

Prepared By and After Recording
Mail to:

Robert Q. Jones, Jr.
Arby's Restaurant Group, Inc.
1155 Perimeter Center West
Atlanta, Georgia 30338


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**SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT**

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (the "**Agreement**"), is made and entered into as of the 26th day of March, 2015, by and between RTM Alabama, LLC, an Alabama limited liability company ("**Tenant**"), having an address of c/o Arby's Restaurant Group, Inc., 1155 Perimeter Center West, Atlanta, Georgia 30338, Attn: Melissa Nuss, Sr. Dir. Lease Management (Unit #7850, 105 South Colonial Drive, Alabaster, AL 35007) Highway 11/31, LLC, a an Alabama limited liability company ("**Landlord**"), having an address of c/o American Retail Maintenance, LLC, PO Box 130777, Birmingham, AL 35213, and Protective Life Insurance Company, its subsidiaries and their successors and/or assigns ("**Lender**"), having an address of P.O Box 2606, Attn: Investment Dept 3-3ML, Birmingham, AL 35202.

W I T N E S S E T H:

WHEREAS, Lender has agreed to make a loan to Landlord (the "**Loan**") to be secured by a mortgage or other security instrument to be recorded in the applicable public records (hereinafter collectively called the "**Mortgage**" and, collectively with any and all other documents evidencing, securing or pertaining thereto and/or to the Mortgage or the Loan, or to be secured, thereby, the "**Mortgage Documents**"), encumbering the Landlord's interest and title in and to certain premises as the same are described on Exhibit "A" attached hereto and incorporated herein by this reference (the "**Premises**"), and such other properties and interests as are described therein, and encumbering all of Landlord's rights, title and interest in and to the Lease (as described below) and the leasehold estate created thereby to secure the payment of the indebtedness described in the Mortgage; and

WHEREAS, Tenant and Landlord are the current parties to that certain Lease originally by and between Highway 31 Alabaster Two, LLC ("**Original Landlord**") and RTM Alabama, Inc. ("**RTM**"), predecessor in interest to Tenant, dated January 4, 2007; as evidenced by that certain Memorandum of Lease by and between Original Landlord and RTM, dated January 4, 2007, and recorded in the records of the Judge of Probate for Shelby County, Alabama, as instrument #20070418000180710; as may be affected by that certain Owner's Recognition, Non-Disturbance and Attornment Agreement by and among The Commercial Development Authority of the City of Alabaster, Alabama, Original Landlord, and RTM, dated January 31, 2007, and recorded in the records of the Judge of Probate for Shelby County, Alabama, as instrument #20070418000180720; as assigned by Original Landlord to Landlord as evidenced by that certain letter dated February 8, 2008 (collectively, the "**Lease**"), for the property located at 105 South Colonial Drive, Alabaster, AL, known as Arby's Unit #7850, being more particularly described on Exhibit "A", which is attached hereto and made a part hereof (as may be affected by any condemnation or taking, if any, the "**Premises**"); and

WHEREAS, the parties hereto desire to enter into this Agreement in order to set forth the terms and conditions upon which Tenant shall attorn to Lender upon certain conditions, Lender shall recognize

the Lease and agrees not to disturb same or Tenant's peaceful possession and quiet enjoyment of the Premises pursuant to the Lease, all upon certain conditions, and certain other matters.

NOW, THEREFORE, for and in consideration of the mutual covenants hereinafter set forth, Lender, Landlord and Tenant, as Tenant, hereby covenant and agree as follows:

1. Non-Disturbance. So long as no default exists nor any event has occurred which has continued to exist for such period of time (after notice, if any, required by the Lease) as would entitle the Landlord, as "Landlord" under the Lease to terminate the Lease or would cause, without any further action on the part of Landlord, the termination of the Lease or would entitle such Landlord to dispossess the Tenant thereunder, the Lease shall not be terminated, nor shall Tenant's use, possession or enjoyment of the Premises be interfered with, nor shall the leasehold estate granted by the Lease be affected in any other manner, by any exercise of the power of sale contained in the Mortgage, or by any judicial or non-judicial foreclosure, conveyance in lieu of foreclosure or any action or proceeding instituted under or in connection with the Mortgage or in case the Lender takes possession of the property described in the Mortgage pursuant to any provisions thereof, unless the Landlord under the Lease would have had such right if the Mortgage had not been made; provided, that any such sale, foreclosure or taking of possession of the property shall be subject to the Lease and its terms, including, without limitation, any and all pre-clearance first refusal rights contained therein (if any) as well as any and all extension and renewal rights. Said Lease and its terms shall be binding upon the person or entity acquiring the interest of the Landlord under the Lease as a result of any such action or proceeding and the successors and assigns thereof (said person or entity and its successors and assigns being hereinafter called the "Purchaser"), except that the Purchaser shall not be: (a) liable for any act or omission of any prior Landlord under the Lease (except to the extent, if any, that the same constitutes a continuing dispute thereunder, and then only to the extent that such dispute occurs after the Purchaser has become the Landlord); or (b) subject to any offsets or defenses which the Tenant under the Lease might have against any prior Landlord under the Lease (except to the extent that the same accrue or arise after Lender becomes a mortgagee-in-possession or the Mortgagee or Purchaser becomes the Landlord under the Lease); or (c) bound by any base rent, or any other rental or other payments which the Tenant under the Lease might have paid for more than the current month (i.e. as of the month such party becomes the Landlord) to any prior Landlord under the Lease.

2. Attornment and Recognition. If the interests of the Landlord under the Lease shall be transferred by reason of the exercise of the power of sale or any other provision contained in the Mortgage, or by any foreclosure or other proceeding for enforcement of the Mortgage, (a) the Tenant thereunder shall be bound to the Purchaser under all of the terms, covenants and conditions of the Lease for the balance of the term thereof and any extensions of renewals thereof which may be effected in accordance with any option therefor in the Lease, with the same force and effect as if the Purchaser were the original Landlord under the Lease, (b) Tenant, as Tenant under the Lease, does hereby attorn to the Purchaser, including the Lender if it be the Purchaser, as its Landlord under the Lease, and (c) Purchaser, including without limitation Lender if it be the Purchaser, does hereby recognize the Lease and the rights, title and interest of Tenant thereunder. Said attornment and recognition shall be effective and self-operative without the execution of any further instruments by Tenant or by Purchaser, upon receipt by Tenant of written notice of the succession by Purchaser to the interest of the Landlord under the Lease. The respective rights and obligations of Purchaser and of the Tenant under the Lease upon such attornment and recognition, 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 in the Lease, except as otherwise expressly provided herein. Purchaser, including without limitation Lender if it be the Purchaser, Landlord and Tenant hereby agree that Tenant shall commence payment of rent under the Lease to Purchaser upon



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receipt by Tenant of a written demand therefor, which demand shall include a current payment address for Purchaser. Upon commencement of such rental payments to Purchaser, Tenant shall have no further liability to Landlord for any rental due under the Lease arising after the date upon which Tenant receives Purchaser's written demand.

3. Subordination. Subject to the terms and conditions of this Agreement, (a) Tenant hereby subordinates all of its right, title and interest, as Tenant under the Lease, to the right, title and interest of the Lender under the Mortgage, and (b) Tenant hereby agrees that the Lease now is and shall at all times continue to be subject and subordinate in each and every respect to the Mortgage and to any and all increases, renewals, modifications, extensions, substitutions, replacements and/or consolidations of the Mortgage.

4. Assignment of Rents; Notice to Tenant. Tenant acknowledges that Landlord has or will have, as part of its loan transaction with Lender, assigned the Lease to Lender and that Lender has, or will have, a license to collect the rent due thereunder. Tenant agrees that anytime it receives written notice from Lender requesting that the rent and all other sums due Landlord under the Lease be paid to Lender or its designees, that, provided such notice includes remittance instructions and a completed W-9 form, Tenant hereby agrees to honor such request and will within thirty (30) days after receipt of such written notice, pay such sum directly to Lender or its designee without legal process or the necessity of proof of Landlord's default under the Loan Documents, and Landlord irrevocably consents to Tenant's reliance on such notice from Lender and shall hold Tenant harmless for performance thereunder. Such payment by Tenant will continue until the first to occur of the following: (a) the Lease expires pursuant to its terms and no further amounts are payable by Tenant thereunder; (b) Lender gives Tenant written notice that the rents and other payments are to be paid to Landlord; or (c) Lender gives Tenant written notice that a purchaser has succeeded to the interests of Landlord and Lender under the Lease, after which time the rent and all other sums due under the Lease will be paid as directed by such purchaser. Payment of rents to Lender as provided for hereunder shall not be deemed to: (i) cause Lender to succeed to or to assume any obligations or responsibilities of Landlord under the Lease or, (ii) relieve Landlord of any obligations under the Lease.

5. Notices. Tenant agrees to give written notice to Lender (and to any successor in interest to Lender of which Tenant has been notified in writing) of any default of the Landlord under the Lease if such default is of such a nature as to give Tenant a right to terminate the Lease. Lender shall have the option, in Lender's sole discretion, to elect to cure any such default for or on behalf of Landlord, and Tenant shall permit Lender or its designees to cure such default within the greater of (a) such time as Landlord is permitted to cure under the Lease, or (b) thirty (30) days from Lender's receipt of such notice. No termination of the Lease by Tenant related to any default of Landlord shall be effective so long as Lender elects to cure such default within such time period and thereafter diligently pursues such cure to completion. Notices hereunder shall be delivered to the parties at the addresses set forth above, or to such other address as may be designated by written notice from time to time.

6. Title of Paragraphs. The titles of the paragraphs of this Agreement are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

7. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State in which the Premises are located.

8. Provisions Binding. The terms and provisions hereof shall be binding upon and shall

inure to the benefit of the heirs, executors, administrators, successors and permitted assigns, respectively, of Lender, Purchaser, Landlord and Tenant, and upon such parties.

9. Miscellaneous. Notwithstanding anything contained herein to the contrary, this Agreement is conditioned and contingent upon Tenant's receipt of a fully executed original of this Agreement.

[[Signatures Follow on Next Pages]]



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IN WITNESS WHEREOF, the Landlord, Tenant and Lender have executed this Agreement as of the date first written above.

LANDLORD:

Highway 11/31, LLC

By: [Signature]

Name: William Luther

Its: Manager

STATE OF Alabama
COUNTY OF Jefferson

I, Melanie Thomas, a Notary in and for said County in said State, hereby certify that William Luther whose name as Manager of Highway 11/31, LLC a Delaware limited liability company, 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 the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this the 20th day of March 2015

Melanie Carol Thomas

Notary Public

My Commission Expires: 4-28-18

[[Signatures Continue on Next Pages]]



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TENANT:

RTM Alabama, LLC

By: _____

Name: Robert Q. Jones, Jr.

Its: VP, Corporate Counsel

STATE OF GEORGIA
COUNTY OF FULTON



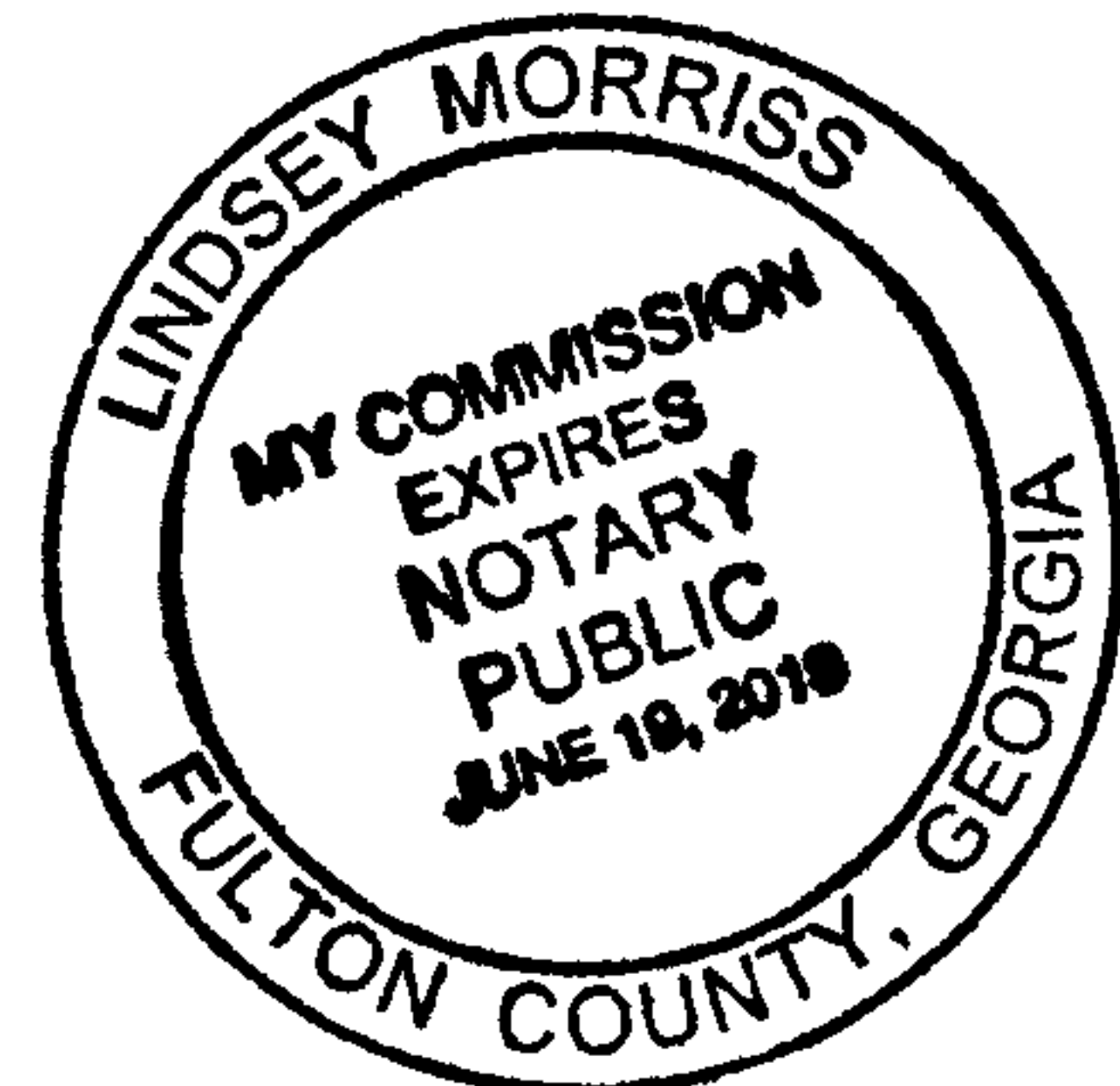
I, Lindsey Morris, a Notary in and for said County in said State, hereby certify that Robert Q. Jones, Jr. whose name as VP, Corporate Counsel of RTM Alabama, LLC, an Alabama limited liability company, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this the 16th day of February, 2015

Lindsey Morris
Notary Public

My Commission Expires: _____

[[Signatures Continue on Next Page]]

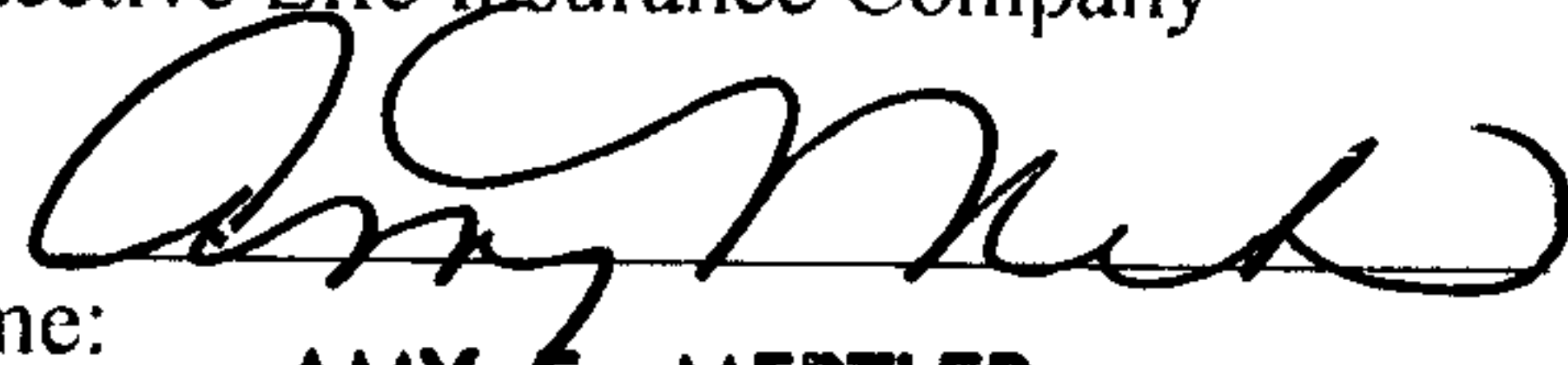


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LENDER:

Protective Life Insurance Company

By: 

Name: _____

AMY E. MERTLER

Its: _____

**VICE PRESIDENT
INVESTMENTS**

By: _____

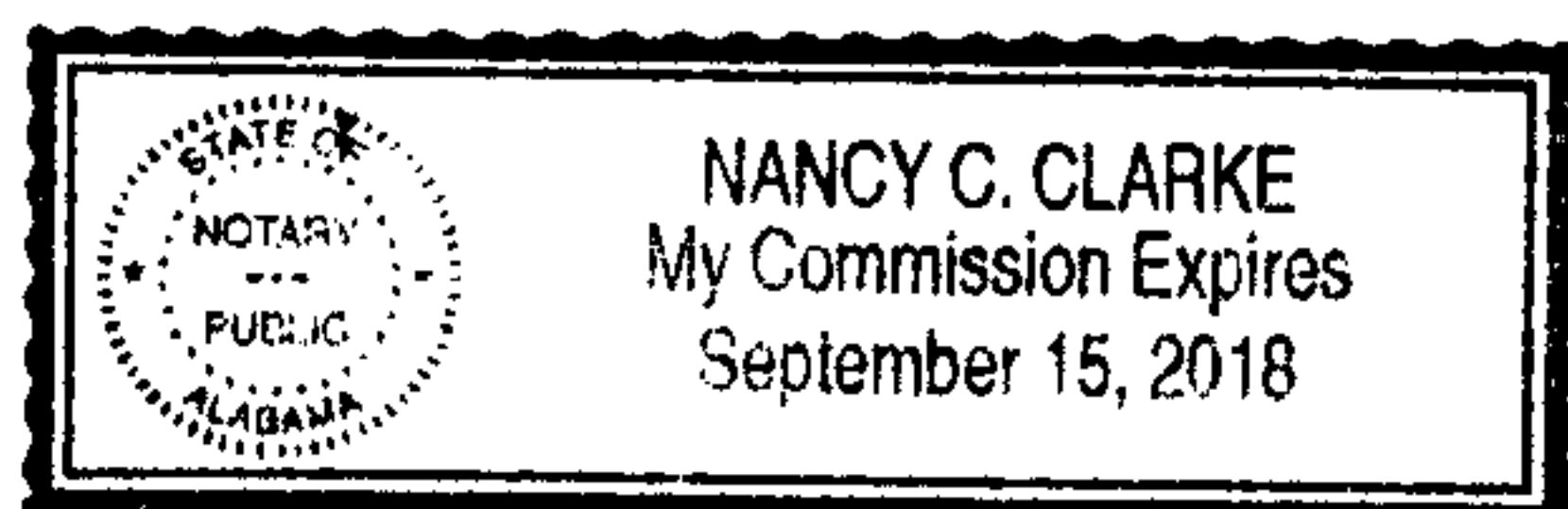
Name: _____

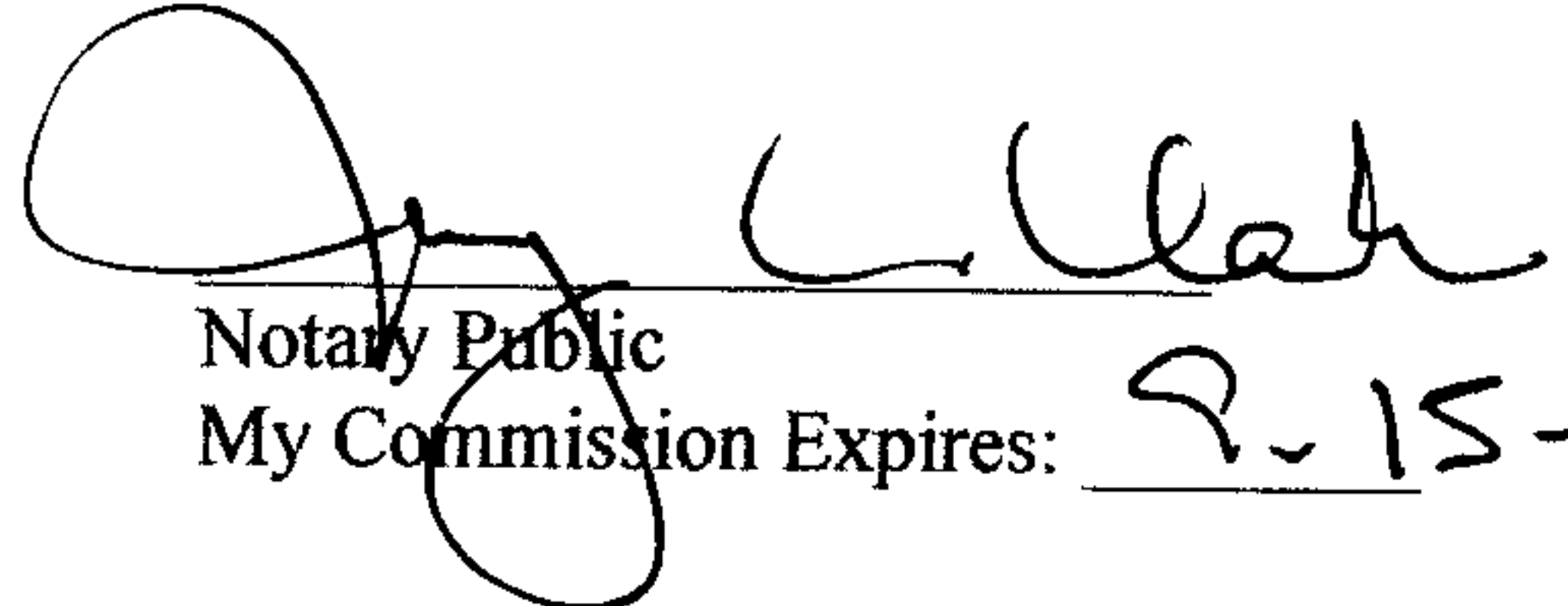
Its: _____

STATE OF Alabama
COUNTY OF Jefferson

I, Nancy C. Clarke Notary Public in and for said County in said State, hereby certify that
Amy E. Mertler and _____ whose names as V.P. and
_____, respectively, of Protective Life Insurance Company,
a TN corp., are signed to the foregoing conveyance and who are known to me, acknowledged
before me on this day that, being informed of the contents of the conveyance, they, as such officers and with full
authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this the 20th day of Mar, 2015




Notary Public

My Commission Expires: 9-15-2018



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Exhibit "A"

LEGAL DESCRIPTION – PREMISES

COMMENCE AT THE SW CORNER OF THE NW ¼ OF THE NE ¼ OF SECTION 12, TOWNSHIP 21 SOUTH, RANGE 3 WEST, SHELBY COUNTY, ALABAMA; THENCE RUN SOUTH 87° 31' 35" EAST FOR 621.77 FEET TO A POINT; THENCE RUN NORTH 20° 13' 35" WEST FOR 92.37 FEET TO A POINT; THENCE RUN SOUTH 69° 47' 27" WEST FOR 11.01 FEET TO A POINT; THENCE RUN NORTH 21° 13' 42" EAST FOR 100.02 FEET TO A POINT; THENCE RUN NORTH 69° 47' 27" EAST FOR 9.88 FEET TO A POINT; THENCE RUN NORTH 23° 28' 05" WEST FOR 138.80 FEET TO A POINT; THENCE RUN NORTH 66° 31' 55" EAST FOR 50.00 FEET TO A POINT; THENCE RUN NORTH 23° 28' 05" WEST FOR 152.38 FEET TO THE POINT OF BEGINNING OF SAID ARBY'S ALABASTER SITE, PROPOSED LOT 6, COLONIAL PROMENADE; THENCE RUN NORTH 23° 28' 05" WEST FOR 155.00 FEET TO A POINT; THENCE RUN NORTH 66° 31' 55" EAST FOR 164.96 FEET TO A POINT, SAID POINT BEING ON THE WESTERLY RIGHT-OF-WAY LINE ON US HIGHWAY 31, SAID POINT BEING ON A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 2162.01 FEET, SUBTENDING A CENTRAL ANGLE OF 04° 09' 00"; HAVING A CHORD BEARING OF SOUTH 31° 34' 04" EAST 156.56 FEET, AND ALONG THE ARC OF SAID CURVE AND WESTERLY RIGHT-OF-WAY LINE OF US HIGHWAY 31 FOR 156.60 FEET TO THE END OF SAID CURVE; THENCE RUN SOUTH 66° 31' 55" WEST FOR 187.02 FEET TO THE POINT OF BEGINNING OF PROPOSED LOT 6. SAID PARCEL CONTAINS 27,419 SF OR 0.63 ACRES MORE OR LESS.


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