

This instrument was prepared by:


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CROSS-COLLATERALIZATION AND CROSS-DEFAULT AGREEMENT

THIS CROSS-COLLATERALIZATION AND CROSS-DEFAULT AGREEMENT (“**Agreement**”) is made and entered into as of the 24th day of September, 2015, by and between **THE BROGDON GROUP, INC.**, an Alabama corporation (“**Brogdon Group**”), **TWO MOUNTAINS, LLC**, an Alabama limited liability company (“**Two Mountains**”), and **WILLIAM DAVID BROGDON**, an individual (“**Brogdon**”), and **BROGDON GROUP** (Brogdon and Brogdon Group are herein referred to individually as the “**Guarantor**” and collectively as the “**Guarantors**”), and **SERVISFIRST BANK**, an Alabama banking corporation (“**Lender**”).

RECITALS

A. On June 8, 2015, Lender made a loan to Brogdon Group in the original principal amount of \$1,900,000.00 (the “**Brogdon Group Loan**”). The obligations under the Brogdon Group Loan are evidenced by a Promissory Note dated June 8, 2015 (the “**Brogdon Group Note**”) executed and delivered by Brogdon Group to the Lender. The Brogdon Group Loan is evidenced and secured by a Business Loan Agreement (Asset Based) dated June 8, 2015 (the “**Brogdon Group Loan Agreement**”). The Brogdon Group Loan, and the obligations owed pursuant to the Brogdon Group Note, are guaranteed by Brogdon pursuant to the Commercial Guaranty executed by the Guarantor on June 8, 2015 (the “**Brogdon Group Guaranty Agreement**”). The obligations under the Brogdon Group Note, and the Brogdon Group Loan Agreement are secured by a Commercial Security Agreement dated June 8, 2015 (the “**Brogdon Group Loan Security Agreement**”). The Brogdon Group Loan Security Agreement was perfected by UCC Financing Statement filed with the Alabama Secretary of State’s Office on June 16, 2015 under File Number 15-7464372 (the “**Brogdon Group UCC Financing Statement**”). The Brogdon Group Note, the Brogdon Group Loan Agreement, the Brogdon Group Guaranty Agreement, the Brogdon Group Security Agreement, and the Brogdon Group UCC Financing Statement, and other documents executed in connection with the Brogdon Group Loan, are herein referred to as the “**Brogdon Group Loan Documents**.”

B. Simultaneous herewith, Lender made a loan to Two Mountains in the original principal amount of \$4,500,000.00 for the construction and development of an 89 lot subdivision known as Phase I (89 lots) of The Highlands Subdivision (formerly known as Magnolia Mill) residential real estate subdivision real estate development in Pelham, Shelby County, Alabama (the “**Two Mountains Loan**”). The obligations under the Two Mountains Loan are evidenced by a Promissory Note dated of even date herewith (the “**Two Mountains Note**”) executed and delivered by Two Mountains to the Lender. The Two Mountains Loan, and the Two Mountains Note, are evidenced and secured by:

- (i) Construction Loan Agreement of even date herewith (the **"Two Mountains Loan Agreement"**);
- (ii) Mortgage, Assignment of Rents and Leases, and Security Agreement dated of even date herewith (the **"Two Mountains Security Instrument"**);
- (iii) Guaranty Agreements by Brogdon and Brogdon Group pursuant to a Guaranty of Payment and Performance executed by each Guarantor dated of even date herewith. (the **"Two Mountains Guaranty Agreements"**);
- (iv) An Environmental Indemnity Agreement executed and delivered by the Borrower of even date herewith (the **"Environmental Indemnity"**); and
- (v) Life Insurance Assignment assigning to the Lender Alfa Insurance Policy No. J313509 insuring the life of William D. Brogdon in the amount of \$2,000,000.00 (the **"Life Insurance Assignment"**) to be finalized as a Post-Closing Matter.

The Two Mountains Note, the Two Mountains Security Instrument, the Two Mountains Guaranty Agreements, the Environmental Indemnity, the Life Insurance Assignment, and the other documents executed in connection with the Two Mountains Loan are herein referred to as the **"Two Mountains Loan Documents"**).

C. Simultaneously herewith, Lender issued its Irrevocable Letter of Credit, No. 26555 (the **"LOC"**) at the request of Two Mountains in the amount of \$937,500.00. Pursuant to the issuance of the LOC, Two Mountains as the Applicant of the LOC, executed and delivered to the Lender a Letter of Credit Reimbursement Agreement dated of even date herewith (the **"Reimbursement Agreement"**). Pursuant to the Reimbursement Agreement, and as additional security for the obligations under the Reimbursement Agreement, Brogdon and Brogdon's wife, Carole S. Brogdon, executed and delivered, of even date herewith:

- (i) Mortgage and Security Agreement on the property located at 1009 Ridge Circle, Birmingham, AL 35242 (the **"Alabama Mortgage"**); and
- (ii) Mortgage and Security Agreement on the property located at 118 Spires Lane, Unit E-3, Santa Rosa Beach, FL 32459 (the **"Florida Mortgage"**).

The Reimbursement Agreement, and the obligations owed pursuant to the Reimbursement Agreement are guaranteed by Guarantors, pursuant to the Guaranty of Payment and Performance Agreements executed and delivered by Guarantors of even date herewith (the **"Reimbursement Agreement Guaranty Agreements"**). The LOC, the Reimbursement Agreement, the Alabama Mortgage, the Florida Mortgage, and the Reimbursement Agreement Guaranty Agreements, and the other documents executed in connection with the LOC, are herein referred to as the **"LOC Loan Documents."**

F. As a condition to the making of the Two Mountains Loan, and the issuance of the LOC, Lender has required that the Brogdon Loan, and the Brogdon Loan Documents, the Two Mountains Loan, and the Two Mountains Loan Documents, and the LOC and the LOC Loan Documents be cross-collateralized and cross-defaulted. Brogdon Group, Two Mountains, and Brogdon (the **"Borrowing Parties"**) agree and acknowledge that there is good and sufficient consideration for them to execute this Agreement as an inducement to Lender to extend credit to

Two Mountains, and issue the LOC, and that the Borrowing Parties will receive direct and indirect benefits from the making of the Two Mountains Loan to the Borrower by the Lender and the issuance of the LOC for the account of Two Mountains.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrowing Parties agree with Lender, and Lender agrees with the Borrowing Parties as follows:

1. **Defined Terms.** All the terms used herein which are not otherwise defined herein shall have the meanings set forth in the Loan Documents (as herein defined). The Brogdon Group Loan, the Two Mountains Loan, and the LOC are herein referred to as the “**Loans.**” The Brogdon Group Loan Documents, the Two Mountains Loan Documents, and the LOC Loan Documents, are herein referred to as the “**Loan Documents.**”

2. **Cross-Collateralization.** The Brogdon Group Security Agreement, the Two Mountain Security Instrument, the Alabama Mortgage, the Florida Mortgage, the Life Insurance Assignment, the Reimbursement Agreement, and the other security documents, given as security for the Loans, are hereby cross-collateralized with one another and Borrowing Parties, separately and severally, agree that the collateral described in each of the foregoing Loan Documents shall secure, in addition to each such respective Loan and on a *pari passu* basis with the Loans, and the Reimbursement Agreement, the obligations of the Borrowing Parties under the Loan Documents, including, without limitation, the obligations of the Borrowing Parties to pay the principal and interest on the Loans, and to pay the obligations under the Reimbursement Agreement, as the same may hereafter be renewed, modified, amended or extended, and to pay all other indebtedness and other agreed charges and to perform all of the terms and conditions under the Loan Documents.

3. **Cross-Default.** The Loans, the Loan Documents, and the Reimbursement Agreement, are hereby cross-defaulted with one another and the Borrowing Parties, separately and severally, agree that the occurrence of an Event of Default as defined in, and pursuant to any of the Loan Documents shall constitute an immediate Event of Default (without need of notice or the expiration of any additional cure period other than as specified in such Loan Documents) under the Loan Documents.

4. **Miscellaneous.**

(a) This Agreement may be executed in any number of counterparts bearing the original signatures of all parties hereto, each of which shall constitute an original for all purposes, but all of which shall evidence but one and the same Agreement. This Agreement may be recorded, at Lender’s discretion, in each county and state where the respective properties described in the Loan Documents are located. Upon the filing of a security instrument constituting part of the Loan Documents, all necessary recording, intangible, or documentary stamp taxes will be duly paid by Borrowing Parties. This Agreement is being given as additional collateral to secure the obligations of the Borrowing Parties under the Loan Documents.

(b) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, administrators, successors and assigns.

5. **CONTROLLING LAW.** THE VALIDITY, INTERPRETATION, ENFORCEMENT, AND EFFECT OF THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAWS OF THE STATE OF ALABAMA.

6. **WAIVER OF JURY TRIAL.** THE BORROWING PARTIES HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SET OFF, DEMAND, ACTION OR CAUSE OF ACTION (A) ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR THE LOANS OR THE REIMBURSEMENT AGREEMENT, OR (B) IN ANY WAY CONNECTED WITH OR PERTAINING OR RELATED TO OR INCIDENTAL TO ANY DEALINGS OF LENDER AND/OR THE BORROWING PARTIES AND THE BORROWING PARTIES WITH RESPECT TO THE LOAN DOCUMENTS OR THE SECURITY DOCUMENTS OR IN CONNECTION WITH THIS AGREEMENT OR THE EXERCISE OF ANY PARTY'S RIGHTS AND REMEDIES UNDER THIS AGREEMENT OR OTHERWISE, OR THE CONDUCT OR THE RELATIONSHIP OF THE PARTIES HERETO, IN ALL OF THE FOREGOING CASES WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, THE BORROWING PARTIES AGREE THAT LENDER MAY FILE A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY, AND BARGAINED AGREEMENT OF THE BORROWING PARTIES IRREVOCABLY TO WAIVE ITS RIGHTS TO TRIAL BY JURY AS AN INDUCEMENT OF LENDER TO MAKE THE LOAN, AND THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY DISPUTE OR CONTROVERSY WHATSOEVER (WHETHER OR NOT MODIFIED HEREIN) BETWEEN THE BORROWING PARTIES AND LENDER SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

[Signature page to follow]



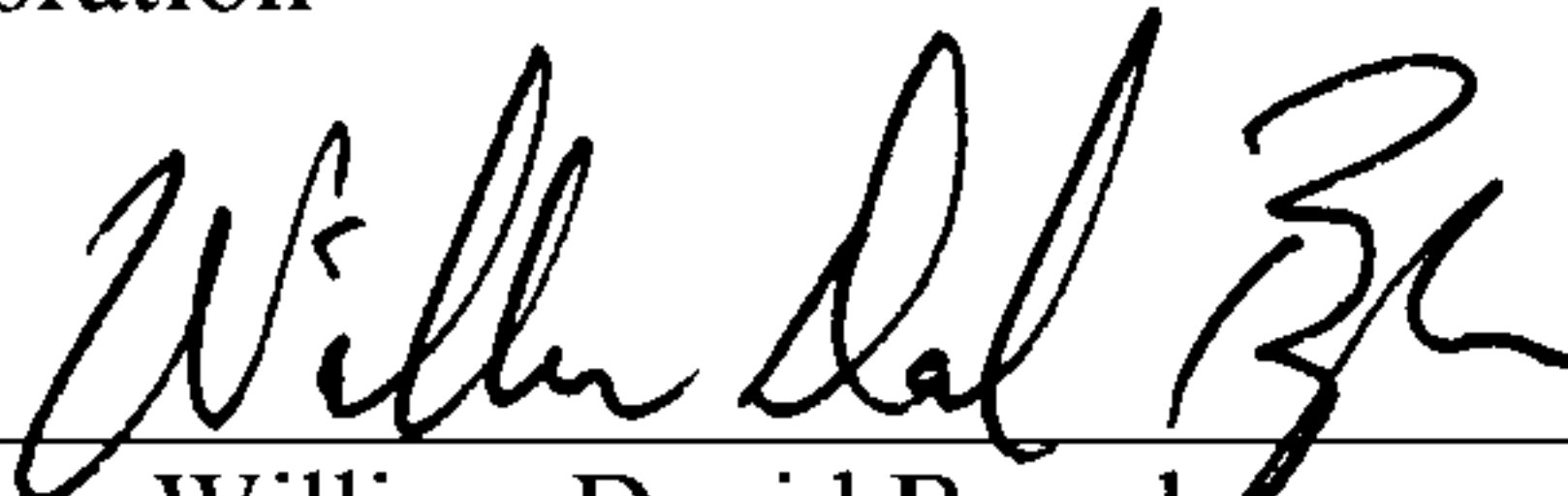
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IN WITNESS WHEREOF, the Borrowing Parties and Lender have caused this Agreement to be properly executed on the day and year first written above.

BORROWING PARTIES:


BROGDON GROUP (AS BORROWER AND AS GUARANTOR):

THE BROGDON GROUP, INC., an Alabama corporation


By:  [SEAL]
Name: William David Brogdon
Title: President

TWO MOUNTAINS:

TWO MOUNTAINS, LLC, an Alabama limited liability company

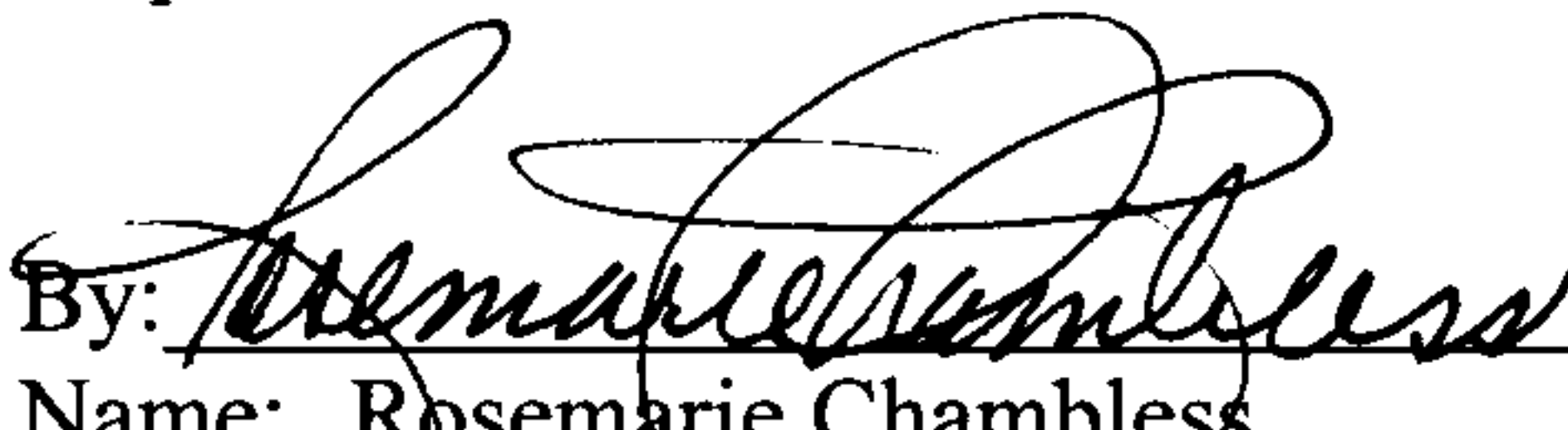
By:  [SEAL]
Name: William David Brogdon
Title: Authorized Member

BROGDON:

 [SEAL]
WILLIAM DAVID BROGDON

LENDER:

SERVISFIRST BANK, an Alabama banking corporation

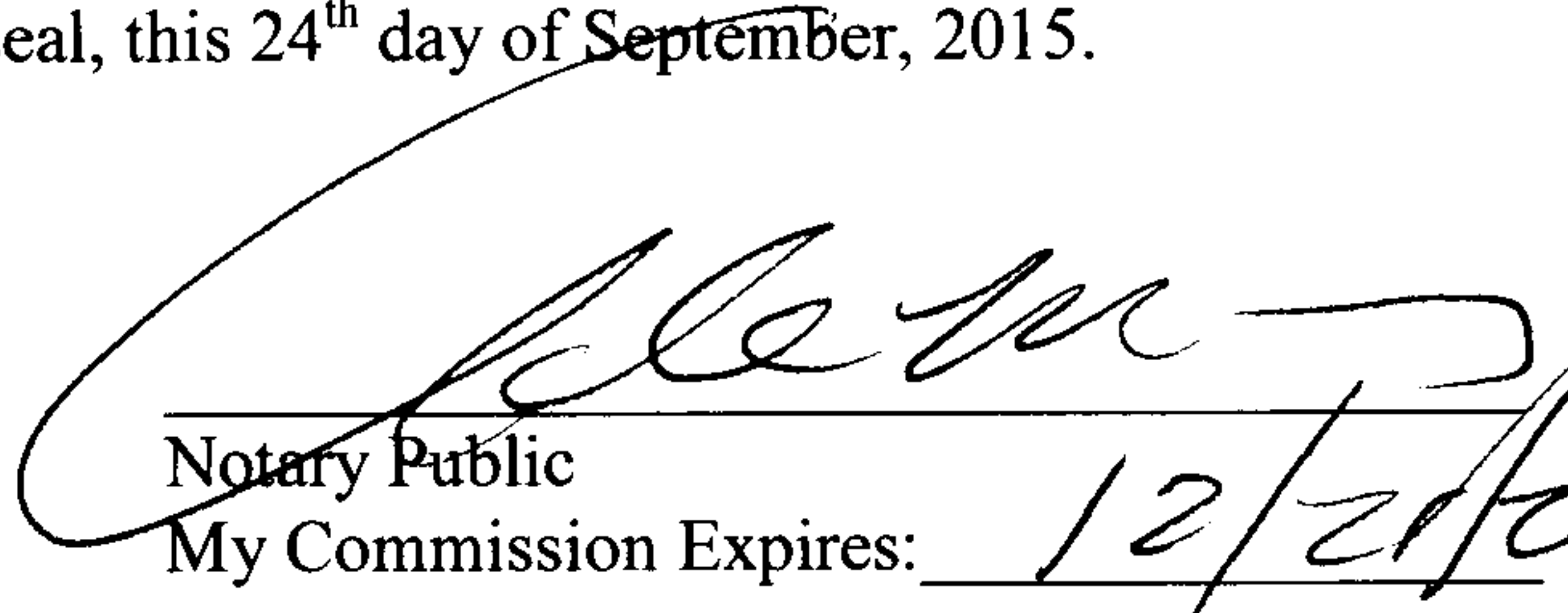
By:  [SEAL]
Name: Rosemarie Chambless
Title: Vice President

STATE OF ALABAMA)
 :
COUNTY OF JEFFERSON)

I, the undersigned Notary Public in and for said County, in said State, hereby certify that William David Brogdon, whose name as President of **THE BROGDON GROUP, INC.**, an Alabama corporation, 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 President and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and official seal, this 24th day of September, 2015.

[NOTARY SEAL]

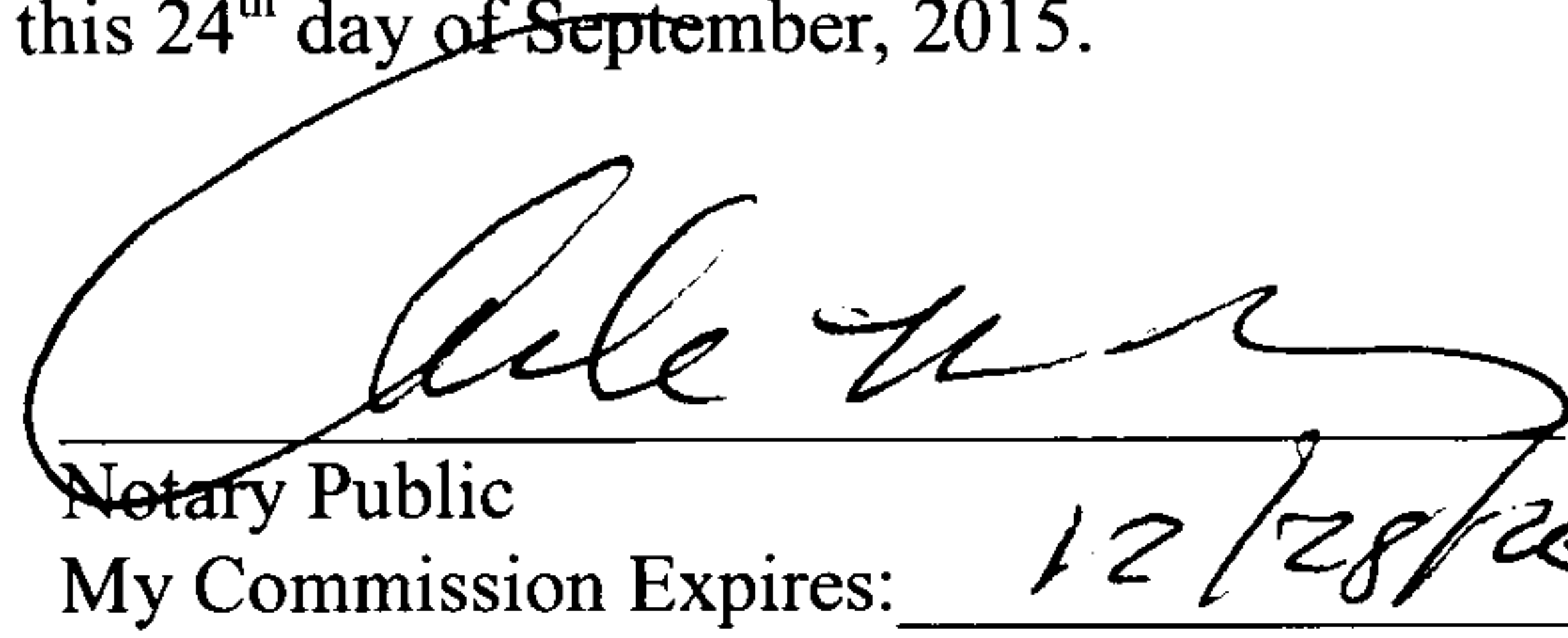

Notary Public
My Commission Expires: 12/21/2015

STATE OF ALABAMA)
 :
COUNTY OF JEFFERSON)

I, the undersigned Notary Public in and for said County, in said State, hereby certify that William David Brogdon, whose name as Authorized Member of **TWO MOUNTAINS, 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 Authorized Member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal, this 24th day of September, 2015.

[NOTARY SEAL]


Notary Public
My Commission Expires: 12/28/2015



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STATE OF ALABAMA)
 :
COUNTY OF JEFFERSON)

I, the undersigned Notary Public in and for said County, in said State, hereby certify that **WILLIAM DAVID BROGDON**, an individual, whose name 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 executed the same voluntarily on the day the same bears date.


Given under my hand and official seal, this 24th day of September, 2015.

[NOTARY SEAL]



Notary Public

My Commission Expires: 12/28/2015


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STATE OF ALABAMA)
 :
COUNTY OF JEFFERSON)

I, the undersigned Notary Public in and for said County, in said State, hereby certify that Rosemarie Chambless, whose name as Vice President of **SERVISFIRST BANK**, an Alabama banking corporation, 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, she as such officer and with full authority, executed the same voluntarily for and as the act of said banking corporation on the day the same bears date.

Given under my hand and official seal, this 24th day of September, 2015.

[NOTARY SEAL]


Notary Public

My Commission Expires: 12/28/2015



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