

#04667L01

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS AGREEMENT, made this 10th day of October, 2013, by and between Alabama CVS Pharmacy, L.L.C., with offices at c/o CVS Pharmacy, Inc., ATTN: Property Administration Department, One CVS Drive, Woonsocket, Rhode Island 02895 ("Tenant") and Coastal Federal Credit Union, having its office at 1000 Saint Albans Drive, Raleigh, North Carolina 27609 ("Mortgagee") and Behymer Family, LLC, a Missouri limited liability company, successor in interest to CSA Properties, Inc., having its office at, c/o Christopher L. Bonfanti, Kiefer Bonfanti & Co., LLP,  
701 Emerson Road, Suite 201, St. Louis, Missouri 63141-6709 ("Landlord")

WITNESSETH:

WHEREAS, Tenant and Landlord have entered into a certain lease dated January 17, 2008, as assigned, modified, supplemented or amended by the documents listed on Exhibit A hereto (collectively, the "Lease") covering premises located at 100 Huntley Parkway, Pelham, 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 \$ 3,435,000.00 ("Loan") to Landlord evidenced by a promissory note secured by, among other security, a certain Mortgage/Deed of Trust/Deed to Secure Debt 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. 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 (beyond any 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.

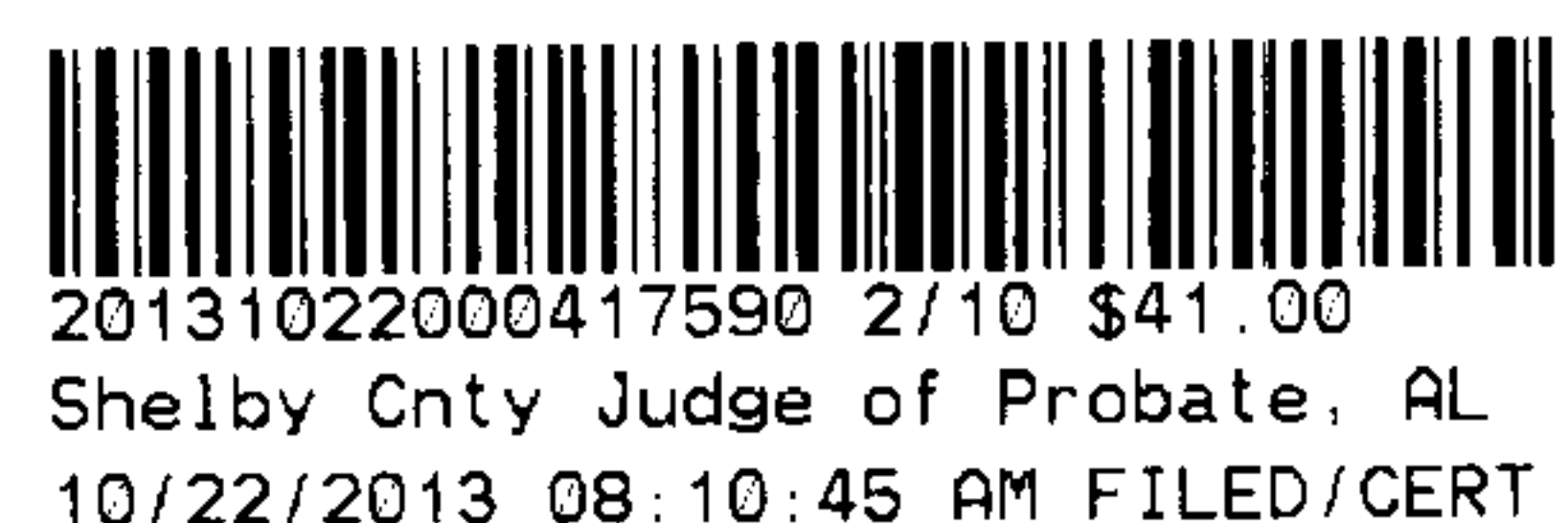
3. In addition, notwithstanding such subordination, so long as Tenant is not in default (beyond any applicable cure period) in the payment of rent or additional rent, or in the performance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed, Mortgagee will not join 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; 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

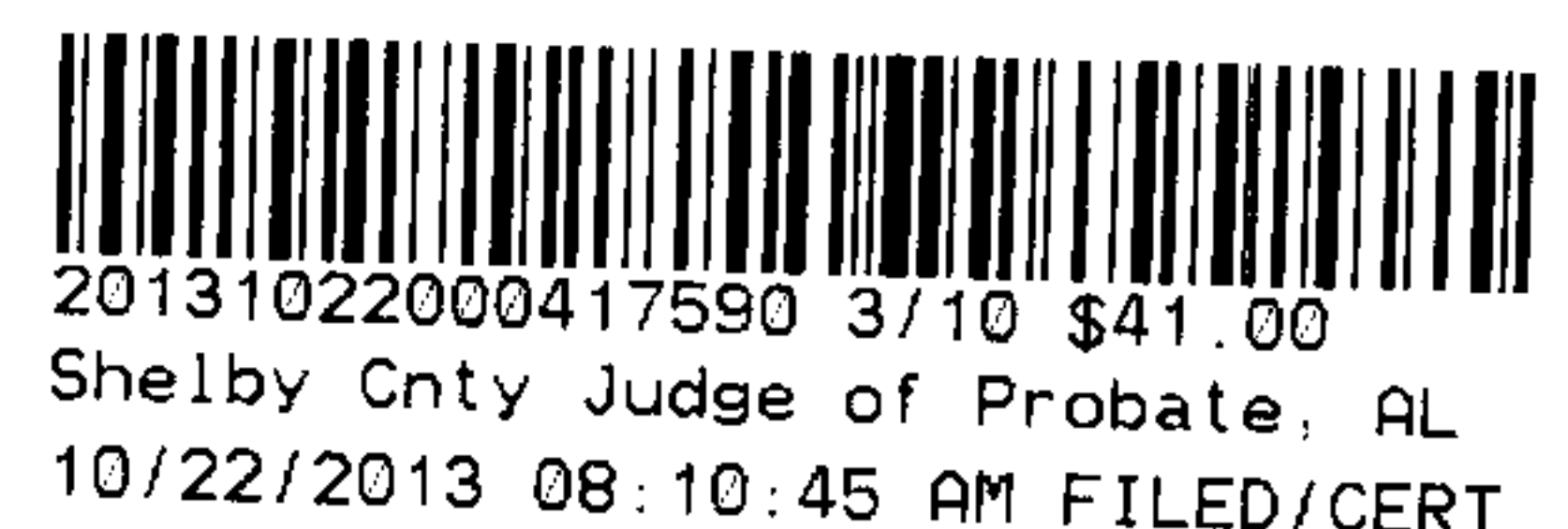
(e) bound by any amendment or modification or waiver of any provision of the Lease made without the consent of the Mortgagee, which would reduce the lease term, rents payable or square footage. Said consent shall be deemed given if a response by Mortgagee is not received within thirty (30) days of Landlord's 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 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 best efforts to copy Tenant on any notice of Mortgagor'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.





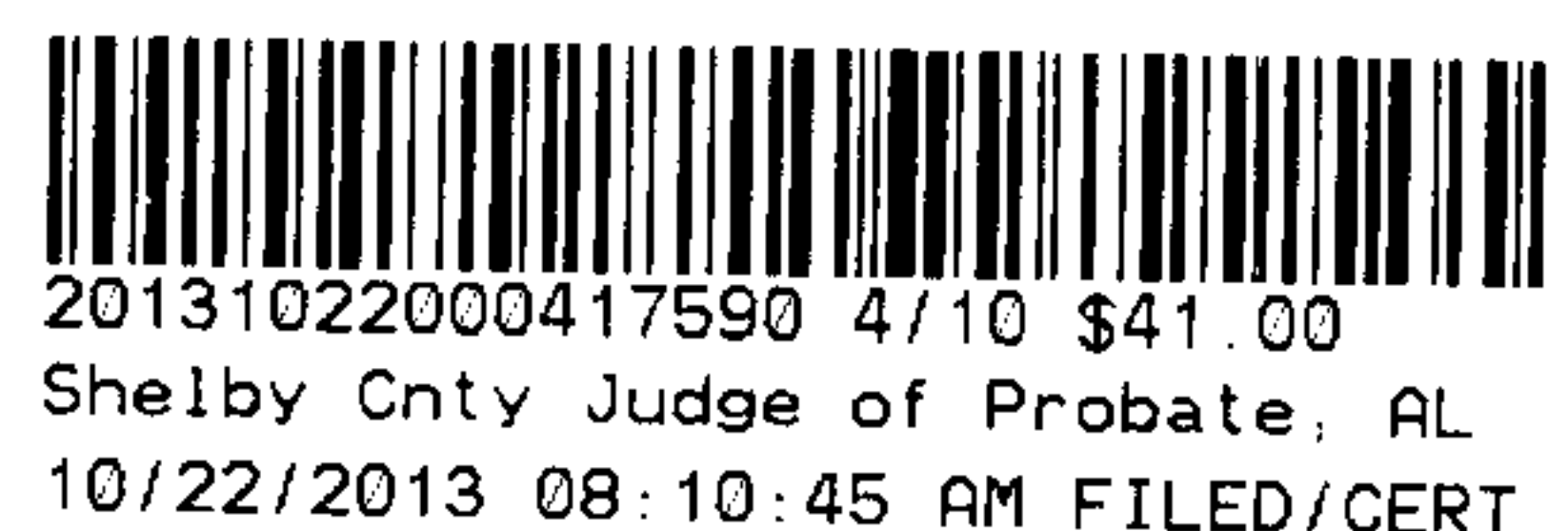
8. Whenever in this Agreement it is provided that notice be given to or served upon any of the parties, each such notice or demand shall be in writing, and any law or statute to the contrary notwithstanding, shall not be effective for any purpose unless the same shall be given or served as follows: If 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. Except as provided in the Lease, Tenant hereby waives any priority it may have over Mortgagee with respect to any share of any condemnation award for a taking of all or part of the Premises, except any award for Tenant's loss of trade fixtures or improvements or installations made by Tenant; and agrees that all of any such award, except as above provided, shall be first payable to Mortgagee.

10. Anything herein or in the Lease to the contrary notwithstanding, in the event that Mortgagee shall acquire title to the Premises, or shall otherwise become liable for any obligations of Landlord under the Lease, Mortgagee shall have no obligation, nor incur any liability, beyond Mortgagee's then interest, if any, in the Premises and the Lease, and Tenant shall look exclusively to such interest of Mortgagee, if any, in the Premises and the Lease, for the payment and discharge of any obligations imposed upon Mortgagee hereunder or under the Lease. Tenant agrees that with respect to any money judgment which may be obtained or secured by Tenant against Mortgagee, Tenant shall look solely to the estate or interest owned by Mortgagee in the Premises, and Tenant will not collect or attempt to collect any such judgment out of any other assets of Mortgagee.

11. Notwithstanding anything herein to the contrary, Tenant shall not be deemed to be in default under any of the terms or conditions of this Agreement until Tenant has received a fully executed original copy of this Agreement.

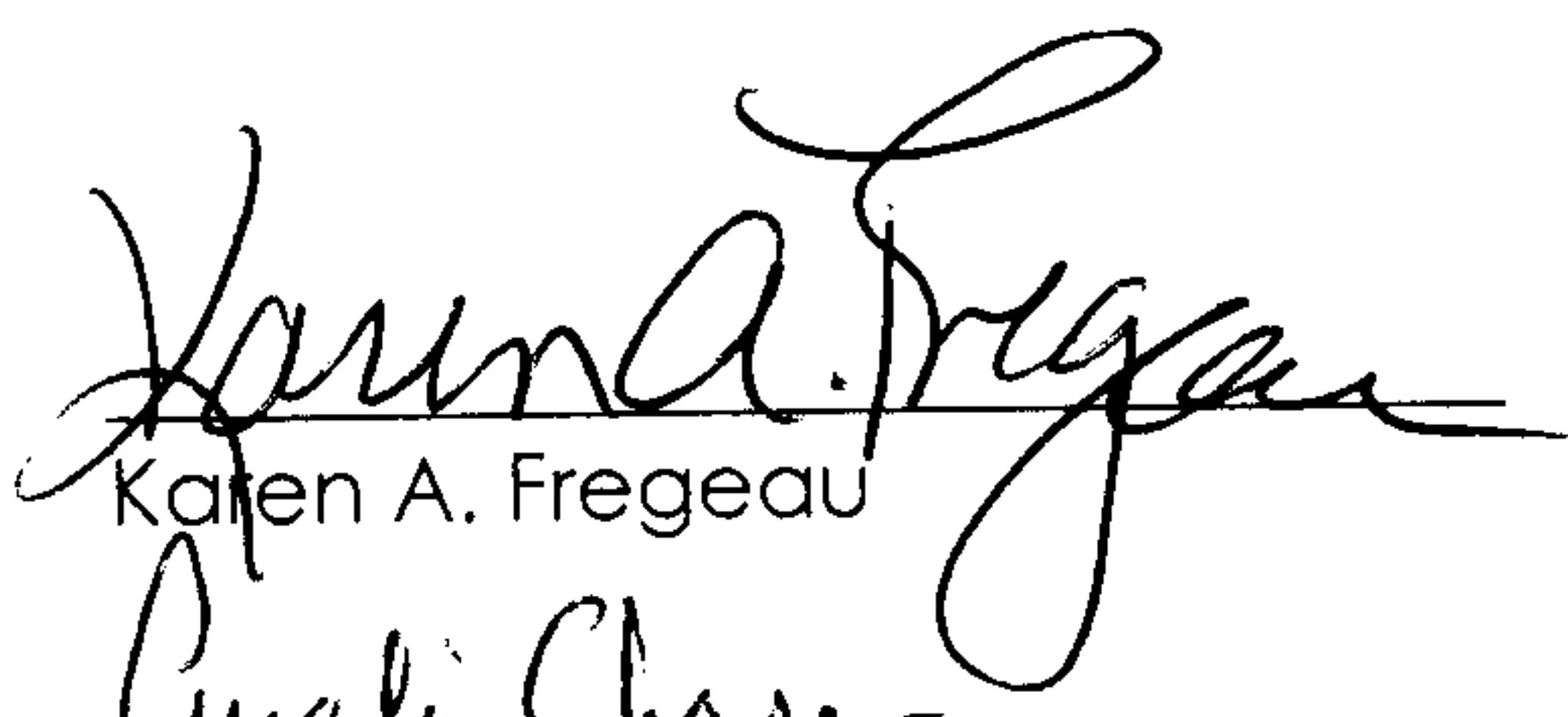
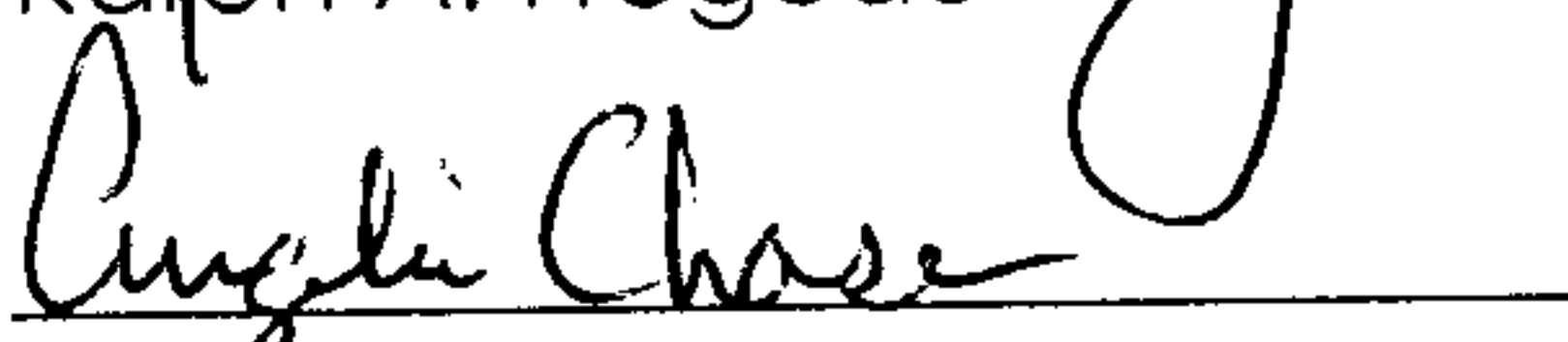
12. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their successors and assigns. In addition, this Agreement shall be binding upon any successor to Mortgagee's interest as Landlord of the Lease.



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

WITNESS:

TENANT: Alabama CVS Pharmacy, L.L.C.

  
Karen A. Fregeau  
  
Angelia Chase

By:   
Sheila C. Perkins  
Manager of Lease Administration


STATE OF RHODE ISLAND    )  
  ) ss:  
COUNTY OF PROVIDENCE    )

On this 19<sup>th</sup> day of September, 2013, before me personally appeared Sheila C. Perkins, who, being by me duly sworn, did depose and say that she resides in Riverside, Rhode Island; that she is Manager of Lease Administration of Alabama CVS Pharmacy, L.L.C., the limit liability company described in and which executed the above instrument and that she executed this instrument on behalf of said limit liability company and that she had authority to do so.

  
NOTARY PUBLIC

My commission expires: 9/12/15

MARY A. PORTER  
Notary Public, State of Rhode Island  
My Commission Expires September 12, 2015

  
20131022000417590 5/10 \$41.00  
Shelby Cnty Judge of Probate, AL  
10/22/2013 08:10:45 AM FILED/CERT



WITNESS:

MORTGAGEE: Coastal Federal Credit Union

W G Willard

By:

Name: Peter Van Graafeiland

Title: V.P.

John A. Smith

STATE OF NC )

COUNTY OF WAKE )

ss:

On this 17 day of OCTOBER, 2013, before me personally appeared PETER VAN GRAAFEILAND, who, being by me duly sworn, did depose and say that he/she resides in Raleigh, NORTH CAROLINA; that he/she is VICE-PRESIDENT of COASTAL FEDERAL CREDIT UNION, the FEDERAL CREDIT UNION described in and which executed the above instrument and that he/she executed this instrument on behalf of said FEDERAL CREDIT UNION and that he/she had authority to do so.

Christopher L. Willard  
NOTARY PUBLIC

My commission expires:

CHRISTOPHER L. WILLARD

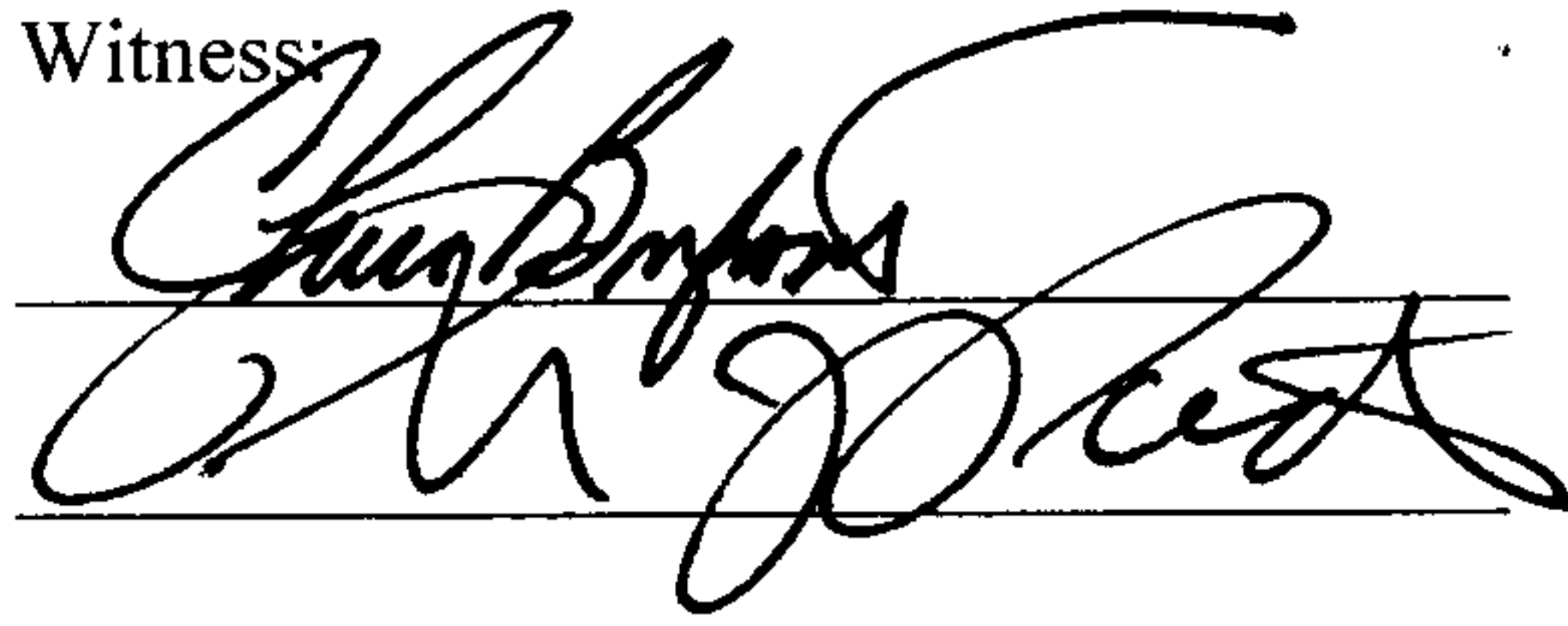
12-21-2013

CHRISTOPHER L. WILLARD  
Notary Public  
Wake County, NC  
My Commission Expires 12-21-2013



20131022000417590 6/10 \$41.00  
Shelby Cnty Judge of Probate, AL  
10/22/2013 08:10:45 AM FILED/CERT

Witness:

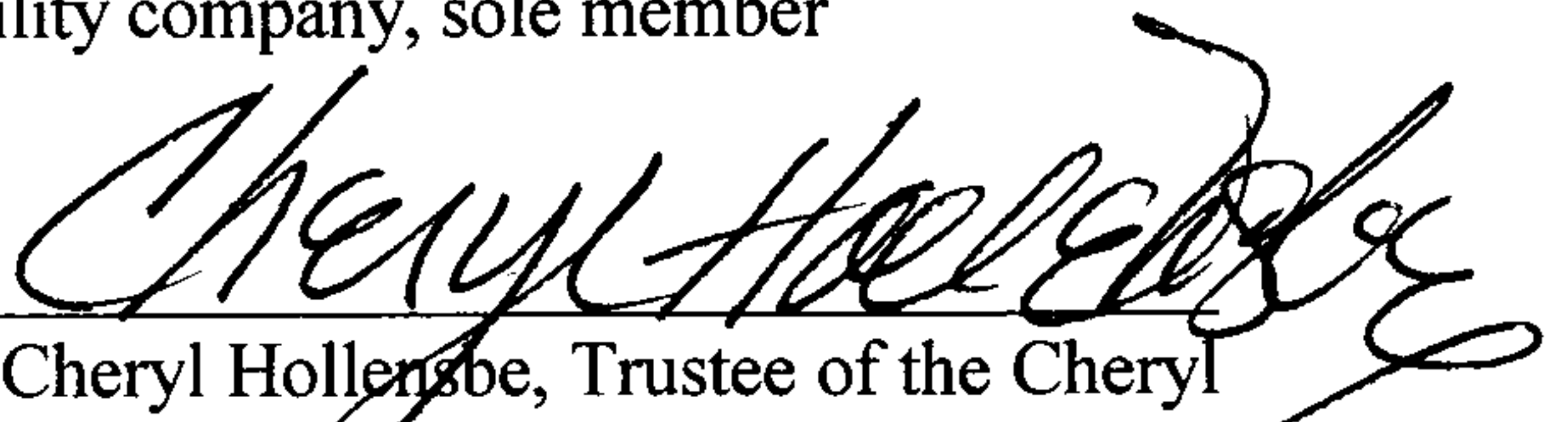


**LANDLORD:**

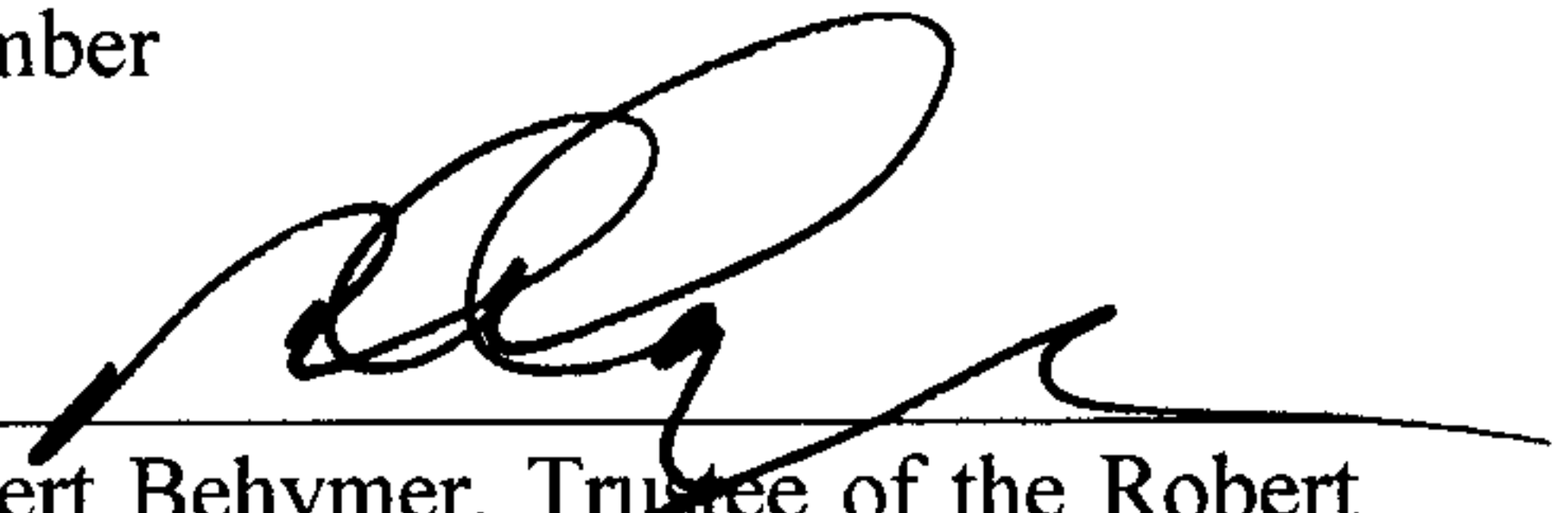
**BEHYMER FAMILY, LLC**, a Missouri limited liability company

By: Behymer Holding, LLC, a Missouri limited liability company, sole member

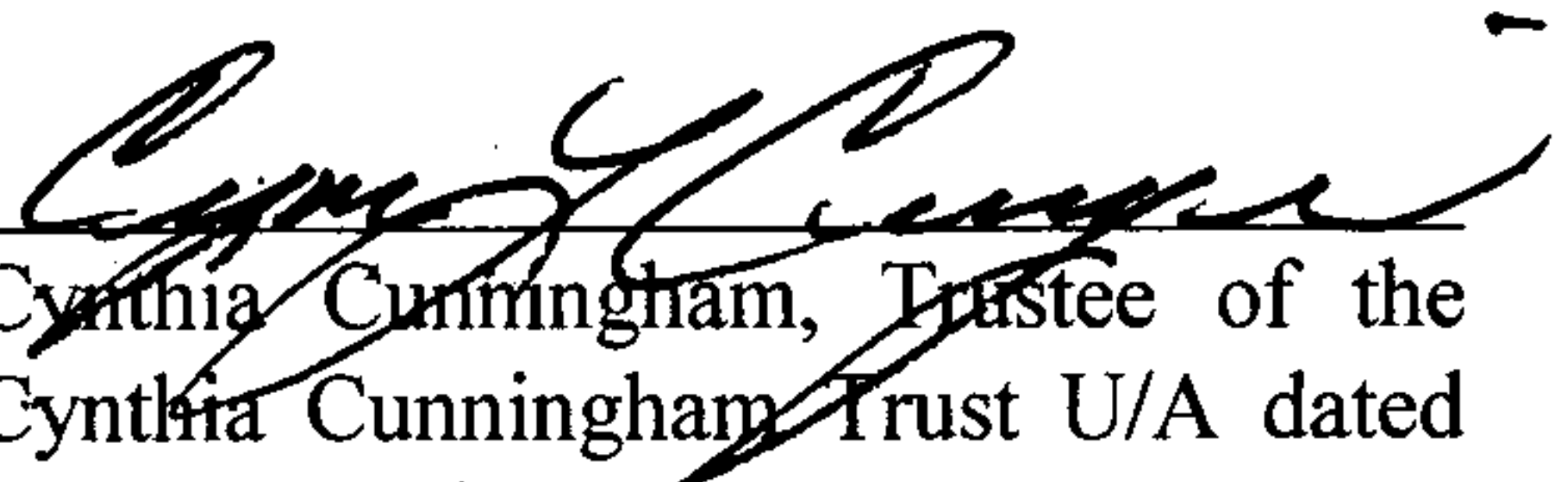
By:

  
Cheryl Hollensbe, Trustee of the Cheryl Hollensbe Trust U/A dated 5/26/09, Member

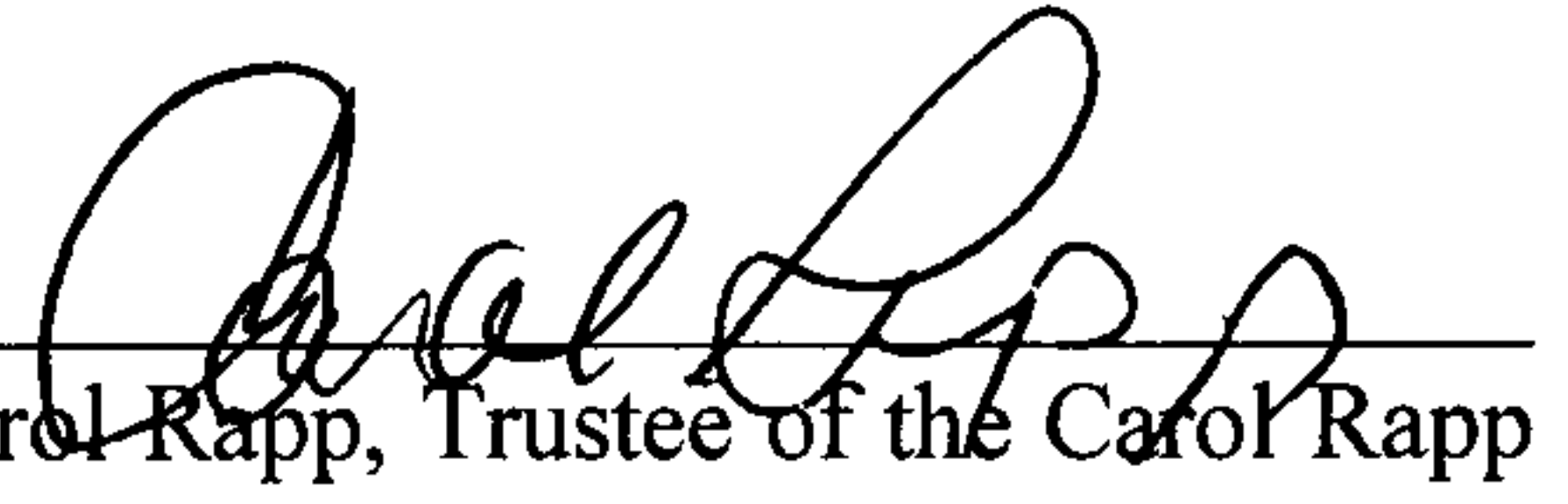
By:

  
Robert Behymer, Trustee of the Robert Behymer Trust U/A dated 3/13/09, Member

By:

  
Cynthia Cunningham, Trustee of the Cynthia Cunningham Trust U/A dated 3/6/09, Member

By:


  
Carol Rapp, Trustee of the Carol Rapp Trust U/A dated 2/28/09, Member



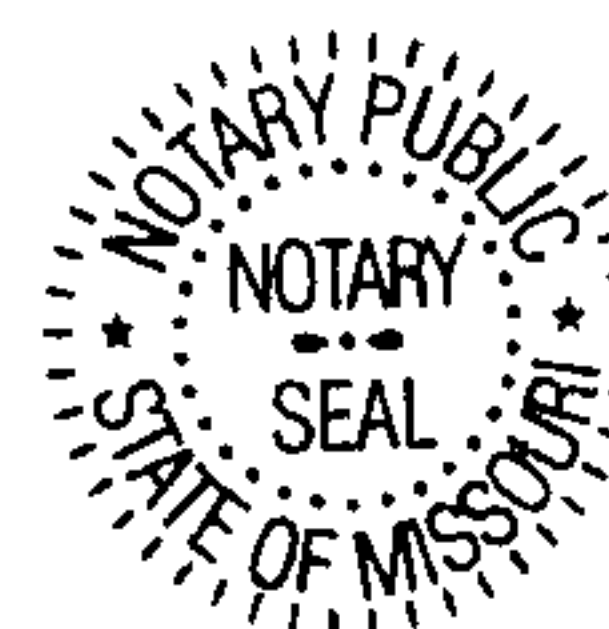
STATE OF MISSOURI     )  
                                      )  
COUNTY OF ST. LOUIS    )

On this 7 day of October, 2013, before me personally appeared Cheryl Hollensbe, Trustee of the Cheryl Hollensbe Trust U/A dated 5/26/09, to me personally known, who, being by me duly sworn, did say that her revocable trust is a Member of Behymer Holding, LLC, a Missouri limited liability company; and said Cheryl Hollensbe, Trustee of the Cheryl Hollensbe Trust U/A dated 5/26/09 acknowledged said instrument to be the free act and deed of Behymer Holding, LLC as the sole Member of Behymer Family, LLC.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

  
Notary Public

My term expires: 5/2/15

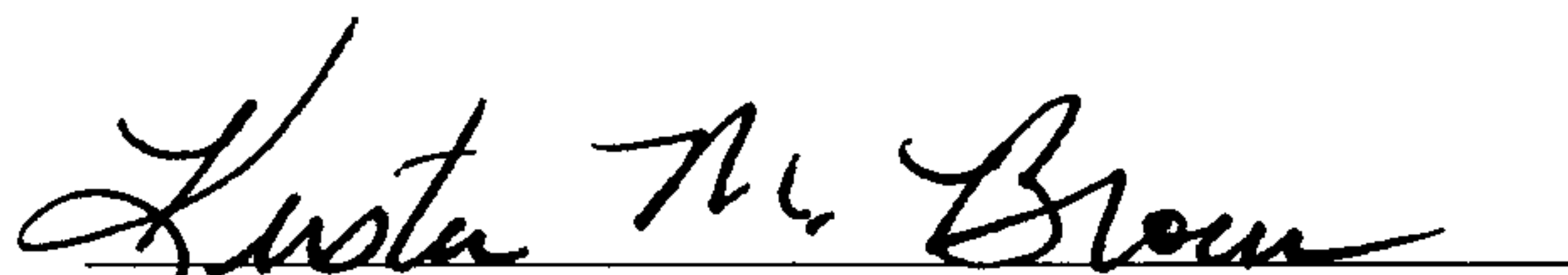


KIRSTEN M. BROWN  
My Commission Expires  
May 2, 2015  
St. Charles County  
Commission #11425956

STATE OF MISSOURI     )  
                                      )  
COUNTY OF ST. LOUIS    )

On this 7 day of October, 2013, before me personally appeared Robert L. Behymer, Trustee of the Robert L. Behymer Trust U/A dated 3/13/09, to me personally known, who, being by me duly sworn, did say that his revocable trust is a Member of Behymer Holding, LLC, a Missouri limited liability company; and said Robert L. Behymer, Trustee of the Robert L. Behymer Trust U/A dated 3/13/09 acknowledged said instrument to be the free act and deed of Behymer Holding, LLC as the sole Member of Behymer Family, LLC.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

  
Notary Public

My term expires: 5/2/15



KIRSTEN M. BROWN  
My Commission Expires  
May 2, 2015  
St. Charles County  
Commission #11425956



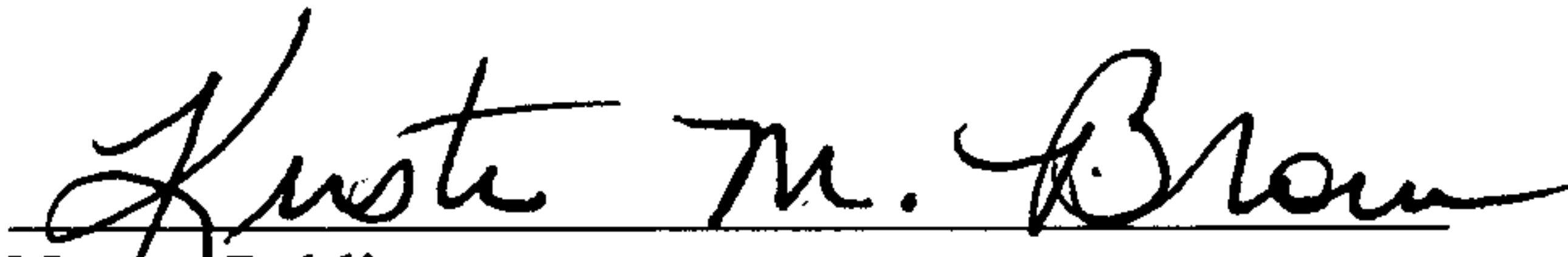
20131022000417590 8/10 \$41.00  
Shelby Cnty Judge of Probate, AL  
10/22/2013 08:10:45 AM FILED/CERT



STATE OF MISSOURI     )  
                                      )  
COUNTY OF ST. LOUIS    )

On this 7 day of October, 2013, before me personally appeared Cynthia Cunningham, Trustee of the Cynthia Cunningham Trust U/A dated 3/6/09, to me personally known, who, being by me duly sworn, did say that her revocable trust is a Member of Behymer Holding, LLC, a Missouri limited liability company; and said Cynthia Cunningham, Trustee of the Cynthia Cunningham Trust U/A dated 3/6/09 acknowledged said instrument to be the free act and deed of Behymer Holding, LLC as the sole Member of Behymer Family, LLC.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

  
Notary Public

My term expires: 5/2/15

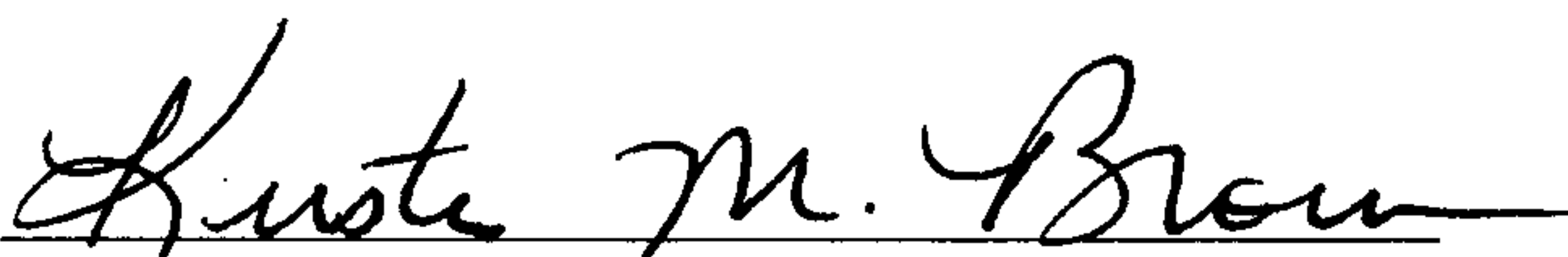


KIRSTEN M. BROWN  
My Commission Expires  
May 2, 2015  
St. Charles County  
Commission #11425956

STATE OF MISSOURI     )  
                                      )  
COUNTY OF ST. LOUIS    )

On this 7 day of October, 2013, before me personally appeared Carol Rapp, Trustee of the Carol Rapp Trust U/A dated 2/28/09, to me personally known, who, being by me duly sworn, did say that her revocable trust is a Member of Behymer Holding, LLC, a Missouri limited liability company; and said Carol Rapp, Trustee of the Carol Rapp Trust U/A dated 2/28/09 acknowledged said instrument to be the free act and deed of Behymer Holding, LLC as the sole Member of Behymer Family, LLC.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

  
Notary Public

My term expires: 5/2/15



KIRSTEN M. BROWN  
My Commission Expires  
May 2, 2015  
St. Charles County  
Commission #11425956

EXHIBIT A

Letter Agreement dated January 17, 2008


Memorandum of Lease dated January 17, 2008

Guaranty of CVS Caremark Corporation dated January 25, 2008

First Amendment to Ground Lease dated February 11, 2008

Lease Term/Rent Commencement Letter Agreement dated August 18, 2008

Prepared by:  
The Title Group  
Roxi Crawford  
3500 Colonnade Place  
Birmingham, AL 35243

  
20131022000417590 10/10 \$41.00  
Shelby Cnty Judge of Probate, AL  
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