:

(a) The failure by Borrower to perform or observe any covenant of Borrower contained in this Assignment, which failure is not cured within thirty (30) days after written notice thereof from Lender in the manner set forth in the Mortgage;

(b) The failure by Borrower to cause to be materially true and not materially misleading any warranty of Borrower contained herein;

(c) The occurrence of a default or "Event of Default" under any of the Loan Documents;
or

(d) The occurrence of a default by Borrower under any of the Leases, which default is not cured after the expiration of any applicable notice and cure periods set forth in such Lease or as provided by law.

2.02 Remedies. Upon the occurrence of any Event of Default, Lender may at its option, with or without notice or demand of any kind (except as may be provided in any of the Loan Documents), exercise any or all of the following remedies:

(a) Declare any part or all of the indebtedness evidenced by the Loan Documents to be due and payable, whereupon the same shall become immediately due and payable;

(b) Perform any and all obligations of Borrower under any or all of the Leases or this Assignment and exercise any and all rights of Borrower herein or therein as fully as Borrower itself could do, including, without limiting the generality of the foregoing: enforcing, modifying, extending or terminating any or all of the Leases; collecting, modifying, compromising, waiving or increasing any or all of the rents payable thereunder; and obtaining new tenants and entering into new leases on the Property on any terms and conditions deemed desirable by Lender, and, to the extent Lender shall incur any costs in connection with the performance of any such obligations of Borrower, including costs of litigation, then all such costs shall become a part of the indebtedness secured by the Loan Documents, shall bear interest from the incurrence thereof at the default interest rate specified in the Note, and shall be due and payable on demand;

(c) In Borrower's or Lender's name, institute any legal or equitable action which Lender in its sole discretion deems desirable to collect and receive any or all of the rents, issues and profits assigned herein; or

(d) Collect the rents, issues and profits and any other sums due under the Leases with respect to the Property, and apply the same in such order as Lender in its sole discretion may elect to pay (i) all costs and expenses, including reasonable attorneys' fees, in connection with the operation of the Property, the performance of Borrower's obligations under the Leases and collection of the rents thereunder; (ii) all costs and expenses, including reasonable attorneys' fees, in the collection of any or all of the indebtedness secured by the Loan Documents, including all costs, expenses and reasonable attorneys' fees in seeking to realize on or to protect or preserve Lender's interest in any

other collateral securing any or all of the indebtedness secured by the Loan Documents; and (iii) any or all unpaid principal, interest or other charges due under or secured by the Loan Documents. Any amounts remaining after such application shall be applied to the payment of the indebtedness secured by the Loan Documents or to monthly payments thereof, and upon the payment in full of the indebtedness secured by the Loan Documents, then this Assignment and all rights of Lender hereunder shall cease and terminate.

Entry upon and taking possession of the Property and the collection of the rents and the application thereof as aforesaid, shall in no way operate to cure or waive any default or Event of Default hereunder or under any other of the Loan Documents, or prohibit the taking of any other action by Lender under any of the Loan Documents or at law or in equity to enforce the payment of such indebtedness or to realize on any other security. Lender shall have the full right to exercise any or all of the foregoing remedies without regard to the adequacy of security for any or all of the indebtedness, and with or without the commencement of any legal or equitable action or the appointment of any receiver or trustee, and shall have the full right to enter upon, take possession of, use and operate all or any portion of the Property which Lender in its sole discretion deems desirable to effectuate any or all of the foregoing remedies. In no event shall Lender be liable to any lessee under any of the Leases for the return of any security deposit in any amount in excess of the amount delivered to Lender by Borrower.

ARTICLE III GENERAL PROVISIONS

3.01 Successors and Assigns. This Assignment shall inure to the benefit of and be binding upon Borrower and Lender and their respective heirs, executors, legal representatives, successors and assigns. Whenever a reference is made in this Assignment to "Borrower" or "Lender", such reference shall be deemed to include a reference to the heirs, executors, legal representatives, successors and assigns of Borrower or Lender.

3.02 Terminology and Capitalized Terms. All personal pronouns used in this Assignment, whether used in the masculine, feminine or neuter gender, shall include all other genders, and the singular shall include the plural, and vice versa. Titles of Articles and Sections are for convenience only and neither limit nor amplify the provisions of this Assignment.

3.03 Severability. If any provision of this Assignment or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Assignment and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

3.04 Applicable Law. This Assignment shall be interpreted, construed and enforced according to the Laws of the State of Alabama.

3.05 No Third Party Beneficiaries. This Assignment is made solely for the benefit of Lender and its assigns. No tenant under any of the Leases or any other person shall have standing to

bring any action against Lender as the result of this Assignment, or to assume that Lender will exercise any remedies provided herein, and no person other than Lender shall under any circumstances be deemed to be a beneficiary of any provision of this Assignment.

3.06 No Oral Modifications. Neither this Assignment nor any provisions hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

3.07 Cumulative Remedies. The remedies herein provided shall be in addition to and not in substitution for the rights and remedies vested in Lender in any of the Loan Documents or in law or equity, all of which rights and remedies are specifically reserved by Lender. The remedies herein provided or otherwise available to Lender shall be cumulative and may be exercised concurrently. The failure to exercise any of the remedies herein provided shall not constitute a waiver thereof, nor shall use of any of the remedies herein provided prevent the subsequent or concurrent resort to any other remedy or remedies. It is intended that this clause shall be broadly construed so that all remedies herein provided or otherwise available to Lender shall continue and be each and all available to Lender until the indebtedness evidenced by the Loan Documents shall have been paid in full.

3.08 Cross-Default. An Event of Default by Borrower under this Assignment shall constitute an Event of Default under all other Loan Documents.

3.09 Counterparts. This Assignment may be executed in any number of counterparts all of which taken together shall constitute one and the same instrument.

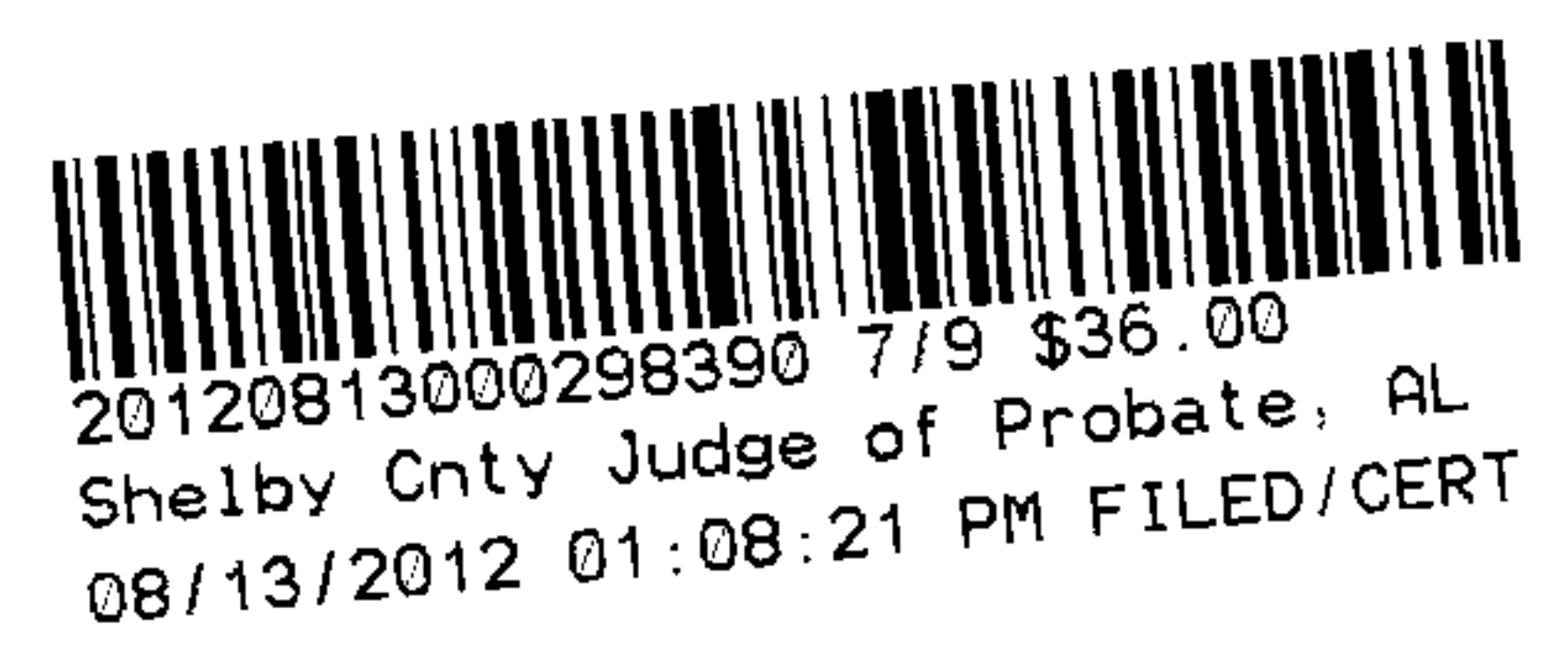
3.10 Further Assurances. At any time and from time to time, upon request by Lender, Borrower will make, execute and deliver, or cause to be made, executed and delivered, to Lender and, where appropriate, cause to be recorded and/or filed and from time to time thereafter to be re-recorded and/or re-filed at such time and in such offices and places as shall be deemed desirable by Lender, any and all such other and further assignments, deeds to secure debt, mortgages, deeds of trust, security agreements, financing statements, continuation statements, instruments of further assurance, certificates and other documents as may, in the reasonable opinion of Lender, be necessary or desirable in order to effectuate, complete, or perfect, or to continue and preserve (a) the obligations of Borrower under this Assignment and (b) the security interest created by this Assignment as a first and prior security interest upon the Leases and the rents, issues, profits and security deposits from the Property. Upon any failure by Borrower so to do, Lender may make, execute, record, file; re-record and/or re-file any and all such assignments, deeds to secure debt, mortgages, deeds of trust, security agreements, financing statements, continuation statements, instruments, certificates and documents for and in the name of Borrower, and Borrower hereby irrevocably appoints Lender the agent and attorney-in-fact of Borrower so to do.

3.11 Notices. Any and all notices, elections or demands permitted or required to be made under this Assignment shall be made in accordance with the provisions relating to notice set forth in the Mortgage.

3.12 Modifications, etc.. Borrower hereby consents and agrees that Lender may at any time and from time to time, without notice to or further consent from Borrower, either with or without consideration, surrender any property or other security of any kind or nature whatsoever held by it or by any person, firm or corporation on its behalf or for its account securing the indebtedness evidenced by the Loan Documents; extend or renew the Note or any other of the Loan Documents for any period; grant releases, compromises and indulgences with respect to the Note or any other of the Loan Documents to any persons or entities now or hereafter liable thereunder or hereunder; release any guarantor or endorser of the Note, the Mortgage or any other of the Loan Documents; or take or fail to take any action of any type whatsoever, and no such action with Lender shall take or fail to take in connection with the Loan Documents, or any of them, or any security for the payment of the indebtedness evidenced by the Loan Documents or for the performance of any obligations or undertakings of Borrower, nor any course of dealing with Borrower or any other person, shall release Borrower's obligations hereunder, affect this Assignment in any way or afford Borrower any recourse against Lender. The provisions of this Assignment shall extend and be applicable to all renewals, amendments, extensions, consolidations and modifications of the Loan Documents and the Leases, and any and all references herein to the Loan Documents or the Leases shall be deemed to include any such renewals, amendments, extensions, consolidations or modifications thereof

3.13 WAIVER OF JURY TRIAL. BORROWER AND LENDER HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SETOFF, DEMAND, ACTION OR CAUSE OF ACTION (A) ARISING OUT OF OR IN ANY WAY PERTAINING OR RELATING TO THE LOAN DOCUMENTS, OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION WITH THE NOTE OR (B) IN ANY WAY CONNECTED WITH OR PERTAINING OR RELATED TO OR INCIDENTAL TO ANY DEALINGS OF THE PARTIES HERETO WITH RESPECT TO THE LOAN DOCUMENTS, OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith OR IN CONNECTION WITH THE TRANSACTIONS RELATED THERETO OR CONTEMPLATED THEREBY OR THE EXERCISE OF EITHER PARTY'S RIGHTS AND REMEDIES THEREUNDER, IN ALL OF THE FOREGOING CASES WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. BORROWER AND LENDER AGREE THAT EITHER OR BOTH OF THEM MAY FILE A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE, KNOWING, VOLUNTARY AND BARGAINED AGREEMENT BETWEEN THE PARTIES IRREVOCABLY TO WAIVE TRIAL BY JURY, AND THAT ANY DISPUTE OR CONTROVERSY WHATSOEVER BETWEEN THEM SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

SIGNATURE OF BORROWER APPEARS ON PAGE WHICH FOLLOWS



IN WITNESS WHEREOF, Borrower has executed this Assignment the day and year first above written by its duly authorized Operating Member.

7 S&M Land, LLC, an Alabama limited liability company, Borrower

By: Rube Corporation, an Alabama corporation, as Manager of Borrower

By: Stanley M. Rubenstein
Stanley M. Rubenstein, as President of the Manager of Borrower

STATE OF ALABAMA

NOTARY ACKNOWLEDGEMENT

COUNTY OF Jefferson

I, the undersigned, a Notary Public in and for said State and County, hereby certify that Stanley M. Rubenstein whose name as President of Rube Corporation as Manager of 7 S&M Land, LLC, an Alabama limited liability company, is signed to the foregoing Assignment, and who is known to me, acknowledged before me on this day that, being informed of the contents of the Assignment, he, as President of Rube Corporation as Manager of 7 S&M Land, LLC, an Alabama limited liability company, executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 10th day of August, 2012.

(SEAL)

NOTARY PUBLIC

My Commission Expires: _____

LOUIA A. BROWN-JAMES

Notary Public

ALABAMA STATE SEAL AT LARGE

Commission Expires December 17, 2013

Exhibit "A"

Lot 2, according to the plat or map of Chelsea Crossing Subdivision as recorded in Map Book 37, Page 49, in the Probate Office of Shelby County, Alabama.

Also conveyed are all rights which constitute an interest in real property and benefit the real estate under that certain Access Easement Agreement dated June 7, 2007, by and between Wachovia Bank, National Association, and MJM Chelsea, LLC, as recorded in Instrument #20070608000270400 in the Probate Office of Shelby County, Alabama.