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Shelby Cnty Judge of Probate, AL
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AFTER RECORDING, RETURN TO:

Nathan T. Johns, Esq.
MENDENFREIMAN LLP
2 Ravinia Drive, Suite 1200
Atlanta, Georgia 30346

ASSIGNMENT OF RENTS AND LEASES

THIS ASSIGNMENT OF RENTS AND LEASES (the “Assignment”) is made this 19 day of February, 2014, by **HELENA PROPERTIES, LLC** (the “Assignor”), to **BAY POINT CAPITAL PARTNERS, LP** whose address is 3050 Peachtree Road NW, Suite 2, Atlanta, GA 30305 (the “Assignee”).

W I T N E S S E T H:

WHEREAS, Assignor is indebted to Assignee for money borrowed in the aggregate sum of THREE HUNDRED TEN THOUSAND AND NO/100THS DOLLARS (\$310,000.00) (the “Loan”), as evidenced by that certain Promissory Note of even date herewith, in the original principal amount of \$310,000.00 made by Assignor to the order of Assignee (the “Note”) and secured by that certain Mortgage and Security Agreement of even date herewith from Assignor to Assignee (the “Mortgage”) creating a lien on those certain Premises more particularly described on Exhibit “A” attached hereto and made a part hereof (the “Premises” or “Property”); and

WHEREAS, Assignee is willing to make said Loan, provided, among other things, that Assignor assign to Assignee its right, title and interest in and to the rents, issues, profits, revenues, royalties, rights and benefits from the Premises; and

WHEREAS, Assignor is willing to make such assignment on the terms and conditions hereof as an inducement to Assignee to make such Loan.

NOW, THEREFORE, in consideration of the premises and of the Loan, the sum of Ten and No/100ths Dollars (\$10.00), and for other good and valuable considerations, the receipt whereof are hereby acknowledged, Assignor hereby agrees as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.
2. Assignment. Assignor hereby grants, conveys, transfers and assigns to Assignee all of its right, title and interest in and to (i) the rents, income, issues, profits, revenues, royalties, rights and benefits arising now and hereafter from the Premises (collectively the “**Rents and Profits**”), together with any and all existing and future leases upon all or any part of the Premises and together with any and all amendments, extensions, guarantees of the tenants’ obligations thereunder, and all renewals, modifications and replacements thereof (collectively, the “**Leases**”), and (ii) any and all monies, awards or other payments made or payable by any and all tenants under the leases either in lieu of rent or on account of or arising from any default by any tenant under any lease, including, but not limited to, any damages (all such monies, award or payments, including but not limited to, damages, are collectively referred to herein as the “**Damages**”).
3. Purpose of Assignment. This Assignment is made for the purpose of securing payment of the indebtedness evidenced by the Note, together with all other sums with interest becoming due and payable to Assignee under the provisions hereof or of the Note and Mortgage (including, but not limited to, any future advance under the Mortgage) and the performance and discharge of the obligations, covenants and agreements of Assignor contained herein or in the Note, Mortgage or any other instrument or agreement now or hereafter executed by Assignor as security for the repayment of the above described indebtedness (collectively, the “**Related Agreements**”).

4. Representations and Warranties. Assignor hereby represents and warrants that:

(a) Assignor has the right, power and capacity to make this Assignment and that no person, firm or corporation or other entity other than Assignor has or will have any right, title or interest in or to the Leases or the Rents and Profits.

(b) With respect to each Lease in effect at the date hereof: (i) the Lease is in full force and effect and is valid, binding and enforceable in accordance with its terms; (ii) the Lease has not been modified or amended in any respect, nor has any provision thereof been waived; (iii) neither the tenant nor lessor thereunder is in default under the terms of the Lease; (iv) no rent has been prepaid under the Lease for more than one month in advance; (v) the tenant thereunder has no deduction, claim, counterclaim, set-off, or defense against the lessor thereunder or against the rents or other sums payable or to be payable thereunder.

5. Covenants.

(a) Assignor shall not, without the prior written consent of Assignee, which consent shall not be unreasonably withheld or delayed, (i) enter into, or consent to or permit the assignment or subletting of, any Leases; (ii) modify, extend, cancel, consent to any surrender, or in any way alter the terms of the Leases; (iii) alter, modify, change or terminate the terms of any guaranties of the Leases; (iv) create or permit any lien or encumbrance which, upon foreclosure, would be superior to any such Leases or in any other manner impair Assignee's rights and interest with respect to the Rents and Profits; (v) pledge, transfer, mortgage or otherwise encumber or assign the Leases or the Rents and Profits; or (vi) collect rents more than thirty (30) days prior to their due date.

(b) Assignor shall, at its sole cost and expense, perform and discharge all of the obligations and undertakings of the landlord under the Leases. Assignor shall enforce or secure the performance of each and every material obligation and undertaking of the tenants under the Leases. Assignor shall give prompt written notice to Assignee of any and all material defaults of any of the tenants under any and all of the Leases, together with a complete copy of any and all notices delivered as a result of such default.

(c) Assignor agrees, from time to time, to execute and deliver, upon demand, all assignments and any and all other writings as Assignee may reasonably deem necessary or desirable to carry out the purpose and intent hereof, or to enable Assignee to enforce any right or rights hereunder.

6. Events of Default. The term "Event of Default" as used herein shall mean the occurrence of any one of the following:

(a) If Assignor shall fail to comply with any of the covenants, duties or obligations of Assignor herein and such default shall continue for thirty (30) days (and conform to non-monetary default provisions of other Loan Documents) or more after written notice to Assignor from Assignee specifying the nature of such default;

(b) If a default shall occur under the Note, the Mortgage or any Related Agreement and shall not be cured within any applicable curative period as stated therein; or

(c) If any representation or warranty made by Assignor herein was false or misleading in any material adverse respect when made.

7. Revocable License to Collect Rents.

(a) Notwithstanding any provision to the contrary contained elsewhere herein, so long as no Event of Default has occurred and subject to paragraph 6 hereof, Assignor shall have a license to manage the Property; to collect, receive and use all Rents and Profits in accordance with the terms of the Leases; to let the Property and to take all actions which a reasonable and prudent landlord would take in enforcing the provisions of the Leases. From and after and during the continuance of the occurrence of an Event of Default (whether or not Assignee shall have exercised Assignee's option to declare the Note immediately due and payable), such license shall be automatically revoked without any action required by Assignee.

(b) Any amounts received by Assignor or its agents in the performance of any acts prohibited by the terms of this Assignment, including but not limited to any amounts received by Assignor as rents, income, issues or profits from the Premises from and after the later of the occurrence and during the subsistence of an Event of Default under this Assignment, the Note, the Mortgage or any of the other Related Agreements, shall be held by Assignor as trustee for Assignee and all such amounts shall be accounted for to Assignee and shall not be commingled with other funds of Assignor. Any person acquiring or receiving all or any portion of such trust funds shall acquire or receive the same in trust for Assignee as if such person had actual or constructive notice that such funds were impressed with a trust in accordance herewith.

8. Remedies of Assignee. Upon the occurrence of any Event of Default, Assignee in person or by agent or by court-appointed receiver may, at its option, without any action on its part being required, without in any way waiving such default, with or without the appointment of a receiver, or an application therefor:

(a) take possession of the Property and have, hold, conduct tests of, manage or hire a manager to manage, lease and operate the Property, on such terms and for such period of time as Assignee may deem proper, with full power to make, from time to time, all alterations, renovations, repairs or replacements thereto as may seem proper to Assignee;

(b) immediately and without notice to Assignor, with or without taking possession of the Property, notify tenants under the Leases or any other parties in possession of the Property to pay Rents and Profits directly to Assignee, its agent or a court-appointed receiver, and collect and receive all such Rents and Profits and apply them to the payment of:

(i) all costs and expenses incident to: taking and retaining possession of the Property, management and operation of the Property, keeping the Property properly insured and all alterations, renovations, repairs and replacements to the Property;

(ii) the indebtedness secured hereby; together with all costs and attorney's fees, in such order or priority as to any of such items as Assignee in its sole discretion may determine, any statute, law, custom or use to the contrary notwithstanding.

(c) commence, appear in and/or defend any action or proceedings purporting to affect the interests, rights, powers and/or duties of Assignee hereunder, whether brought by or against Assignor or Assignee;

(d) pay, purchase, contest or compromise any claim, debt, lien, charge or encumbrance which in the judgment of Assignee may affect or appear to affect the interest of Assignee or the rights, powers and/or duties of Assignee hereunder; and

(e) take any additional actions or exercise any additional powers granted to Assignor by any law.

The receipt by Assignee of any Rents and Profits pursuant to this Assignment after the institution of foreclosure proceedings under the Mortgage shall not cure any such Event of Default or affect such proceedings or any sale pursuant thereto.

9. Indemnity and Assignee's Disclaimer. Assignor shall and does hereby agree to indemnify Assignee for and to defend and hold Assignee harmless from any and all liability, loss or damage which Assignee may or might incur under the Leases or under or by reason of this Assignment, and from any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligations or undertakings on Assignee's part to perform or discharge any of the terms, covenants or agreements contained in the Leases. Should Assignee incur any liability, loss or damage under the Leases or under or by reason of this Assignment, or in the defense of any of such claims or demands, the amount thereof, including costs, expenses and attorney's fees, shall be secured hereby; and Assignor shall reimburse Assignee therefor immediately upon demand, and upon failure of Assignor to do so, Assignee may declare all sums so secured to be immediately due and payable.

This Assignment shall not be deemed or construed to constitute Assignee as mortgagee-in-possession of the Property or to obligate Assignee to take any action hereunder, to incur expenses or to perform or discharge any obligation, duty or liability hereunder or under the Leases and Assignee is not required to take possession of the Property as a condition to the assignment contained herein.

10. Waiver and Discretion. The failure of Assignee to enforce any of the terms, covenants or conditions hereof shall not be construed or deemed to be a waiver of any rights or remedies hereunder. Assignee shall have the full right, power and authority to enforce this Assignment, or any of the terms, covenants or conditions hereof, at any time or times that Assignee shall deem fit.

11. Notices. Any notice required or permitted to be given under this Agreement shall be sufficient if in writing and if sent by certified or registered mail, return receipt requested, or by express courier (such as Federal Express) for overnight delivery, to the parties at the addresses listed above or such other place or places as the parties hereto may by ten (10) days' prior written notice thereof from time to time designate for the purpose of receiving notices hereunder.

12. Performance and Release. The full repayment of the indebtedness evidenced by the Note and the performance of all of the obligations set forth in the Mortgage and the duly recorded release thereof or reconveyance of the Property described therein shall constitute a reassignment of the Leases hereby assigned to Assignee.

13. Binding Effect. This Assignment applies to and binds the parties hereto and their respective heirs, administrators, executors, successors and assigns, as well as any subsequent owner of the Property (or any portion thereof) and any agreement creating rights in Assignee other than those created herein shall be deemed incorporated herein by reference and made a part hereof for all purposes.

14. Actions by Assignee. Assignee may take or release other security, may release any party primarily or secondarily liable for any indebtedness secured hereby, may grant extensions, renewals or indulgences with respect to such indebtedness, and may apply any other security therefor held by it to the satisfaction of such indebtedness, without prejudice to any of its rights hereunder.

15. No Election of Remedies. Nothing herein contained and no act done or omitted by Assignee pursuant to the powers and rights granted it herein shall be deemed to be a waiver by Assignee of its rights and remedies under the Note and Mortgage, and this Assignment is made and accepted without prejudice to any of the rights and remedies possessed by Assignee under the terms thereof.

16. Miscellaneous. In this Assignment, whenever the context so requires, the masculine gender includes the feminine or neuter, and the singular number includes the plural. Neither this Assignment nor pursuit of any remedy hereunder by Assignee shall cause or constitute a merger of the interests of the tenant and the lessor under any of the Leases such that any of the Leases hereby assigned are no longer valid and binding legal obligations of the parties executing the same. This Assignment shall be governed by and construed under the laws of the state in which the Property is located. The United States District Court for the District in which the Property is located and any court of competent jurisdiction of the State in which the Property is located shall have jurisdiction in any action, suit or other proceeding instituted to enforce the Note, the Mortgage, and this Assignment. Assignor hereby waives (a) any objections to the jurisdiction of such courts, (b) any objections to venue and (c) its right to a trial by jury in any action, proceeding or counterclaim brought by Assignee. In the event any one or more of the provisions contained in this Assignment shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision hereof, and this Assignment shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein, but only to the extent that it is invalid, illegal or unenforceable. This Assignment may not be amended or modified orally, but only by an agreement in writing signed by the party against whom enforcement of any amendment or modification is sought.

[SIGNATURES ON FOLLOWING PAGE]

[SIGNATURE PAGE TO ASSIGNMENT OF RENTS AND LEASES]

IN WITNESS WHEREOF, Assignor has caused this instrument to be executed as of the date first above written.

HELENA PROPERTIES, LLC

By: Melvin E. Burges (LLC)
Melvin E. Burges, Special Manager

CORPORATE ACKNOWLEDGMENT

STATE OF GEORGIA)
COUNTY OF DEKALB)

I, the undersigned, a Notary Public in and for Fulton County, in said State, hereby certify that MELVIN E. BURGESS, whose name as Special Manager of HELENA PROPERTIES, LLC, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of said conveyance, he, as such representative, and with full authority, executed the same voluntarily for and as the act of said limited liability company, on the day the same bears date.

Given under my hand and official seal, this 20th day of February, 2014.

SUSAN M CARON
NOTARY PUBLIC
FOURTH COUNTY, GEORGIA
MY COMMISSION EXPIRES DECEMBER 2, 2014

Susan M Caron
Notary Public

My Commission Expires:
December 2, 2014

(NOTARY SEAL)

EXHIBIT A

Legal Description

State of Alabama

County of Shelby

Beginning at the Northwest corner of Lot 1, Block 1, Mullins East Side Addition to Helena, as recorded in Map Book 4, Page 25, in the Office of the Judge of Probate of Shelby County and run thence North 82 degrees 28 minutes 39 seconds East along the North line of said Lot 1 a distance of 163.05 feet to the Northwest corner of Lot 15, Block 1, of same said Subdivision; thence run North 82 degrees 17 minutes 12 seconds East along the North line of said Lot 15 a distance of 173.99 feet to the Northeast corner of same said Lot 15; thence continue North 83 degrees 10 minutes 04 seconds East, crossing the Northerly end of the Vacated Mimosa Street a distance of 51.15 feet to the Northwest corner of Lot 9, Block 2 of same said Subdivision; thence continue North 80 degrees 02 minutes 41 seconds East a distance of 180.57 feet to a corner; thence run North 35 degrees 54 minutes 28 seconds East a distance of 38.14 feet to a corner; thence run North 80 degrees 05 minutes 13 seconds East a distance of 231.10 feet to a found capped corner; thence run South 06 degrees 46 minutes 41 seconds East a distance of 87.40 feet to a cross in concrete corner; thence run South 10 degrees 57 minutes 15 seconds East a distance of 91.97 feet to a found rebar corner; thence run South 74 degrees 26 minutes 16 seconds West a distance of 191.12 feet to a found rebar corner; thence run South 60 degrees 15 minutes 51 seconds West a distance of 42.65 feet to a found rebar corner; thence run South 07 degrees 54 minutes 53 seconds East a distance of 185.78 feet to a set rebar corner on a cul de sac property line having a central angle of 77 degrees 29 minutes 14 seconds and a radius of 50.0 feet; thence run Southwesterly along the arc of said cul de sac distance of 67.62 feet to a set rebar corner; thence run North 85 degrees 24 minutes 07 seconds West a distance 366.10 feet to a set rebar corner; thence run North 13 degrees 13 minutes 14 seconds West a distance of 127.78 feet to a found rebar corner; thence run South 82 degrees 14 minutes 09 seconds West a distance of 199.32 feet to a round rebar corner on the East margin of Rolling Mill Street; thence run North 02 degrees 58 minutes 06 seconds West along said margin of said street a distance of 199.91 feet to the point of beginning.



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