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Shelby Cnty Judge of Probate, AL  
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## **SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT**

**THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT** (this "Agreement"), is made as of this 6<sup>th</sup> day of November, 2012, by and between **ALABAMA CVS PHARMACY, L.L.C.**, an Alabama limited liability company, with offices at c/o CVS Pharmacy, Inc. ATTN: Property Administration Department, One CVS Drive, Woonsocket, Rhode Island 02895 ("Tenant") and **RENASANT BANK**, a Mississippi banking corporation having its office at 2001 Park Place, Suite 600, Birmingham, Alabama 35203, ATTN: Mr. Mike Frederick ("Mortgagee"), and **ORANGE – HOOVER, LLC**, an Alabama limited liability company, having its office at 1200 Corporate Drive, Suite G-50, Birmingham, Alabama 35242 ("Landlord").

### **WITNESSETH:**

**WHEREAS**, Tenant and Landlord have entered into a certain lease dated October 22, 2012 as assigned, modified, supplemented or amended by the documents listed on **Exhibit "A"** hereto (collectively, the "Lease") covering premises located at the southeast corner of Highway 280 and Highway 119, Hoover, Shelby County, Alabama ("Premises"), and as more specifically set forth in the Lease; and

**WHEREAS**, Mortgagee has made or has agreed to make a mortgage loan in the original principal amount of \$6,773,291.00 ("Loan") to Landlord evidenced by a promissory note secured by, among other security, a certain Mortgage and Security Agreement ("Mortgage") on Landlord's property ; and

**WHEREAS**, the Mortgage, and any other documents or instruments evidencing or securing the Loan are hereinafter collectively referred to as the "Loan Documents"; and

**WHEREAS**, Mortgagee has been requested by Tenant and by Landlord to enter into a non-disturbance agreement with Tenant;

**NOW THEREFORE**, in consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, Mortgagee and Tenant and Landlord hereby agree and covenant as follows:

1. Mortgagee hereby consents to the Lease and to all of the provisions thereof. The Lease and any extensions, renewals, replacements or modifications thereof, and Tenant's interest in the Premises under the Lease, are and shall at all times be subject, subordinate, and inferior to the lien of the Loan Documents and to the lien of all renewals, modifications and extensions thereof, subject to the terms and conditions set forth in this Agreement.

2. Notwithstanding such subordination, so long as Tenant is not in default (after notice and the expiration of the applicable cure period) in the payment of fixed rent as set forth in the Lease, or in the performance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed, Tenant's possession of the Premises and Tenant's rights and privileges under the Lease, or any extensions or renewals thereof, shall not be diminished or interfered with by



Mortgagee, and Tenant's occupancy of the Premises shall not be disturbed by Mortgagee for any reason whatsoever during the term of the Lease or any such extension or renewal thereof, except as would be permitted for Landlord to do so.

3. In addition, notwithstanding such subordination, so long as Tenant is not in default (after notice and the expiration of the applicable cure period) in the payment of rent or additional rent, or in the performance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed, Mortgagee will not join Tenant as a party defendant, unless required by law, in any foreclosure action or other proceeding for the purpose of terminating Tenant's interest and estate under the Lease or for any other purpose.

4. If the interests of Landlord in the Premises shall be transferred to and owned by Mortgagee by reason of foreclosure or other proceedings brought by it, or by deed in lieu of foreclosure, or if Mortgagee takes possession of the Premises pursuant to any provisions of the Loan Documents, then: (i) Mortgagee and Tenant shall be directly bound to each other under all the terms, covenants and conditions of the Lease for the balance of the term thereof and for any extensions or renewals thereof which may be exercised by Tenant, with the same force and effect as if Mortgagee were the Landlord under the Lease; and (ii) Tenant does hereby attorn to Mortgagee as its landlord, said attornment to be effective and self-operative (without the execution of any further instruments), immediately upon Mortgagee succeeding to the interests of the Landlord under the Lease; provided, however, regarding items (i) and (ii) above, that Tenant shall have received written notice from Mortgagee that it has succeeded to the interests of the Landlord under the Lease. The respective rights and obligations of Tenant and Mortgagee upon such attornment, to the extent of the then-remaining balance of the term of the Lease and any such extensions and renewals, shall be and are the same as now set forth from and after Mortgagee's succession to the interests of the Landlord under the Lease, and Tenant shall have the same remedies against Mortgagee for the breach of any agreement contained in the Lease that Tenant might have under the Lease against Landlord if Mortgagee had not succeeded to the interest of Landlord; provided, however, that Mortgagee shall not be:

(a) liable for any act or omission of any prior landlord (including Landlord), except to the extent such act or omission continues during the period of possession by Mortgagee or during a period during which Mortgagee is receiving rent from Tenant pursuant to Paragraph 5 hereof; or

(b) subject to any defenses which Tenant might have against any prior landlord (including Landlord) prior to the date that Mortgagee first takes possession of the premises, except in connection with the exercise of rights by Tenant expressly set forth in the Lease; or

(c) bound by any fixed rent which Tenant might have paid for more than the current month; or

(d) bound by any security deposit which Tenant may have paid to any prior landlord (including Landlord), unless such deposit is in an escrow or other fund available to Mortgagee; or

(e) bound by any amendment or modification or waiver of any provision of the Lease made without the consent of Mortgagee, which would reduce the lease term, rents payable, or



square footage. Said consent shall be deemed given if a response by Mortgagee is not received within thirty (30) days of Landlord's request.

5. Tenant shall not be under any obligation to pay rent to Mortgagee until the Tenant shall have received written notice from Mortgagee that Mortgagee has succeeded to the interests of Landlord under the Lease or that Mortgagee has exercised its rights under the Loan Documents, and directing such payments be made to Mortgagee. Landlord by its execution of this Agreement hereby consents to such direct payments made by Tenant to Mortgagee and hereby releases and discharges Tenant of, and from all liability to Landlord on account of any such payments. Upon receipt of such notice, Tenant shall make future payments due under the Lease to Mortgagee until notified otherwise in writing in accordance with the terms of the Lease and Tenant shall not be liable to Landlord to account for such payments.

6. (a) Tenant shall notify Mortgagee in writing at the address set forth herein of the occurrence of any default or event of default by Landlord under the Lease which would give Tenant the right to cancel or terminate the Lease; and Tenant will grant to Mortgagee up to 45 days or a reasonable time (not to exceed 45 days) in which to cure Landlord's default (which time shall be at least the period of time granted to the Landlord by the Lease), provided, however, that Mortgagee shall give Tenant written notice of Mortgagee's intent to cure Landlord's default within ten (10) business days of receipt of Tenant's notice of Landlord's default. Tenant agrees that it will not terminate or cancel the Lease on account of such default until such notice to Mortgagee has been given, and Mortgagee has had the opportunity to cure any such default. Should Mortgagee fail to so notify Tenant of Mortgagee's intent to cure Landlord's default within said ten (10) business days, then Tenant shall have all available rights and remedies (including the right to cure Landlord's default) under the Lease, at law and/or in equity. It is expressly understood and agreed that the above shall not be deemed to create any obligation of Mortgagee to cure any such default or defaults.

(b) Mortgagee shall use its best efforts to copy Tenant on any notice of Landlord's default under the Loan Documents at the same time that Mortgagee shall serve a Notice Of Default on Mortgagor.

7. This Agreement may not be modified or amended, except by a writing by all parties hereto. Upon satisfaction of the Mortgage, this Agreement shall become null and void and be of no further effect. Landlord represents and warrants that, as of the date of this Agreement and the date of the Mortgage, there is no mortgage or trust deed encumbering the Premises except the Mortgage.

8. Whenever in this Agreement it is provided that notice be given to or served upon any of the parties, each such notice or demand shall be in writing, and any law or statute to the contrary notwithstanding, shall not be effective for any purpose unless the same shall be given or served as follows: If given or served by the Mortgagee, by mailing the same to the Tenant and Landlord by registered or certified mail, return receipt requested, or by overnight courier service provided a receipt is required, at the addresses listed on Page 1 of this Agreement, or at such other addresses as the Tenant and Landlord may from time to time designate by notice given to the Mortgagee; and if given or served by the Tenant, by mailing the same to the Mortgagee and

Landlord by registered or certified mail, return receipt requested, or by overnight courier service provided a receipt is required, addressed to the Mortgagee and Landlord at the addresses listed on Page 1 of this Agreement, or at such other addresses as the Mortgagee and Landlord may from time to time designate by written notice given to Tenant; and if given or served by Landlord, by mailing the same to Tenant and Mortgagee by registered or certified mail, return receipt requested, or by overnight courier service provided a receipt is required, addressed to the Tenant and Mortgagee at the addresses listed on Page 1 of this Agreement, or such other addresses as the Tenant and Mortgagee may from time to time designate by written notice given to Landlord.

9. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their successors and assigns. In addition, this Agreement shall be binding upon any successor to Mortgagee's interest as Landlord of the Lease.

**IN WITNESS WHEREOF**, the parties hereto have hereunto caused this Agreement to be duly executed as of the day and year first above written.

[The balance of this page intentionally left blank.  
Signatures appear on the Signature Pages attached.]



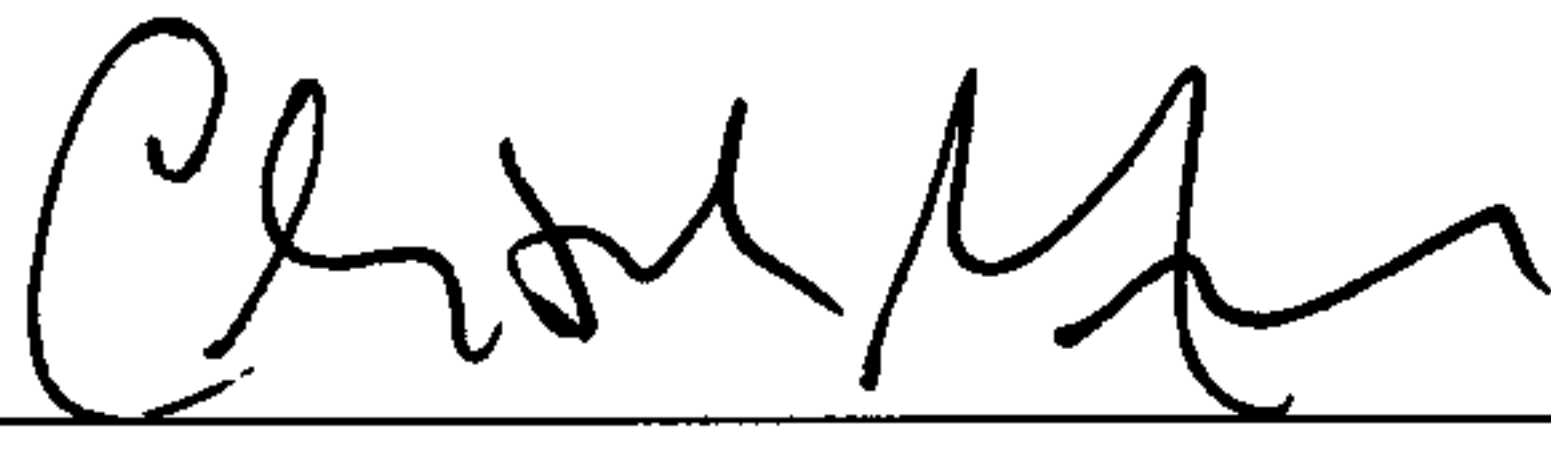
**SIGNATURE PAGE  
TO  
SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT**

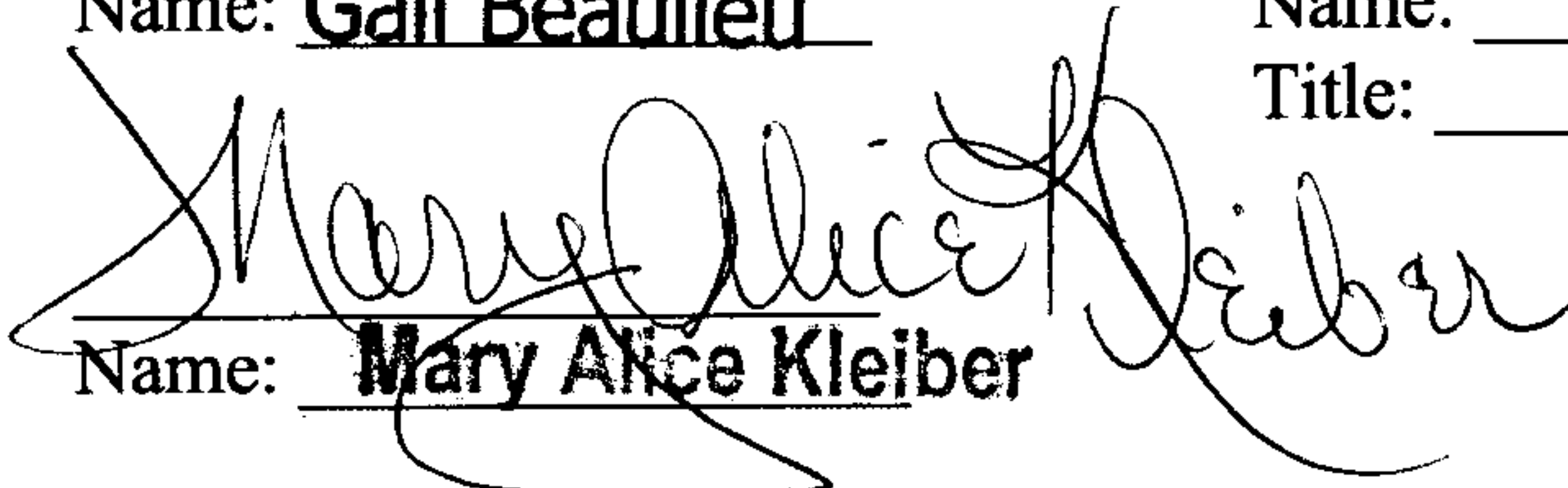
WITNESS:

TENANT:

ALABAMA CVS PHARMACY, L.L.C.

  
Name: Gail Beaulieu

By:   
Name: Christopher T. Mercer  
Title: Assistant Secretary

  
Name: Mary Alice Kleiber

STATE OF RHODE ISLAND )

COUNTY OF PROVIDENCE )

On this 3<sup>rd</sup> day of October, 2012, before me personally appeared Christopher T. Mercer, who, being by me duly sworn, did depose and say that he/she resides at Hingham, MA; that he/she is Asst. Sec. of ALABAMA CVS PHARMACY, L.L.C., the limited liability company described in and which executed the above instrument and that he/she executed this instrument on behalf of said limited liability company and that he/she had authority to do so.

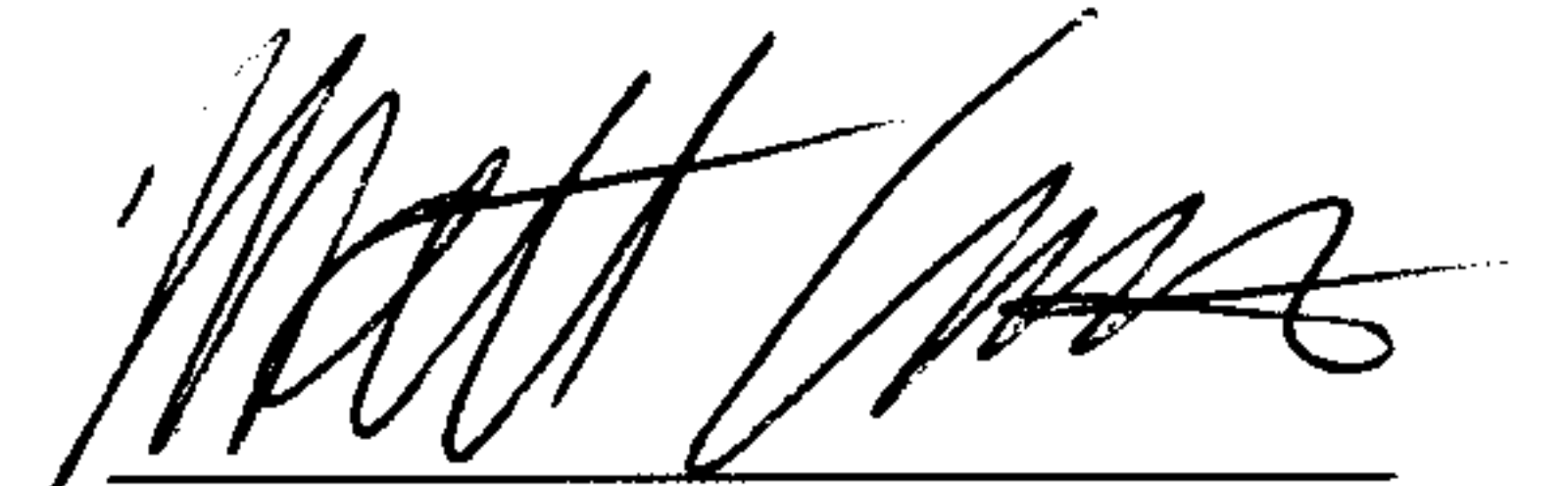
  
NOTARY PUBLIC


**Susan Dupre**  
Notary Public  
State of Rhode Island  
My Commission Expires 06/02/2015

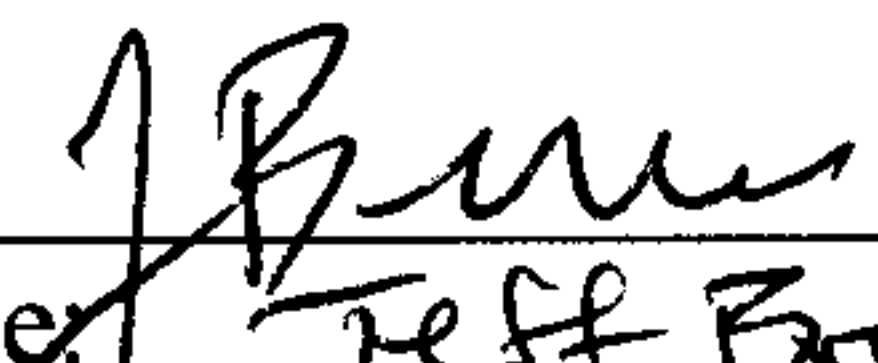
**SIGNATURE PAGE**  
**TO**  
**SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT**

MORTGAGEE:

RENASANT BANK

  
Name: Matt Evans

By:   
Name: John E. Bentley  
Title: NCA President

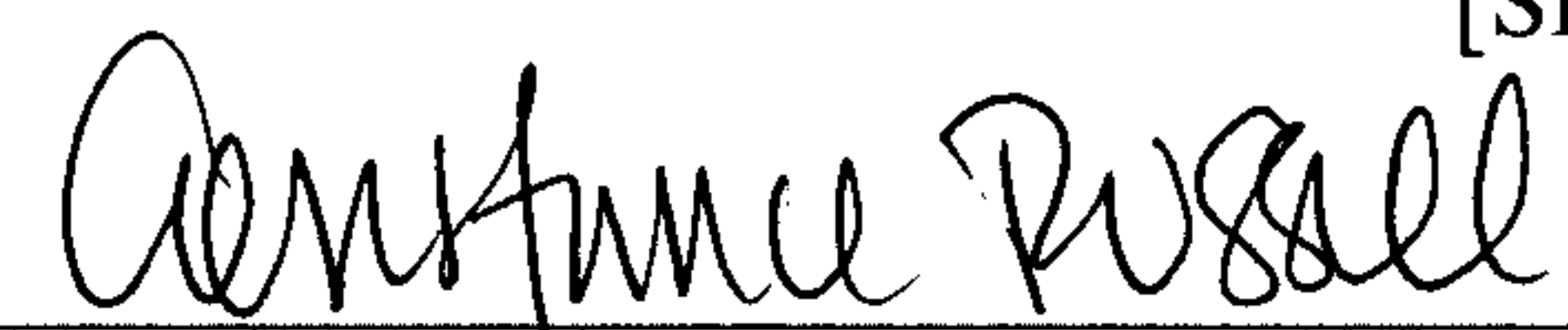
  
Name: Jeff Brewer

STATE OF ALABAMA                    )  
COUNTY OF Shelby                    )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that John E. Bentley, whose name as City President of Renasant Bank, a Mississippi banking corporation and qualified to do business in Alabama, is signed to the foregoing instrument, and who is known to me, acknowledged before me that, being informed of the contents of such instrument, he [she], as such \_\_\_\_\_ and with full authority, executed the same voluntarily for and as the act of corporation.

Given under my hand and official seal, this the 20<sup>th</sup> day of October, 2012.

[SEAL]

  
\_\_\_\_\_  
Notary Public  
My Commission Expires 11/1/2013

NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: NOVEMBER 1, 2013  
I AM NOT A NOTARY PUBLIC UNDERWRITER

**SIGNATURE PAGE  
TO  
SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT**

LANDLORD:

ORANGE - HOOVER, LLC

By: Robert Jason Price  
Robert Jason Price, Manager

W. Gregory G. H. H.  
Name: W. Gregory G. H. H.  
Constance Russell  
Name: Constance Russell

STATE OF ALABAMA )

COUNTY OF Shelby )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Robert Jason Price, whose name as Manager of Orange – Hoover, LLC, an Alabama limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me that, being informed of the contents of such instrument, he, as such manager and with full authority, executed the same voluntarily for and as the act of such limited liability company.

Given under my hand and official seal, this the 29<sup>th</sup> day of October, 2012.

Constance Russell [SEAL]  
Notary Public  
My Commission Expires: 11/2/13

NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: November 2, 2013  
BONDED THRU NOTARY PUBLIC UNDERWRITERS

20121106000427670 7/8 \$33.00  
Shelby Cnty Judge of Probate, AL  
11/06/2012 03:42:39 PM FILED/CERT

**SCHEDULE 1**

**LEGAL DESCRIPTION OF THE PREMISES**

Lot 1 of the MAC/HOOVER SUBDIVISION as recorded in Shelby County, Instrument  
#20121106000427560

THE FOREGOING MEANING AND INTENDING TO DESCRIBE ONLY (AND ALL OF)  
THE "PREMISES" AS DEPICTED ON **EXHIBIT A** TO THE LEASE.