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Shelby Cnty Judge of Probate, AL
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STATE OF ALABAMA
COUNTY OF SHELBY

LOAN # 74021301

ASSUMPTION AGREEMENT AND ASSIGNMENT OF RENTS AND LEASES

THIS ASSUMPTION AGREEMENT AND ASSIGNMENT OF RENTS AND LEASES (hereinafter "Assumption Agreement") is entered into by **NEWCASTLE PROPERTIES, LIMITED LIABILITY COMPANY** (also known as **NEWCASTLE PROPERTIES, LLC**) whose address is 3978 Parkwood Road, Bessemer, Alabama 35022 (hereinafter "Assumptor") for the benefit of **ALiant BANK, a division of USAMERIBANK** (hereinafter "Bank") and is effective as of June 7, 2013 (the "Effective Date").

WHEREAS, Bank made a loan (the "Loan") to **NEWCASTLE CONSTRUCTION, INC.**, an Alabama corporation (hereinafter "Original Borrower"), which is currently evidenced by that certain Promissory Note executed by Original Borrower and delivered to Bank on May 8, 2012 (hereinafter, along with all change in term agreements, amendments, renewals, and extensions thereof including those executed by Assumptor, the "Note").

WHEREAS, the Loan was secured in part by the Construction Mortgage dated May 9, 2012 from Original Borrower to Bank, and which is recorded as Instrument 20120523000183850 in the Office of the Judge of Probate of Shelby County, Alabama (hereinafter the "Mortgage").

WHEREAS, the Original Borrower mortgaged, granted, and conveyed to Bank, with power of sale, the property described in the Mortgage, including the Realty described below:

Lots 50, 51, 52, 53, 54, 55, 56 and 57, according to the Amended Plat of Calera Commons Townhomes, as recorded in Map Book 38, Page 62, in the Probate Office of Shelby County, Alabama.

(hereinafter the "Mortgaged Property").

WHEREAS, Assumptor desires to acquire that portion of the Realty still owned by Original Borrower, and in connection therewith assume the Loan made by Bank to Original Borrower.

WHEREAS, Bank and Assumptor are agreeable to this assumption, provided Assumptor i)

assumes the Loan, ii) grants Bank an assignment of rents and leases on the Mortgaged Property, and iii) enters into this Assumption Agreement.

NOW THEREFORE, in consideration of the premises, to induce Bank to consent to Assumptor's assumption of the Loan, and for \$10.00 and other good and valuable consideration, it is agreed as follows:

1. **ASSUMPTION OF THE LOAN:** Assumptor assumes the Loan and the obligation to pay the amount outstanding on the Loan in accordance with the terms of the Note. Assumptor further assumes and agrees to pay the indebtedness and perform every act and obligations of Original Borrower under the terms of the Note, Mortgage, Assignment, and any and all other documents pertaining to the Loan or executed in connection with the Note, Mortgage, and Assignment (hereinafter collectively the "Loan Documents") in the same manner and with the same effect as though they had originally joined in the execution thereof. Upon execution of this agreement, and the assumption of these obligations, Assumptor shall become a "Borrower" and a "Mortgagor" as those terms are defined in the Loan Documents.

2. **NO RELEASE OF ORIGINAL BORROWER OR GUARANTORS:** Glenn C. Siddle (hereinafter jointly, severally, and collectively the "Guarantors") and Original Borrower are not released from their obligations evidenced by the Loan Documents, and nothing contained herein should be in any way construed as a release of Original Borrower and/or Guarantors, and by the execution hereof, Guarantors among other things, guarantee to Bank the full and prompt payment of the Loan, the Note, and all loans, overdrafts, notes, bills, and all other debts, obligations, and liabilities of every kind and description, whether now owing or hereafter arising out of credit previously, contemporaneously, or hereafter granted by Bank to the Assumptor, whether arising from dealings between the Bank and the Assumptor, or from dealings by which the Bank may become, in any manner whatever, a creditor of the Assumptor. Guarantors further agree to be, without deduction by reason of setoff, defense, or counterclaim of the Assumptor, primarily liable for the due performance and prompt payment of all of the obligations of the Assumptor to Bank, no matter when or how arising, whether under a note, or any other past, present or future agreement with Bank, or otherwise, including debts and obligations incurred by the Assumptor to others and pledged, sold, transferred, assigned and/or in which security interests are granted to Bank for any purpose whatsoever, and specifically including any and all interest, attorney fees, and cost pertaining thereto, or which accrue after an order for relief is entered against Assumptor in any Bankruptcy proceedings. Guarantors further consent to and hereby waives any and all notice of the making of any modification, amendment, renewal or extension of the Note or any note or agreement or any supplement thereto; the making of any other agreement; the incurring of any other debts or obligations by the Assumptor to Bank or others and/or of the pledge, sale, transfer, and/or assignment thereof; the granting of security interests therein to Bank; the granting to the Assumptor or to any obligor or debtor of any obligation or debts assigned to Bank, of any extensions of time to make any payments to perform or discharge any of Assumptor's obligations (or waive such performances and/or discharge); the compounding, compromising, and/or adjusting of any claim against the Assumptor or any such obligor or debtor; the accepting or releasing of any security either of Assumptor or of any third party; and all other notices which the Guarantors are entitled. No act on Bank's part and nothing other than the full payment, performances, and discharge of all

of Assumptor's obligations shall operate to discharge or satisfy the liability of the Guarantors hereunder. The liability of the Guarantors hereunder is primary, direct and unconditional and may be enforced without first resorting to any rights or remedies Bank may have against the Assumptor, any other person, any other entity, or against any security. Guarantors further agree that this agreement, and all obligations guaranteed or secured hereby, shall remain in full force and effect and in its original tenor at all times hereinafter during the term hereof, notwithstanding i) the unenforceability, non-existence, invalidity, or non-perfection of any of the obligations, or any instrument or agreement guaranteeing or securing the obligations, or of any lien, pledge, assignment, security interest or conveyance given as security for the obligations; ii) the failure of Bank to pursue any collateral securing the obligations or the failure to file a claim against the Assumptor or any other guarantor of the obligation in any proceeding pertaining to the death, insolvency, or bankruptcy of such person or entity; or iii) any action or undertakings by, or against, Bank or Assumptor or concerning any collateral which is secured, pledged or assigned to the Bank in connection with the obligation in any proceeding in the United States Bankruptcy Court; including without limitation, matters relating to valuation of collateral, election or imposition of secured or unsecured claim status upon claims by the Bank pursuant to any Chapter of the Bankruptcy Code, as may be applicable from time to time.

3. **TAXES, ASSESSMENTS, AND OTHER CHARGES:** Assumptor will pay all taxes, assessments, or governmental charges levied, assessed, or imposed against Assumptor or Assumptor's properties or arising out of Assumptor's operations promptly as they become due and payable, provided, however, that if Assumptor shall have set aside on Assumptor's books reserves deemed adequate therefor, Assumptor shall have the right to contest in good faith, by appropriate proceedings, any such taxes, assessments or governmental charges or levies, and pending such contest may delay or defer the payment thereof unless thereby the property in which Bank has a mortgage or security interest will be in danger of being forfeited or lost.

4. **INCORPORATION OF LOAN DOCUMENTS:** Assumptor acknowledges receipt of a copy of all the Loan Documents, and agrees to be bound under the terms of each and every Loan Document, just as if Assumptor executed each Loan Document. Assumptor will comply with each and every term, condition, agreement, representation, and covenant in the Loan Documents, just as if Assumptor executed the same.

5. **COST AND EXPENSES:** Assumptor agrees to pay all recording fees, reasonable fees, (including a reasonable fee of the attorneys retained by Bank to prepare or review the instruments for this obligation) and all other reasonable expenses and costs of every kind which may be incurred by Bank in the making of this assumption, and in maintaining unimpaired its security and lien, or otherwise connected with or growing out of this transaction.

6. **ASSIGNMENT OF RENTS AND LEASES:** In consideration of Bank's consent to Assumptor's assumption of the Loan and for other good and valuable consideration, and to secure the prompt payment of the Note, the Mortgage, and any other agreement between Original Borrower, Assumptor and Bank, or any other indebtedness (whether now existing or hereafter created) owed to Bank by Original Borrower or Assmptor either directly or indirectly, absolutely or conditionally (hereinafter, collectively with the indebtedness evidenced by the Note and the

Mortgage, "Debt"), with the interest thereon, and further to secure the performance of the covenants, conditions and agreements hereinafter set forth and set forth in the Loan Documents, Assumptor does hereby grant, bargain, sell, and convey unto Bank, their successors, and assigns the immediate and continuing right to collect and receive all of the rents, income, receipts, revenues, issues and profits now due or which may become due or to which the Assumptor may now or shall hereafter (including during the period of redemption, if any) become entitled or may demand or claim, arising or issuing from or out of the leases, written or oral, and all agreements for use or occupancy of any portion of the Mortgaged Property with respect to which the Assumptor is the lessor, including but not limited to the existing lease (if any) currently pertaining to the Mortgaged Property (the "Existing Leases"), any and all extensions and renewals of said leases and agreements and any and all further leases or agreements, now existing or hereafter made, including subleases thereunder, upon or covering the use or occupancy of all or any part of the Mortgaged Property (all such leases, subleases, agreements and tenancies heretofore mentioned, including but not limited to, the Existing Leases being hereinafter collectively referred to as the "Leases") or from or out of the Mortgaged Property or any part thereof, including, but not limited to, minimum rents, additional rents, percentage rents, common area maintenance charges, parking charges, tax and insurance premium contributions, and liquidated damages following default, the premium payable by any lessee upon the exercise of any cancellation privilege provided for in any of the Leases, and all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by destruction or damage to the Mortgaged Property, together with any and all rights and claims of any kind that the Assumptor may have against any such lessee under the Leases or against any subtenants or occupants of the Mortgaged Property (all such moneys, rights and claims in this paragraph described being hereinafter referred to as the "Rents"); provided, however, so long as no Event of Default has occurred, the Assumptor shall have the right under a license granted hereby to collect, receive and retain the Rents (but not prior to accrual thereof).

In addition, Assumptor does hereby sell, assign and transfer unto Bank all Leases, and subleases of all or part of the Mortgaged Property, including without limitation the Existing Leases (if any), and all Rents. It is the intention of the parties that this assignment of rents and leases shall be a present assignment, and to hereby establish an absolute transfer and assignment (but not a delegation of duties) of all the said leases, subleases and agreements, and all that avails thereof, to Bank.

6.1 **Covenants Relating to Rents and Leases.** The Assumptor covenants and agrees that the Assumptor shall: (a) observe, perform and discharge all obligations, covenants, and warranties provided for under the terms of the Leases to be kept, observed and performed by the Assumptor, and shall give prompt notice to the Bank in the event the Assumptor fails to observe, perform, and discharge the same; (b) enforce or secure in the name of the Bank the performance of each and every obligation, term, covenant, condition and agreement to be performed by any lessee under the terms of the Leases; (c) appear in and defend any action or proceeding arising under, occurring out of, or in any manner connected with the Leases or the obligations, duties or liabilities of the Assumptor and any lessee thereunder, and, upon request by the Bank to do so in the name and on behalf of the Bank but at the expense of the Assumptor, and to pay all costs and expenses of the Bank, including reasonable attorneys' fees, in any action or proceeding in which the Bank may appear; (d) not receive or collect any Rents from any present or future lessee of the

Mortgaged Property or any of the Improvements, or any part thereof, for a period of more than one month in advance, or pledge, transfer, mortgage or otherwise encumber or assign future payments of the Rents; (e) not waive, excuse, condone, discount, set off, compromise, or in any manner release or discharge any lessee of the Mortgaged Property of and from any obligations, covenants, conditions and agreements by said lessee to be kept, observed and performed, including the obligation to pay rent in the manner and at the place and time specified in any Lease; (f) not cancel, terminate or consent to any surrender of any Lease, or modify or in any way alter the terms thereof without, in each such instance, the prior written consent of the Bank; (g) upon Bank's request, furnish the Bank with the name and address of all lessees under the Leases, the term of such Leases, a description of the premises covered thereby, and a copy of such Lease; and (h) execute all such further assignments of such Lease and the Rents therefrom as the Bank may require.

6.2 **Bank Shall Have No Obligations with Respect to Leases.** The Bank shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any leases, subleases or rental agreements relating to the Mortgaged Property, and the Assumptor shall and does hereby agree to indemnify and hold the Bank harmless of and from any and all liability, loss or damage which it may or might incur under any leases, subleases or agreements or under or by reason of the assignment thereof and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in said leases, sublease or agreements. Should the Bank incur any such liability, loss or damage, under said leases or under or by reason of the assignment thereof, or in the defense of any claims or demands asserted against the Bank in connection with any one or more said leases, subleases or agreements, the Assumptor agrees to reimburse the Bank for the amount thereof, including costs, expenses and reasonable attorneys' fees, all of which shall be secured by the assignment hereunder and by this Mortgage.

Nothing herein contained shall be construed as constituting Bank as "mortgagee in possession" in the absence of the taking of actual possession of the Mortgaged Property by the Bank pursuant to the provisions hereinafter contained. In the exercise of the powers herein granted to Bank, no liability shall be asserted or enforced against the Bank, all such liability being expressly waived and released by Assumptor.

7. **HEADINGS, WAIVERS, SURVIVAL OF COVENANTS, MISCELLANEOUS:**

7.1. The headings of the articles, sections, paragraphs, and subdivision of this Assumption Agreement are for convenience or reference only, and are not to be considered a part hereof, and shall not limit or affect any of the terms hereof.

7.2. All agreements and representations, made herein shall be deemed to be material and relied on by Bank, notwithstanding any investigation made by or on behalf of Bank, and shall survive the execution and delivery to Bank of this Assumption Agreement, or any agreement referred to herein.

7.3. No delay or failure on Bank's part in exercising any right, privilege, or option hereunder or under any other written agreement to which Assumptor is a party, shall operate as a waiver of such right, privilege, or option and no waiver whatsoever shall be valid unless in writing signed by Bank and then only to the extent therein set forth.

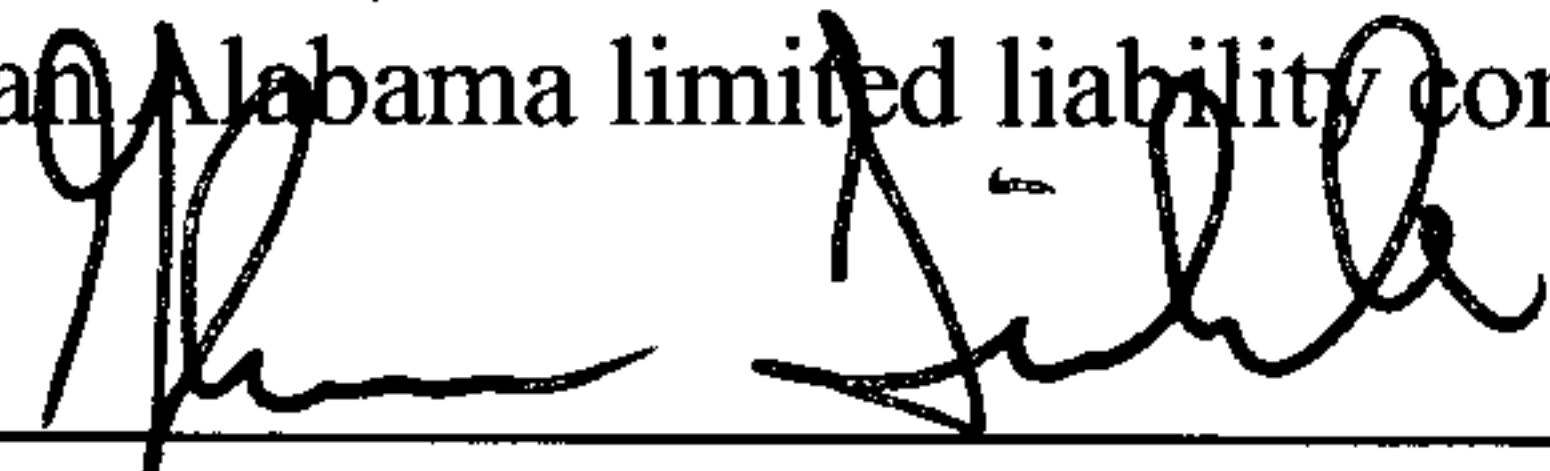
7.4. ASSUMPTOR CONSENTS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED IN BIRMINGHAM, ALABAMA AND WAIVES ANY OBJECTION ASSUMPTOR MAY HAVE BASED UPON IMPROPER VENUE OR FORUM NON CONVENIENS OR TO THE CONDUCT OF ANY PROCEEDINGS IN ANY SUCH COURT. IN ANY JUDICIAL PROCEEDING BROUGHT WITH RESPECT TO THIS ASSUMPTION AGREEMENT, THE NOTE, THE MORTGAGE OR THE ASSIGNMENT, ASSUMPTOR WAIVES ANY RIGHT TO TRIAL BY JURY.

7.5. This Assumption Agreement, and the Loan Documents shall continue in full force and effect until terminated by full payment of all of Assumptor's Obligations to Bank.

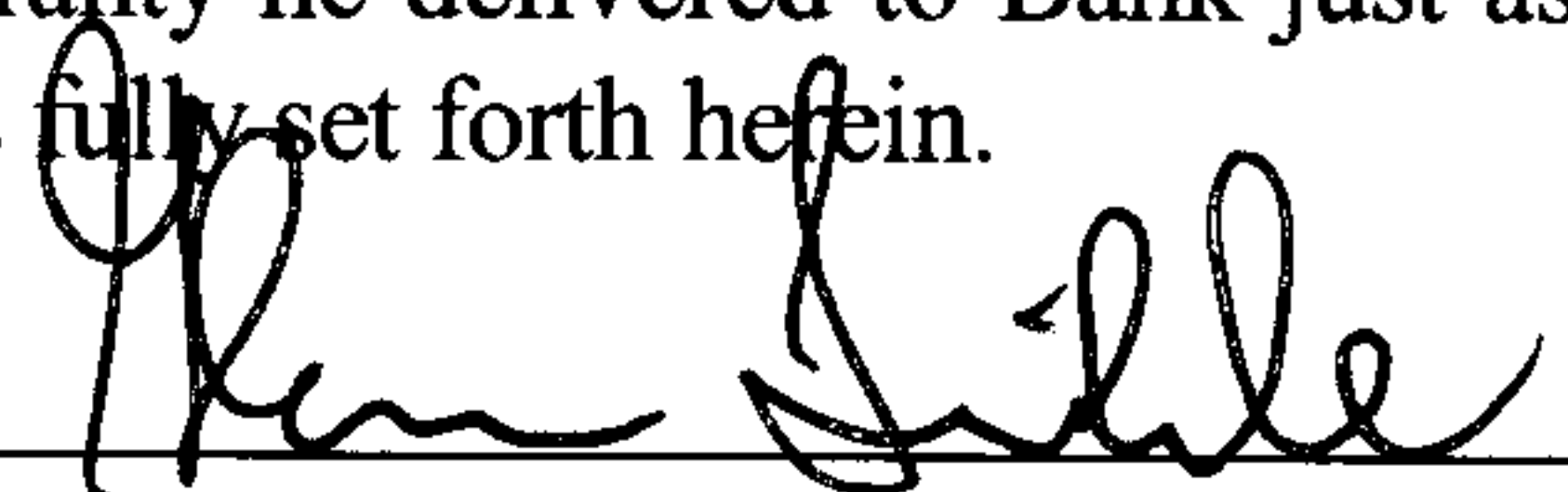
7.6. This Assumption Agreement amends the Loan Documents as specifically stated above. This is an amendment to such documents and not a novation thereof. All terms and conditions of such agreements, not specifically amended herein, or hereby reaffirmed, ratified, and shall continue in full force and effect.


IN WITNESS WHEREOF, we have hereunto set our hands and seals, effective as of the Effective Date.

NEWCASTLE PROPERTIES, LIMITED LIABILITY COMPANY (also known as NEWCASTLE PROPERTIES, LLC), an Alabama limited liability company

By: 
Print Name: Glenn C. Siddle
Title: Manager

The undersigned being the Guarantor, does hereby acknowledge and consent to this assumption, and in connection with this assumption, hereby agree to section 2 hereof and confirm his obligations as to the Loan and reconfirm, re-ratify and re-state the guaranty he delivered to Bank just as if same was fully set forth herein.

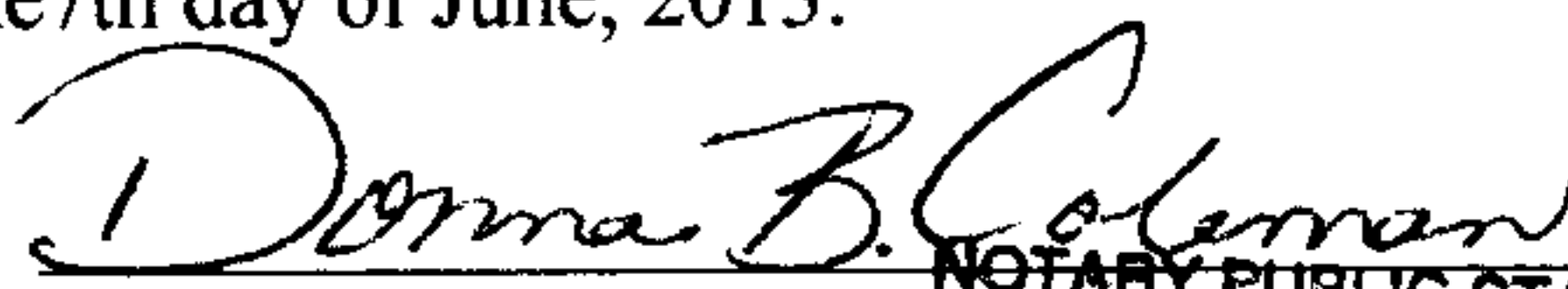
 L.S.
Glenn C. Siddle


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STATE OF ALABAMA)
JEFFERSON COUNTY)


I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Glenn C. Siddle, whose name as Manager of NEWCASTLE PROPERTIES, LIMITED LIABILITY COMPANY (also known as NEWCASTLE PROPERTIES, 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, as an act of said company, acting in his capacity as aforesaid.

Given under my hand and official seal, this the 7th day of June, 2013.


NOTARY PUBLIC NOTARY PUBLIC STATE OF ALABAMA AT LARGE
My Commission Expires: MY COMMISSION EXPIRES: Aug 31, 2014
BONDED THRU NOTARY PUBLIC UNDERWRITERS

THIS INSTRUMENT PREPARED BY AND AFTER
RECORDATION SHOULD BE RETURNED TO:

Heather E. Ward
ENGEL, HAIRSTON & JOHANSON, P.C.
109 North 20th Street, Fourth Floor
P.O. Box 11405
Birmingham, Alabama 35202
(205) 328-4600


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