

## ASSIGNMENT OF RENTS AND LEASES


The following terms shall have the meanings set forth below, as used in this instrument:

<b>Lender:</b>	<b>Southern Development Council, Inc.</b>
<b>Lender's Notice Address:</b>	<b>8132 Old Federal Road Montgomery, Alabama 36117</b>
<b>Loan Amount:</b>	<b>\$396,000.00</b>
<b>Mortgage:</b>	<b>The Mortgage executed by Owner in favor of Lender this date to further secure the Note payable by Owner to Lender</b>
<b>Owner:</b>	<b>Win Investments, LLC</b>
<b>Owner's Notice Address:</b>	<b>700 Southgate Drive, Suite B Birmingham, Alabama 35124</b>

1. **BY THIS ASSIGNMENT**, the Owner, for value received, hereby assigns to the Lender all of Owner's right, title, privileges and interest which Owner has and may have in the leases, operating agreements, management agreements, concession agreements, licenses, and all similar agreements, now existing or hereafter made and affecting the real property described in Exhibit A attached hereto and incorporated herein by reference and the improvements and equipment thereon (collectively referred to as the "Property"), together with all extensions, renewals, modifications or replacements of said leases and agreements, and together with any and all guarantees of the obligations of the lessees and other obligors thereunder, whether now existing or hereafter executed, and all extensions and renewals of said guarantees. All said leases and all other said agreements described in this Paragraph 1, together with any and all guarantees, modifications, extensions and renewals thereof, are hereinafter collectively and severally referred to as the "Lease".

2. **OWNER'S PURPOSE** in making this assignment is to relinquish, convey, and assign to Lender its right to collect and enjoy the rents, royalties, issues, profits, income and other benefits at any time accruing by virtue of the Lease (hereinafter called "Rents and Profits") as security for (i) payment of the outstanding indebtedness to Lender in connection with the loan evidenced by the promissory note identified in the Mortgage (the "Note") payable to Lender, in the aggregate original principal sum equal to the Loan Amount, and (ii) payment and performance of the Owner's obligations under the Mortgage, the Note and all other documents executed in connection therewith (the "Loan Documents").

3. **THE PARTIES INTEND** that this Assignment shall be a present, absolute and unconditional assignment and shall, immediately upon execution, give Lender the right to collect the Rents and Profits and to apply them in payment of the principal and interest and all other sums payable on the Note, as well as all other sums payable under the Loan Documents. However, Lender hereby grants to Owner a license to collect, subject to the provisions set forth below, the Rents and Profits as they respectively become due and to enforce the Lease, so long as there is no default by Owner in performance of the terms, covenants or provisions of the Note, the Loan Documents or this Assignment. Nothing contained herein, nor any collection of Rents and Profits by Lender or by a receiver, shall be construed to make Lender a "mortgagee-in-possession" of the Property so long as Lender has not itself entered into actual possession of the Property.

  
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Shelby Cnty Judge of Probate, AL  
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4. **UPON THE OCCURRENCE OF ANY DEFAULT** under the terms and conditions of the Note, the Mortgage, this Assignment or any of the other Loan Documents, this Assignment shall constitute a direction to and full authority to any and all obligors under the Lease and any guarantor of the Lease to pay all Rents and Profits to Lender without proof of the default relied upon. Owner hereby irrevocably authorizes any and all obligors under the Lease and any guarantor to rely upon and comply with any notice or demand by Lender for the payment to Lender of any Rents and Profits due or to become due. Any and all obligors under the Lease and any guarantor shall have no right or duty to inquire whether a default has actually occurred and Owner shall have no claim against any obligor under the Lease or any guarantor for any Rents and Profits paid by such obligor Lessee or such guarantor to Lender pursuant to Lender's demand or notice.

5. **OWNER WARRANTIES:**

- (a) that no default exists on the part of Owner under any Lease;
- (b) that no rent or other payment has been or will be collected under any Lease more than one month in advance;
- (c) that neither the Lease nor any interest therein has been previously or will be assigned or pledged by Owner;
- (d) that no concession has been or will be granted to any Lessee in the form of a waiver, release, reduction, discount or other alteration of rent or other payment due or to become due.

All of the foregoing warranties shall be deemed to be reaffirmed on and as of the time of each Lease executed by Owner on the Property.

6. Owner agrees that nothing herein shall be construed to impose any liability or obligation on Lender under or with respect to the Lease. Owner does not delegate or assign to Lender, and Lender does not accept or assume any of the duties, obligations, or liabilities of Owner as provided in the Lease. Despite the present and absolute assignment by Owner to Lender of the Lease, Lender will not be required to perform any of the agreements or conditions contained in the Lease and nothing in this Agreement will impose any obligation upon Lender (including any liability under any covenant of quiet enjoyment as provided in the Lease). Owner retains and will perform all duties, obligations, and liabilities of Owner as provided in the Lease, provided that Lender, in the sole and absolute option of Lender may cure any default as provided in the Lease on behalf of Owner, and Owner will reimburse Lender on demand for all amounts paid and expended by Lender to cure the defaults of Owner as provided in the Lease.

7. This Assignment is intended to be supplementary to and not in substitution for or in derogation of any assignment of rents contained in the Loan Documents. Failure of the Lender to avail itself of any terms, covenants or conditions of this Assignment for any period of time or for any reason shall not constitute a waiver thereof.

8. Notwithstanding any future modification of the terms of the Loan Documents, this Assignment and the rights and benefits hereby assigned and granted shall continue in favor of Lender in accordance with the terms of this Assignment.

9. This Assignment shall be binding upon and inure to the benefit of the respective heirs, legal representatives, successors and assigns of the parties hereto (including without limitation, in the case



of Lender, any third parties now or hereafter acquiring any interest in the Note or any part thereof, whether by virtue of assignment, participation or otherwise). The words "Owner", "Lender", "obligor under the Lease", and "guarantor", wherever used herein, shall include the persons and entities named herein or in the Lease or any guaranty and designated as such and their respective heirs, legal representatives, successors, and assigns, provided that any action taken by the named Lender or any successor designated as such by an instrument recorded in the appropriate office of the County in which the Property is located referring to this Assignment shall be sufficient for all purposes notwithstanding that Lender may have theretofore assigned or participated any interest in the Note to a third party. All words and phrases shall be taken to include the singular or plural number, and the masculine, feminine, or neuter gender, as may fit the case.

10. Any change, amendment, modification, abridgement, cancellation, or discharge of this Assignment or any term or provision hereof shall be invalid without the written consent of Lender.

11. Upon payment to Lender of the full amount of all indebtedness and obligations secured hereby and by the Loan Documents, as evidenced by a recorded satisfaction or release of the Mortgage, Note, and guarantees, this Assignment shall be void and of no further effect.


12. All notices given hereunder shall be given in the manner set forth in the Mortgage.

13. If any provision hereof is determined to be illegal or unenforceable for any reason, the remaining provisions hereof shall not be affected thereby.

14. This Assignment shall be governed by and construed in accordance with the laws of the State of Alabama.

15. The Loan secured by this lien was made under a United States Small Business Administration (SBA) nationwide program which uses tax dollars to assist small business owners. If the United States is seeking to enforce this document, then, under SBA regulations: a) when SBA is the holder of the Note, this document and all documents evidencing or securing this Loan will be construed in accordance with Federal Law; and b) Lender or SBA may use local or state procedures for purposes such as filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using these procedures, SBA does not waive any Federal immunity from local or state control, penalty, tax or liability. No Borrower or Guarantor may claim or assert against SBA any local or state law to deny any obligation of Borrower, or defeat any claim of SBA with respect to this Loan. Any clause in this document requiring arbitration is not enforceable when SBA is the holder of the Note secured by this instrument.

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IN WITNESS WHEREOF, this document has been executed by the undersigned under seal as of the 20<sup>th</sup> day of February, 2013.

“OWNER”

Win Investments, LLC

By: \_\_\_\_\_

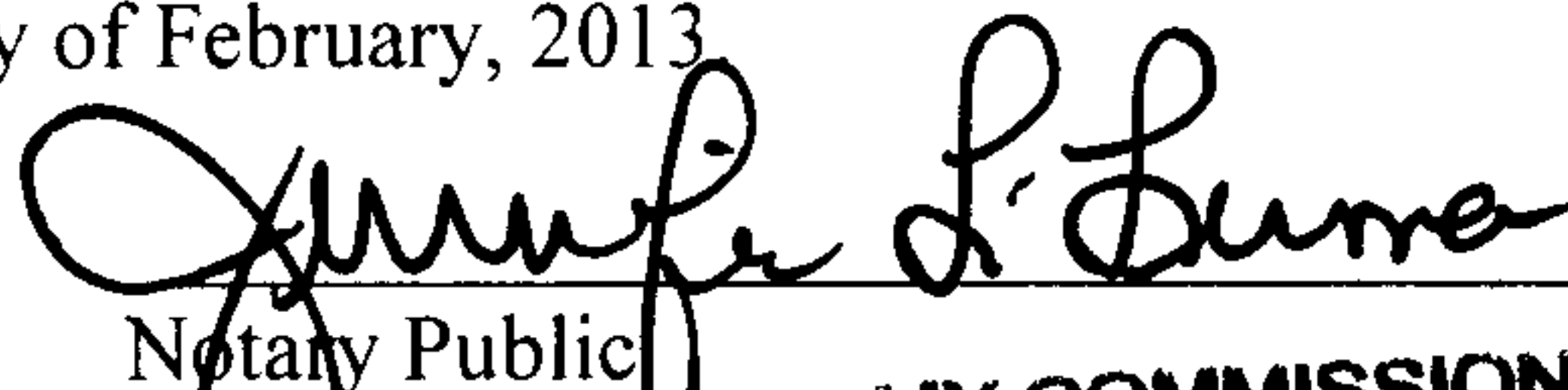
Name: William S. Windle

Title: Manager

STATE OF ALABAMA       )  
JEFFERSONCOUNTY     )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certifies that **William S. Windle** whose name as the manager of **Win Investments, 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 the 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 this 20<sup>th</sup> day of February, 2013.

  
Notary Public  
My Commission Expires. \_\_\_\_\_

MY COMMISSION EXPIRES 10/01/2016

**THIS INSTRUMENT PREPARED BY:**

James E. Vann, Esquire  
Sirote & Permutt, P.C.  
2311 Highland Avenue South  
Birmingham, Alabama 35205  
(205) 930-5484



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## EXHIBIT A

A parcel of land situated in Section 31, Township 19 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Northeast corner of the said Southwest Quarter of said Section 31; thence run in a Westerly direction along the North line of said Southwest Quarter for a distance of 301.28 feet to a point; thence turn a deflection angle to the left of 51 degrees 49 minutes 38 seconds and run in a Southwesterly direction a distance of 180.00 feet to a point, said point being the point of beginning of the parcel herein described; thence run a deflection angle to the left of 57 degrees 00 minutes 00 seconds and run in a Southeasterly direction a distance of 395.80 feet to a point, said point being on the Northwest right of way of proposed and soon to be dedicated Southgate Drive; thence turn an interior angle of 90 degrees 00 minutes 00 seconds and run to the right in a Southwesterly direction along said right of way a distance of 168.14 feet to a point, said point being the beginning of a curve to the right; thence run along the arc of said curve, having a central angle of 60 degrees 31 minutes 55 seconds and a radius of 35.00 feet, in a Southwesterly to Westerly to Northwesterly direction a distance of 36.98 feet to a point, said point being a point on the East side of Allen Road, being a road of possible prescriptive right of way, thence continue tangent to last described curve in a Northwesterly direction and along Allen Road a distance of 213.33 feet to a point; thence turn an interior angle of 77 degrees 49 minutes 02 seconds and run to the right in a Northeasterly direction a distance of 15.00 feet to a point, said point being a 1-inch crimp iron found; thence turn an interior angle of 195 degrees 42 minutes 53 seconds and run to the left in a Northeasterly direction a distance of 344.87 feet to the point of beginning. Being Situated in Shelby County, Alabama.

