


DOCUMENT PREPARED BY AND
WHEN RECORDED RETURN TO:

Brownstein Hyatt Farber Schreck, LLP
410 Seventeenth Street, Suite 2200
Denver, Colorado 80202
Attention: Ana Lazo Tenzer, Esq


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Shelby Cnty Judge of Probate: AL
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This is a purchase mortgage
MONARCH AT LEE BRANCH, LLC,
("Mortgagor" or "Borrower")

to

FORTRESS CREDIT CO LLC,
("Mortgagee" or "Lender")

MORTGAGE, ASSIGNMENT OF LEASES AND RENTS,
SECURITY AGREEMENT AND FIXTURE FILING
This Security Instrument constitutes a Fixture Filing

Dated: As of December 2, 2015

PROPERTY LOCATION:

The Village at Lee Branch
600-1401 Doug Baker Blvd.
Birmingham, Alabama

THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "*Mortgage*" or "*Security Instrument*"), made as of December 2, 2015, by **MONARCH AT LEE BRANCH, LLC, a Delaware limited liability company**, having its principal place of business at 4828 Ashford Dunwoody Rd., Atlanta, GA 30338 ("*Mortgagor*" or "*Borrower*"), to and for the benefit **FORTRESS CREDIT CO LLC, a Delaware limited liability company**, having its principal place of business at 1345 Avenue of the Americas, 46th Floor, New York, New York 10105 (together with its successors and assigns, "*Mortgagee*" or "*Lender*").

Notice to Borrower: The Note secured by this Mortgage may contain provisions for a variable interest rate as calculated per the terms of the Loan Agreement (defined below).

AGREEMENT

In consideration of the indebtedness herein recited and the trust herein created, Borrower hereby irrevocably grants, conveys and assigns to Lender, with power of sale and right of entry and possession, all right, title, interest and estate of Borrower now owned, or hereafter acquired, in and to the following property, rights, interests and estates (collectively referred to herein as the "*Property*");

THAT CERTAIN REAL PROPERTY located in the County of Shelby, State of Alabama, more particularly described in **Exhibit A** attached hereto (the "*Land*") and the buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter located thereon (the "*Improvements*"), together with all of the following:

A. All easements, rights-of-way, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, all rights to oil, gas, minerals, coal and other substances of any kind or character, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances of any nature whatsoever, in any way belonging, relating or pertaining to the Land and the Improvements and the reversion and reversions, remainder and remainders, and all land lying in the bed of any street, road, highway, alley or avenue, opened, vacated or proposed, in front of or adjoining the Land, to the center line thereof and all the estates, rights, titles, interests, dower and rights of dower, curtesy and rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Borrower of, in and to the Land and the Improvements and every part and parcel thereof, with the appurtenances thereto; and

B. All machinery, furniture, furnishings, equipment, computer software and hardware, fixtures (including, without limitation, all heating, air conditioning, plumbing, lighting, communications and elevator fixtures) and other property of every kind and nature, whether tangible or intangible, whatsoever owned by Borrower, or in which Borrower has or shall have an interest, now or hereafter located upon the Land and the Improvements, or appurtenant thereto, and usable in connection with the present or future operation and occupancy of the Land and the Improvements and all building equipment, materials and supplies of any nature whatsoever owned by Borrower, or in which Borrower has or shall have an interest, now

or hereafter located upon the Land and the Improvements, or appurtenant thereto, or usable in connection with the present or future operation, enjoyment and occupancy of the Land and the Improvements (hereinafter collectively referred to as the “**Equipment**”), including any leases of any of the foregoing, any deposits existing at any time in connection with any of the foregoing, and the proceeds of any sale or transfer of the foregoing, and the right, title and interest of Borrower in and to any of the Equipment that may be subject to any “security interests” as defined in the Uniform Commercial Code, as adopted and enacted by the State or States where any of the Property is located (the “**Uniform Commercial Code**”), superior in lien to the lien of this Security Instrument;

C. Awards or payments, including interest thereon, that may heretofore and hereafter be made with respect to the Land and the Improvements, whether from the exercise of the right of eminent domain or condemnation (including, without limitation, any transfer made in lieu of or in anticipation of the exercise of said rights), or for a change of grade, or for any other injury to or decrease in the value of the Land and Improvements;

D. All “**Leases**,” which shall mean any lease or other rental or occupancy agreement with respect to the Property or any portion thereof, and all guaranties of and security for the same; all “**Receipts**,” which shall mean all revenues, receipts and other payments of every kind received by or for the benefit of Borrower or any Affiliate, arising from ownership or operation of the Property, including without limitation, all warrants, stock options, or equity interests in any tenant, licensee or other Person occupying space at, or providing services related to or for the benefit of the Property; and all “**Rents**,” which shall mean all consideration paid under any Lease by or on behalf of any tenant or occupant, and all other revenue, income, issues, profits, deposits (including security deposits) and proceeds arising from the Leases or from the from the use or occupancy of the Property or any portion thereof (including but not limited to all oil, gas and other mineral royalties, Insurance Proceeds, Condemnation Proceeds, and proceeds of sale), and all compensation received for the rendering of services by Borrower, or for the rendering of services at or with respect to the Property to Persons other than Borrower by Manager or by any agent of Borrower, and all proceeds of all of the foregoing. Without limitation, “**Rents**” includes all payments owing to Borrower by any tenant or occupant as reimbursement for or on account of operating expenses, common area maintenance charges, taxes or insurance premiums;

E. All proceeds of and any unearned premiums on any insurance policies covering the Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Property;

F. The right, in the name and on behalf of Borrower, to appear in and defend any action or proceeding brought with respect to the Property and to commence any action or proceeding to protect the interest of Lender in the Property;

G. All accounts, escrows, documents, instruments, chattel paper, claims, deposits and general intangibles, as the foregoing terms are defined in the Uniform Commercial Code, and all franchises, trade names, trademarks, symbols, service marks, books, records, plans, specifications, designs, drawings, permits, consents, licenses, management agreements, contract rights (including, without limitation, any contract with any architect or engineer or with any

other provider of goods or services for or in connection with any construction, repair, or other work upon the Property), approvals, actions, refunds of real estate taxes and assessments (and any other governmental impositions related to the Property), and causes of action that now or hereafter relate to, are derived from or are used in connection with the Property, or the use, operation, maintenance, occupancy or enjoyment thereof or the conduct of any business or activities thereon (hereinafter collectively referred to as the “*Intangibles*”);

H. All proceeds, products, offspring, rents and profits from any of the foregoing, including, without limitation, those from sale, exchange, transfer, collection, loss, damage, disposition, substitution or replacement of any of the foregoing: and


I. All right, title, and interest that Borrower may hereafter acquire in and to the Property or any portion thereof. Without limitation of the foregoing, if Borrower’s interest in any portion of the Property is a leasehold estate, and if Borrower later should acquire the fee estate, or should acquire any interest or estate in the Property or any component thereof other than Borrower presently holds, then this Security Instrument shall encumber and constitute a lien upon any and all of such interest or estate, without further act or instrument by Borrower or anyone.

THIS SECURITY INSTRUMENT SECURES TO LENDER:

A. The payment of the indebtedness evidenced by that certain Promissory Note of even date herewith executed by Borrower in favor of Lender in the original principal amount of up to Twenty-One Million Five Hundred Seventy Thousand and No/100 Dollars (\$21,570,000.00), with interest thereon, with the balance of the indebtedness, if not sooner paid, due and payable on January 1, 2019 (the “*Maturity Date*”), and all renewals, extensions and modifications thereof (the “*Note*”); and

B. The payment and performance of all obligations under that certain Loan Agreement of even date herewith executed by Borrower in favor of Lender, and all renewals, extensions and modifications thereof (the “*Loan Agreement*”) and under this Security Instrument and all other documents executed by Borrower and accepted by Lender for the purpose of evidencing or securing the obligations evidenced by the Note or the Loan Agreement (the Note, the Loan Agreement, this Security Instrument, and all such other documents, in each case as the same may be renewed, extended and modified, may be referred to as the “*Loan Documents*”), and

C. The repayment of any and all future or additional advances (whether or not obligatory) made by Lender to protect or preserve the Property, or the lien or security interest created hereby or by any of the Loan Documents, or for taxes, assessments or insurance premiums as provided for in the Loan Documents, or for performance of any of Borrower’s obligations hereunder or under the other Loan Documents or for any other purpose provided herein or in the other Loan Documents (whether or not the original Borrower remains the owner of the Property at the time of such advances), together with interest thereon at the rate provided for the same in the Loan Agreement; and


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D. Payment and performance of any other obligation of Borrower to Lender that is evidenced by a writing duly executed by Borrower and Lender, which writing expressly states that it is secured hereby.

Anything to the contrary herein or elsewhere notwithstanding, the obligations of any guarantor under the Guaranty and Indemnity Agreement or under any other separate guaranty of any obligations of Borrower executed by any person or entity other than Borrower and accepted by Lender, shall not be secured by this Security Instrument or by any separate assignment of leases or assignment of rents, or any other lien encumbering the Property.

ARTICLE I COVENANTS OF BORROWER

For the purpose of further securing the indebtedness secured hereby and for the protection of the security of this Security Instrument, for so long as the indebtedness secured hereby or any part thereof remains unpaid, Borrower represents, warrants, covenants and agrees as follows:

SECTION 1.1 Defense of Title. If, while this Security Instrument is in force, the title to the Property or the interest of Lender therein shall be the subject, directly or indirectly, of any action at law or in equity, or be attacked directly or indirectly, or endangered, clouded or adversely affected in any manner, Borrower, at Borrower's expense, shall take all necessary and proper steps for the defense of said title or interest, including the employment of counsel reasonably approved by Lender, the prosecution or defense of litigation, and the compromise or discharge of claims made against said title or interest. Notwithstanding the foregoing, in the event that Lender reasonably determines that Borrower is not adequately performing its obligations under this Section, Lender may, without limiting or waiving any other rights or remedies of Lender hereunder, take such steps with respect thereto as Lender shall reasonably deem necessary or proper. Any and all costs and expenses incurred by Lender in connection therewith, together with interest thereon at the rate chargeable for principal under the Default Rate from the date incurred by Lender until actually paid by Borrower, shall be immediately paid by Borrower on demand and shall be secured by this Security Instrument and by all of the other Loan Documents securing all or any part of the indebtedness evidenced by the Note.

SECTION 1.2 Insurance. Borrower shall at all times keep the Improvements now existing or hereafter erected on the Land insured in accordance with the terms and conditions of the Loan Agreement.

SECTION 1.3 Payment of Taxes. Borrower shall pay or cause to be paid all taxes and assessments which are or may become a lien on the Property or which are assessed against or imposed upon the Property in accordance with the terms and conditions of the Loan Agreement, subject to rights of contest as set forth in the Loan Agreement.

SECTION 1.4 Tax and Insurance Impound Fund. Lender may require Borrower to pay to Lender, in advance, such funds for taxes, assessments, insurance premiums, ground rents, and other impositions and charges in connection with Borrower or the Property which Lender shall

reasonably deem necessary to protect Lender's interests, in each case, in accordance with the Loan Agreement.

SECTION 1.5 Casualty and Condemnation. Upon the occurrence of any Casualty or the commencement of any Condemnation proceedings, Borrower shall comply with the terms and conditions of the Loan Documents relating thereto. Insurance Proceeds and Condemnation Proceeds shall be held, disbursed and applied in accordance with the Loan Agreement.

SECTION 1.6 Assignment of Leases, Rents and Receipts.

(a) Assignment. Borrower hereby irrevocably grants and assigns to Lender all of Borrower's right, title and interest in, to and under (i) all present and future Leases and all modifications, amendments and renewals of the same, and (ii) all Rents and all Receipts, whether now due or hereafter accruing. This is a present and absolute assignment, not an assignment for security purposes only. Borrower hereby grants to Lender the sole, exclusive and immediate right, with or without taking possession of the Property, to demand, collect (by suit or otherwise), receive and give valid and sufficient receipts for any and all of said Rents and Receipts, for which purpose Borrower does hereby irrevocably make, constitute and appoint Lender its attorney-in-fact with full power to appoint one or more substitutes or trustees to accomplish such purpose (which power of attorney shall be irrevocable so long as any obligations remain outstanding under the Loan Documents, shall be deemed to be coupled with an interest, shall survive the voluntary or involuntary dissolution of Borrower and shall not be affected by any disability or incapacity suffered by Borrower subsequent to the date hereof). Nonetheless, Lender's right to the Leases, Rents and Receipts is not contingent upon, and may be exercised without possession of, the Property.

(b) License Back. Lender hereby confers upon Borrower a revocable license to manage the Property and to collect and receive the Rents and Receipts when due and prepayments thereof for not more than one month prior to the due date thereof, in each case prior to an Event of Default. Such license and Borrower's rights to collect and receive the Rents and Receipts shall terminate automatically and immediately upon the occurrence of an Event of Default, without the necessity of any notice or other action. Further, such license and Borrower's rights to collect and receive the Rents and Receipts shall not excuse any other obligation of Borrower under the Loan Documents, including the obligations to timely pay principal and interest under the Loan.

(c) License is Subject to Other Provisions of Loan Documents. Anything to the contrary herein or elsewhere notwithstanding, such license and Borrower's rights to collect and receive the Rents and Receipts shall be subject to (and controlled by, in the case of any conflict or inconsistency) any provisions of the Loan Documents (a) that require (or allow Lender to require) that any Rents or Receipts be delivered to Lender or be delivered to any lockbox account or other specified account, or (ii) or that grant to Lender any right to receive, hold, disburse, apply or otherwise control any Rents or Receipts or the proceeds thereof, or (c) that otherwise subject any Rents or Receipts to any cash control mechanism. Without limitation, Borrower's license granted herein, and Borrower's rights to collect and receive the Rents and Receipts shall be subject to (and controlled by, in the case of any conflict or inconsistency) (a) the Cash Management Agreement of even date herewith, (b) any provisions of any Loan Documents that

require (or allow Lender to require) that Insurance Proceeds or Condemnation Proceeds be delivered, held, or applied in any manner, and (c) any provisions of any Loan Documents that require that Lease termination payments be delivered to Lender for deposit into a Reserve.

SECTION 1.7 Leases. Borrower shall comply with and observe Borrower's material obligations as landlord under all Leases of the Property or any part thereof in accordance with the terms and conditions of the Loan Agreement, and shall otherwise comply with the terms and conditions of the Loan Agreement with respect to the execution, cancellation, amendment, modification and assignment of Leases and guaranties thereof, the subletting of the Property or portion thereof and the release of any security deposit, letter of credit or other item constituting security pertaining to any Lease.

SECTION 1.8 Alienation and Further Encumbrances. The sale or other transfer of all or any part of the Property or of interests in Borrower or its constituents is restricted in accordance with the Loan Agreement.

SECTION 1.9 Payment of Utilities, Assessments, Charges, Etc. Borrower shall pay all utility charges which are incurred by Borrower or which may become a charge or lien against any portion of the Property (including without limitation any of the same for gas, electricity, water and sewer services furnished to the Land and/or the Improvements) and all other assessments or charges of a similar nature, or assessments payable pursuant to any restrictive covenants, whether public or private, affecting the Land and/or the Improvements or any portion thereof, subject to rights of contest as set forth in the Loan Agreement.

SECTION 1.10 Access Privileges and Inspections. Lender and the agents, representatives and employees of Lender shall have access to the Land and the Improvements and any other location where books and records concerning the Property are kept, all as set forth in the Loan Agreement.

SECTION 1.11 Advances to Protect Security. Without limiting or waiving any other rights and remedies of Lender hereunder, Lender may make protective advances that Lender deems are reasonably necessary to protect Lender's security, as set forth in the Loan Agreement.

SECTION 1.12 Security Interest. This Security Instrument is also intended to encumber and create a security interest in, and Borrower hereby grants to Lender a security interest in, all Reserves, fixtures, chattels, accounts, equipment, inventory, contract rights, general intangibles and other personal property included within the Property, all renewals, replacements of any of the aforementioned items, or articles in substitution therefor or in addition thereto or the proceeds thereof (said property is hereinafter referred to collectively as the "*Collateral*"), whether or not the same shall be attached to the Land or the Improvements in any manner. This grant of a security interest is in addition to and not in derogation of any other grant by Borrower to Lender in the Collateral. It is hereby agreed that to the extent permitted by law, all of the foregoing property is to be deemed and held to be a part of and affixed to the Land and the Improvements. The foregoing security interest shall also cover Borrower's leasehold interest in any of the foregoing property which is leased by Borrower. Notwithstanding the foregoing, all of the foregoing property shall be owned by Borrower and no leasing or installment sales or other financing or title retention agreement in connection therewith shall be permitted without

the prior written approval of Lender, except as otherwise expressly permitted by the terms of the Loan Agreement. Borrower shall promptly replace all of the Collateral subject to the lien or security interest of this Security Instrument when worn out or obsolete with Collateral comparable to the worn out or obsolete Collateral when new and will not, without the prior written consent of Lender, remove from the Land or the Improvements any of the Collateral subject to the lien or security interest of this Security Instrument except such as is replaced by an article of equal suitability and value as above provided, owned by Borrower free and clear of any lien or security interest except that created by this Security Instrument and the other Loan Documents and except as otherwise expressly permitted by the terms of the Loan Agreement. All of the tangible Collateral shall be kept at the location of the Land except as otherwise required by the terms of the Loan Documents. Borrower shall not use any of the Collateral in violation of any applicable statute, ordinance or insurance policy.

SECTION 1.13 Security Agreement. This Security Instrument constitutes both a real property mortgage and a “security agreement” between Borrower and Lender with respect to the Collateral in which Lender is granted a security interest hereunder, and, cumulative of all other rights and remedies of Lender hereunder, Lender shall have all of the rights and remedies of a secured party under any applicable Uniform Commercial Code. Borrower hereby agrees to execute and deliver on demand and hereby irrevocably constitutes and appoints Lender the attorney-in-fact of Borrower to execute and deliver and, if appropriate, to file with the appropriate filing officer or office such security agreements, financing statements, continuation statements or other instruments as Lender may request or require in order to impose, perfect or continue the perfection of the lien or security interest created hereby. Borrower agrees to furnish Lender with notice of any permitted change in the name, identity, corporate structure, residence, or principal place of business or mailing address of Borrower within ten (10) days of the effective date of any such change. If an Event of Default shall occur, then Lender’s expenses of retaking the Collateral and holding, preparing for sale, and selling the same (including, without limitation, Lender’s reasonable attorneys’ fees and legal expenses), together with interest thereon at the Default Rate from the date incurred by Lender until actually paid by Borrower, shall be paid by Borrower on demand and shall be secured by this Security Instrument and by all of the other Loan Documents securing all or any part of the indebtedness evidenced by the Note. Borrower agrees that, if notice is required by law, then ten (10) days’ prior written notice of the time and place of any public sale of such property or of the time of or after which any private sale or any other intended disposition thereof is to be made is commercially reasonable and sufficient, provided that such notice is sent to Borrower, as the same is provided for the mailing of notices herein. No such notice is necessary for any such property which is perishable, threatens to decline speedily in value or is of a type customarily sold on a recognized market. Any sale of Collateral by Lender shall be deemed to have been a public sale conducted in a commercially reasonable manner if held contemporaneously with the judicial or nonjudicial foreclosure sale of the Land and Improvements, conducted with such notice as is required by applicable law for such judicial or nonjudicial foreclosure. Furthermore, to the extent permitted by law, in conjunction with, in addition to or in substitution for the rights and remedies available to Lender pursuant to any applicable Uniform Commercial Code:

(a) In the event of a foreclosure sale, the Property may, at the option of Lender, be sold in whole or in part;

(b) It shall not be necessary that Lender take possession of any Collateral, or any part thereof, prior to the time that any sale pursuant to the provisions of this Section is conducted; and it shall not be necessary that said Collateral, or any part thereof, be present at the location of such sale; and

(c) Lender may appoint or delegate any one or more persons as agent to perform any act or acts necessary or incident to any sale held by Lender, including the sending of notices and the conduct of the sale, but in the name and on behalf of Lender.

SECTION 1.14 Borrower's Waivers. To the full extent permitted by law, Borrower agrees that Borrower shall not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter in force providing for any appraisement, valuation, stay, moratorium or extension, or any law now or hereafter in force providing for the reinstatement of the indebtedness secured hereby prior to any sale of the Property to be made pursuant to any provisions contained herein or prior to the entering of any decree, judgment or order of any court of competent jurisdiction, or any right under any statute to redeem all or any part of the Property so sold. To the full extent permitted by law, Borrower shall not have or assert any right under any statute or rule of law pertaining to the exemption of homestead or other exemption under any federal, state or local law now or hereafter in effect, the administration of estates of decedents or any other matters whatsoever to defeat, reduce or affect the right of Lender under the terms of this Security Instrument to a sale of the Property, for the collection of the secured indebtedness without any prior or different resort for collection, or the right of Lender under the terms of this Security Instrument to the payment of the indebtedness secured hereby out of the proceeds of sale of the Property in preference to every other claimant whatever. Borrower, for Borrower and Borrower's successors and assigns, and for any and all persons ever claiming any interest in the Property, to the full extent permitted by law, hereby knowingly, intentionally and voluntarily with and upon the advice of competent counsel waives, releases, relinquishes and forever forgoes: (a) all rights of valuation, appraisement, stay of execution, reinstatement and notice of election or intention to mature or declare due the secured indebtedness (except such notices as are specifically provided for herein); (b) all right to a marshalling of the assets of Borrower, including the Property, to a sale in the inverse order of alienation, or to direct the order in which any of the Property shall be sold in the event of foreclosure of the liens and security interests hereby created and agrees that any court having jurisdiction to foreclose such liens and security interests may order the Property sold as an entirety; (c) all rights and periods of redemption provided under applicable law; and (d) all present and future statutes of limitations as a defense to any action to enforce the provisions of this Security Instrument or to collect any of the indebtedness secured hereby the fullest extent permitted by law.

ARTICLE II REMEDIES

SECTION 2.1 Remedies Available. If an Event of Default shall occur, then Lender shall have all rights and remedies available under law, at equity, and pursuant to the Loan Documents. Without limitation, this Security Instrument shall be subject to foreclosure as provided by law, and Lender may, at its option and by or through a trustee, nominee, assignee or otherwise, to the fullest extent permitted by law, exercise any or all of the following rights and remedies, either successively or concurrently.

(a) Acceleration. Lender shall have the right to accelerate the maturity date of the Obligations and declare any or all of the indebtedness secured hereby to be immediately due and payable without any presentment, demand, protest, notice or action of any kind whatever (each of which is hereby expressly waived by Borrower), whereupon the same shall become immediately due and payable. Upon any such acceleration, payment of such accelerated amount shall constitute a prepayment of the principal balance of the Note and any applicable prepayment fee or consideration provided for in the Note shall then be immediately due and payable.

(b) Entry on the Property. Lender shall have the right to enter upon and take possession of all or any portion of the Property (which Lender may do in person, by agent or by court-appointed receiver, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of its security), in its own name, without force or with such force as is permitted by law and without notice or process or with such notice or process as is required by law, unless such notice and process is waivable, in which case Borrower hereby waives such notice and process, and Lender shall have the right to do any and all acts and perform any and all work which may be desirable or necessary in Lender's judgment to complete any unfinished construction on the Land, to preserve and/or enhance the value, marketability or rentability of the Property, to increase the income therefrom, to manage and operate the Property or to protect the security hereof. All sums expended by Lender therefor, together with interest thereon at the Default Rate, shall be immediately due and payable to Lender by Borrower on demand and shall be secured hereby and by all of the other Loan Documents securing all or any part of the indebtedness evidenced by the Note. No such action by Lender shall constitute a cure or a waiver of any default.

(c) Collect Rents. Lender shall have the right to sue for or otherwise collect the Rents, including those past due and unpaid, and to hold the same as additional security herefor, or to apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, all in such order as Lender in its discretion may determine. Lender may do any of the foregoing with or without taking possession of the Property.

(d) Appointment of Receiver. Lender shall have the right to apply to a court of competent jurisdiction for and to obtain appointment of a receiver for all or any part of the Property. Borrower hereby consents to such appointment, and agrees that Lender shall be entitled to appointment of a receiver as a matter of strict right, irrespective of the solvency or financial condition of Borrower or any other Person liable for the Obligations, and irrespective of whether or not the security is adequate for the repayment of the Obligations, the Loan has been accelerated, a notice of default has been recorded, or the application for appointment of a receiver is on notice or *ex parte*. Nothing herein shall deprive Lender of any other right, remedy or privilege Lender may now have under the law or in equity to have a receiver appointed. Such receivership shall, at the option of Lender, continue until full payment of all of the Obligations or until title to the Property shall have passed by foreclosure sale the Loan Documents or by deed in lieu of such foreclosure. Any such receiver shall have all of the usual powers and duties of receivers in similar cases, including, without limitation, the full power to hold, develop, rent, lease, manage, maintain, operate and otherwise use or permit the use of the Property upon such terms and conditions as said receiver may determine.

(e) Foreclosure. Lender immediately shall have the right to commence an action to foreclose this Security Instrument upon the Property or to specifically enforce its provisions or any of the indebtedness secured hereby in any manner now or hereafter provided by Alabama law and to the extent provided by Alabama law, Lender, or its agents may sell the Property or cause the Property to be sold in accordance with the requirements and procedures provided by said Alabama law in a single parcel or in several parcels, in one or more public sales at the option of Lender, as may be required by applicable law, after having first given notice of the time, place and terms of sale at least once a week for three (3) successive weeks preceding the date of such sale in a newspaper published in said county where the Property is located, as may be required. In the event foreclosure proceedings are filed by Lender, all expenses incident to such proceeding, including, but not limited to, reasonable attorneys' fees and costs, shall be paid by Borrower and secured by this Security Instrument and by all of the other Loan Documents securing all or any part of the indebtedness evidenced by the Note. The secured indebtedness and all other obligations secured by this Security Instrument, including, without limitation, interest at the Default Rate, any prepayment charge, fee or premium required to be paid under the Note in order to prepay principal (to the extent permitted by applicable law), reasonable attorneys' fees and any other amounts due and unpaid to Lender under the Loan Documents, may be bid by Lender in the event of a foreclosure sale hereunder. In the event of a judicial sale pursuant to a foreclosure decree, it is understood and agreed that Lender or its assigns may become the purchaser of the Property or any part thereof. In furtherance thereof, Lender may sell the Property at public outcry to the highest bidder in front of the courthouse door in the county where the Property is located, either in person or by auctioneer, after having first given notice of the time, place and terms of sale, together with a description of the property to be sold, by publication once a week for three (3) successive weeks prior to said sale in some newspaper published in said county. Lender may credit bid at such public sale in its discretion.

(f) Power of Sale. Lender shall have the right to exercise its power of sale in accordance with applicable law.

(g) Other. Lender shall have the right to exercise any other right or remedy available hereunder, under any of the other Loan Documents, or at law or in equity.

SECTION 2.2 Application of Proceeds. To the fullest extent permitted by law, the proceeds of any sale under this Security Instrument shall be applied in accordance with the Loan Agreement.

SECTION 2.3 Right and Authority of Receiver or Lender in the Event of Default; Power of Attorney. Upon or after the occurrence of any Event of Default hereunder, and entry upon the Property or appointment of a receiver in accordance herewith, and under such terms and conditions as may be prudent and reasonable under the circumstances in Lender's or the receiver's sole discretion, all at Borrower's expense, Lender or said receiver, or such other persons or entities as they shall hire, direct or engage, as the case may be, may do or permit one or more of the following, successively or concurrently: (a) enter upon and take possession and control of any and all of the Property; (b) take and maintain possession of all documents, books, records, papers and accounts relating to the Property; (c) exclude Borrower and its agents, servants and employees wholly from the Property; (d) manage and operate the Property; (e) preserve and maintain the Property; (f) make repairs and alterations to the Property; (g) complete

any construction or repair of the Improvements, with such changes, additions or modifications of the plans and specifications or intended disposition and use of the Improvements as Lender may in its sole discretion deem appropriate or desirable to place the Property in such condition as will, in Lender's sole discretion, make it or any part thereof readily marketable or rentable; (h) conduct a marketing or leasing program with respect to the Property, or employ a marketing or leasing agent or agents to do so, directed to the leasing or sale of the Property under such terms and conditions as Lender may in its sole discretion deem appropriate or desirable; (i) employ such contractors, subcontractors, materialmen, architects, engineers, consultants, managers, brokers, marketing agents, or other employees, agents, independent contractors or professionals, as Lender may in its sole discretion deem appropriate or desirable to implement and effectuate the rights and powers herein granted; (j) execute and deliver, in the name of Lender as attorney-in-fact and agent of Borrower or in its own name as Lender, such documents and instruments as are necessary or appropriate to consummate authorized transactions; (k) enter into such leases, whether of real or personal property, or tenancy agreements, under such terms and conditions as Lender may in its sole discretion deem appropriate or desirable; (l) collect and receive the Rents from the Property; (m) eject Tenants or repossess personal property, as provided by law, for breaches of the conditions of their leases or other agreements; (n) sue for unpaid Rents, payments, income or proceeds in the name of Borrower or Lender; (o) maintain actions in forcible entry and detainer, ejectment for possession and actions in distress for rent; (p) compromise or give acquittance for Rents, payments, income or proceeds that may become due; (q) delegate or assign any and all rights and powers given to Lender by this Security Instrument; and (r) do any acts which Lender in its sole discretion deems appropriate or desirable to protect the security hereof and use such measures, legal or equitable, as Lender may in its sole discretion deem appropriate or desirable to implement and effectuate the provisions of this Security Instrument. This Security Instrument shall constitute a direction to and full authority to any lessee, or other third party who has heretofore dealt or contracted or may hereafter deal or contract with Borrower or Lender, at the request of Lender, to pay all amounts owing under any lease, contract, concession, license or other agreement to Lender without proof of the default relied upon. Any such lessee or third party is hereby irrevocably authorized to rely upon and comply with (and shall be fully protected by Borrower in so doing) any request, notice or demand by Lender for the payment to Lender of any Rents or other sums which may be or thereafter become due under its lease, contract, concession, license or other agreement, or for the performance of any undertakings under any such lease, contract, concession, license or other agreement, and shall have no right or duty to inquire whether any default under this Security Instrument or under any of the other Loan Documents has actually occurred or is then existing. Borrower hereby constitutes and appoints Lender, its assignees, successors, transferees and nominees, as Borrower's true and lawful attorney-in-fact and agent, with full power of substitution in the Property, in Borrower's name, place and stead, to do or permit any one or more of the foregoing described rights, remedies, powers and authorities, successively or concurrently, and said power of attorney shall be deemed a power coupled with an interest and irrevocable so long as any indebtedness secured hereby is outstanding. Any money advanced by Lender in connection with any action taken under this Section, together with interest thereon at the Default Rate from the date of making such advancement by Lender until actually paid by Borrower, shall be a demand obligation owing by Borrower to Lender and shall be secured by this Security Instrument and by all of the other Loan Documents securing all or any part of the indebtedness evidenced by the Note.

SECTION 2.4 Notice to Account Debtors. Lender may, at any time after an Event of Default, notify the account debtors and obligors of any accounts, chattel paper, negotiable instruments or other evidences of indebtedness to Borrower included in the Property to pay Lender directly. Borrower shall at any time or from time to time upon the request of Lender provide to Lender a current list of all such account debtors and obligors and their addresses.

ARTICLE III MISCELLANEOUS TERMS AND CONDITIONS

SECTION 3.1 Time of Essence. Time is of the essence with respect to all provisions of this Security Instrument.

SECTION 3.2 Release of Security Instrument. If and when Borrower has paid all of the secured indebtedness as the same becomes due and payable, then, and in such event only, all rights under this Security Instrument shall terminate except for those provisions hereof which by their terms survive, and the Property shall become wholly clear of the liens, security interests, conveyances and assignments evidenced hereby, which shall be released by Lender in due form at Borrower's cost. Borrower shall be responsible for the recordation of such release and payment of any recordation costs associated therewith.

SECTION 3.3 Certain Rights of Lender. Without affecting Borrower's liability for the payment of any of the indebtedness secured hereby, Lender may from time to time and without notice to Borrower: (a) release any person liable for the payment of the indebtedness secured hereby; (b) extend or modify the terms of payment of the indebtedness secured hereby; (c) accept additional real or personal property of any kind as security or alter, substitute or release any property securing the indebtedness secured hereby; (d) recover any part of the Property; (e) consent in writing to the making of any subdivision map or plat thereof; (f) join in granting any easement therein; or (g) join in any extension agreement of this Security Instrument or any agreement subordinating the lien hereof.

SECTION 3.4 Notices. All notices under this Security Instrument shall be given in accordance with the Loan Agreement.

SECTION 3.5 Successors and Assigns. The terms, provisions, indemnities, covenants and conditions hereof shall be binding upon Borrower and the successors and assigns of Borrower, including all successors in interest in and to all or any part of the Property, and shall inure to the benefit of Lender, and its successors and assigns and shall constitute covenants running with the land.

SECTION 3.6 General Interpretative Principles. Within this Security Instrument, words of any gender shall be held and construed to include any other gender, and words in the singular shall be held and construed to include the plural, and vice versa, unless the context otherwise requires.

SECTION 3.7 Section Headings. The captions and titles for the various articles, sections, subsections and other provisions of this Security Instrument and in the Loan Documents are for convenience of reference only, are not to be considered a part hereof and shall not be used in

interpreting any provision hereof, nor shall any of them limit or otherwise affect any of the terms hereof.

SECTION 3.8 Governing Law. This Security Instrument and the security interests (including in personal property) created hereunder shall be governed by the laws of the state in which the Property is located, except that the security interests in Reserves and in the proceeds of Rents that are held by or for the benefit of Lender shall be governed by the laws of the state where the same are held. In the event that any provision of this Security Instrument or any other Loan Document conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the applicable Loan Document which can be given effect without the conflicting provisions, and to this end the provisions of this Security Instrument and the other Loan Documents are declared to be severable.

SECTION 3.9 Application of the Proceeds of the Note. To the extent that proceeds of the Note are used to pay indebtedness secured by any outstanding lien, security interest, charge or prior encumbrance against the Property, such proceeds have been advanced by Lender at Borrower's request and Lender shall be subrogated to any and all rights, security interests and liens owned by any owner or holder of such outstanding liens, security interests, charges or encumbrances, irrespective of whether said liens, security interests, charges or encumbrances are released.

SECTION 3.10 Unsecured Portion of Indebtedness. If any part of the secured indebtedness cannot be lawfully secured by this Security Instrument or if any part of the Property cannot be lawfully subject to the lien and security interest hereof to the full extent of such indebtedness, then all payments made shall be applied on said indebtedness first in discharge of that portion thereof which is unsecured by this Security Instrument.

SECTION 3.11 Interest After Sale. In the event the Property or any part thereof shall be sold upon foreclosure as provided hereunder, to the extent permitted by law, the sum for which the same shall have been sold shall, for purposes of redemption (pursuant to the laws of the state in which the Property is located), bear interest at the Default Rate.

SECTION 3.12 Construction of this Document. This document may be construed as a mortgage, security deed, deed of trust, chattel mortgage, conveyance, assignment, security agreement, pledge, financing statement, hypothecation or contract, or any one or more of the foregoing, in order to fully effectuate the liens and security interests created hereby and the purposes and agreements herein set forth. Capitalized terms used herein but not defined herein shall have the meanings set forth in the Loan Agreement.

SECTION 3.13 No Merger. The estate and interest of Borrower in the Property or any portion thereof shall not merge with any estate or interest that Borrower may subsequently acquire all or any portion of the Property. Without limitation, if Borrower at any time possesses a leasehold estate in any portion of the Property and then subsequently acquires the fee, such leasehold and such fee shall not merge, but shall continue as separate estates, notwithstanding their common ownership and notwithstanding that there may be no intervening estate. Notwithstanding that such estates shall not merge, the lien of this Security Instrument shall encumber all right, title, interest and estate that Borrower may now have or hereafter acquire in

the Property and in any portion thereof, so that such lien shall encumber each estate that Borrower presently owns and also each estate that Borrower subsequently acquires. Likewise, if Lender should acquire any ownership or beneficial interest in the Property or any portion thereof, then the lien and security interests granted to Lender under this Security Instrument shall not merge with such later-acquired interest, notwithstanding common ownership and notwithstanding that there may be no intervening estate.

SECTION 3.14 Rights With Respect to Junior Encumbrances. Any person or entity purporting to have or to take a junior mortgage or other lien upon the Property or any interest therein shall be subject to the rights of Lender to amend, modify, increase, vary, alter or supplement this Security Instrument, the Loan Agreement, the Note or any of the other Loan Documents and to extend the maturity date of the indebtedness secured hereby and to increase the amount of the indebtedness secured hereby and to waive or forebear the exercise of any of its rights and remedies hereunder or under any of the other Loan Documents and to release any collateral or security for the indebtedness secured hereby, in each and every case without obtaining the consent of the holder of such junior lien and without the lien or security interest of this Security Instrument losing its priority over the rights of any such junior lien.

SECTION 3.15 Personal Liability. Notwithstanding the foregoing, the liability of Borrower under this Security Instrument is subject to the limitations on recourse set forth in the Loan Agreement or any other Loan Documents.

SECTION 3.16 Recording and Filing. Borrower will cause the Loan Documents and all amendments and supplements thereto and substitutions therefor to be recorded, filed, re-recorded and re-filed in such manner and in such places as Lender shall reasonably request, and will pay on demand all such recording, filing, re-recording and re-filing taxes, fees and other charges. Borrower shall reimburse Lender, or its servicing agent, for the costs incurred in obtaining a tax service company to verify the status of payment of taxes and assessments on the Property.

SECTION 3.17 Fixture Filing. This Security Instrument shall be effective from the date of its recording as a financing statement filed as a fixture filing with respect to all goods constituting part of the Property which are or are to become fixtures.


SECTION 3.18 Miscellaneous.

(a) **Waiver of Statutory Rights.** To the extent permitted by law, Borrower hereby agrees that it shall not and will not apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws, or any so-called "***Moratorium Laws***," now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such laws. Borrower for itself and all who may claim through or under it waives any and all right to have the property and estates comprising the Property marshaled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Property sold as an entirety. Borrower hereby waives any and all rights of redemption from sale under any judgment of foreclosure of this Mortgage on behalf of Borrower and on behalf of each and every person acquiring any interest in or title to the Property of any nature whatsoever, subsequent to the date of this Mortgage. The foregoing waiver of right of redemption is made pursuant to the provisions of applicable law.

(b) **Interest Rate Agreements.** For purposes hereof, all obligations of Borrower to Lender under all Interest Rate Agreements and any indebtedness or obligation contained therein or evidenced thereby shall be considered an obligation of Borrower secured hereby.

(c) **Future Advances.** Upon request of Borrower, Lender, at Lender's option so long as this Mortgage secures indebtedness held by Lender, may make future advances to Borrower. Such future advances, with interest thereon, shall be secured hereby if made under the terms of this Mortgage, any Loan Documents, or any other document with respect thereto stating that sums advanced thereunder are secured hereby

[SIGNATURE FOLLOWS ON NEXT PAGE]


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IN WITNESS WHEREOF, Borrower, intending to be legally bound hereby, has duly executed this Security Instrument as of the day and year first above written.

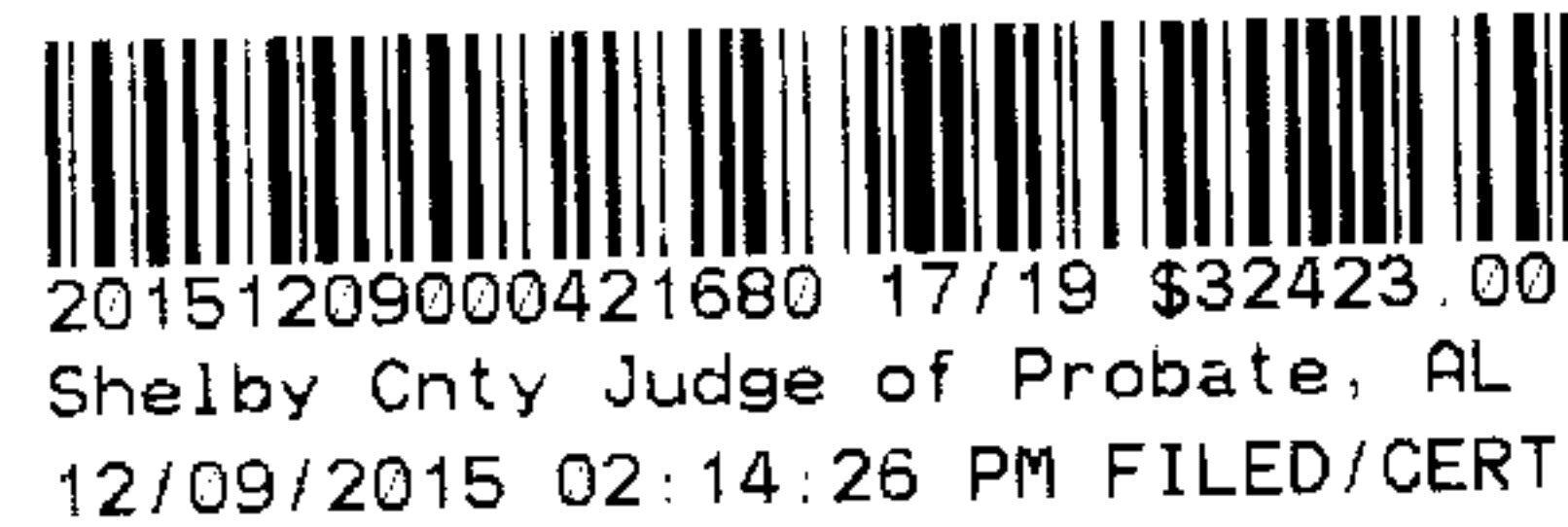
BORROWER:

MONARCH AT LEE BRANCH, LLC,
a Delaware limited liability company

By: Monarch Lee Branch Holdings, LLC,
a Georgia limited liability company,
its Managing Member

By: [Signature]
Name: Stephen M. LaMorte
Its: Manager

STATE OF Georgia }
COUNTY OF Dekalb } SS.



On November 9th, 2015, before me, CINDY BAETZEL, personally appeared Stephen M. LaMorte, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity and that by his signature on the instrument the person(s), or the entity(ies) upon behalf of which the person acted, executed the instrument.

Witness my hand and official seal.

C. Baetzel

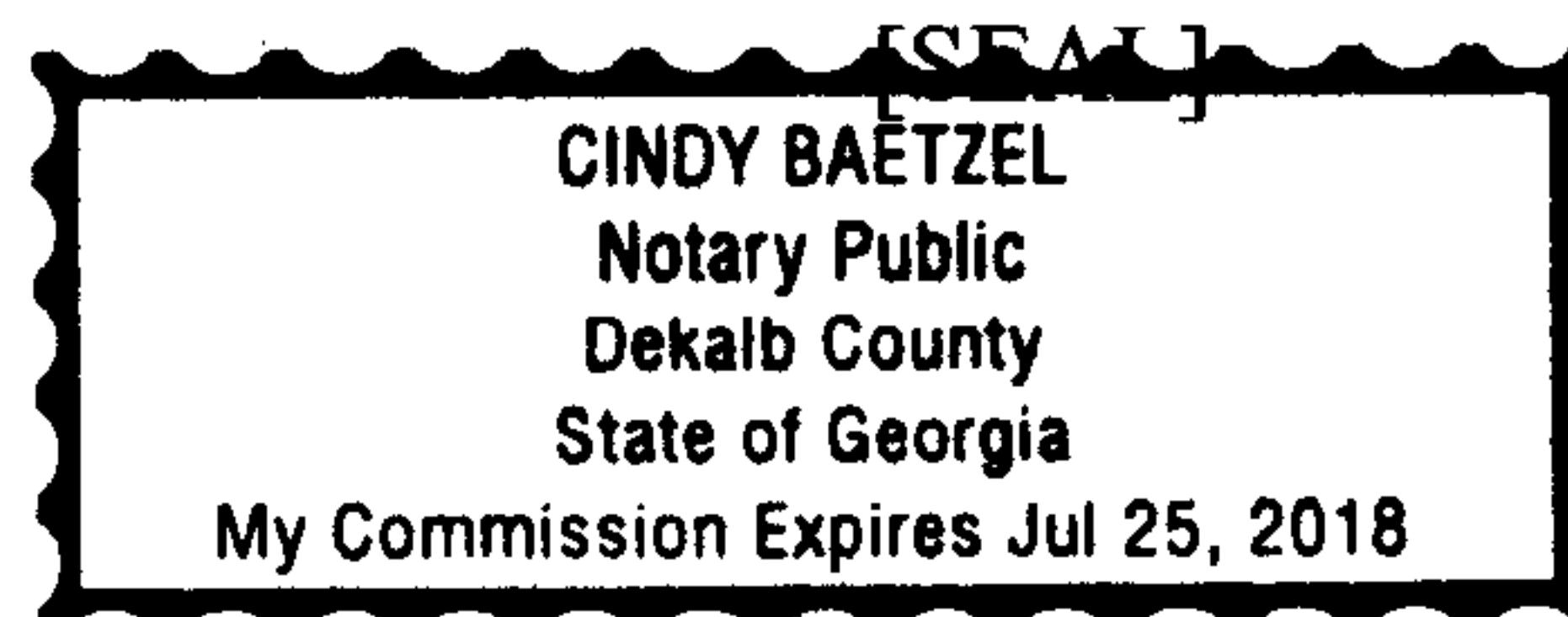


EXHIBIT A

Legal Description of Land

PARCEL 1:

LOT 1B, ACCORDING TO THE SURVEY OF A RESUBDIVISION OF THE VILLAGE AT LEE BRANCH AS RECORDED IN MAP BOOK 31, PAGE 130A AND 130B, IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA, BEING A RESUBDIVISION OF THE VILLAGE AT LEE BRANCH SECTOR 1-REVISION 1.

PARCEL 2:

LOTS 1A, 1B, 1C AND 1D ACCORDING TO THE RESURVEY OF LOT 1 OF THE VILLAGE AT LEE BRANCH, SECTOR 1, PHASE 2, AS RECORDED IN THE OFFICE OF THE JUDGE OF PROBATE OF SHELBY COUNTY, ALABAMA IN MAP BOOK 43, PAGE 66.

LOTS 7 AND 8, ACCORDING TO THE SURVEY OF THE VILLAGE AT LEE BRANCH SECTOR 1 - PHASE 2, AS RECORDED IN MAP BOOK 33, PAGE 58, IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA, BEING A RESUBDIVISION OF LOT 5A OF THE VILLAGE AT LEE BRANCH SECTOR 1-REVISION 1.

PARCEL 3:

TOGETHER WITH SUCH APPURTENANT ACCESS, EASEMENT AND OTHER RIGHTS WHICH ARISE OR ARE RESERVED UNDER AND PURSUANT TO THE FOLLOWING INSTRUMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A. RECIPROCAL EASEMENT AGREEMENT BY AND BETWEEN AIG BAKER BROOKSTONE, L.L.C., AND COMPASS BANK, DATED AUGUST 26, 2003, FILED FOR RECORD AUGUST 27, 2003 AT 10:47 A.M., RECORDED AS INSTRUMENT NUMBER: 20030827000569990 IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA.

B. RECIPROCAL EASEMENT AGREEMENT WITH COVENANTS, CONDITIONS AND RESTRICTIONS DATED JUNE 30, 2003 AND RECORDED JULY 1, 2003 AS DOCUMENT NUMBER 20030701000412990 MADE BY AND BETWEEN AIG BAKER BROOKSTONE, LLC AND LEE BRANCH, LLC.

C. COST-SHARING AGREEMENT DATED AS OF JANUARY 1, 2014 AND RECORDED SEPTEMBER 17, 2014 AS DOCUMENT NUMBER 20140917000291230 MADE BY AND BETWEEN PERA LEE BRANCH, INC. AND RUSHMORE LEE BRANCH, LLC.

D. DECLARATION OF EASEMENT AND RESTRICTIONS DATED AS OF MAY 26, 2004 AND RECORDED JUNE 1, 2004 AS DOCUMENT NUMBER 20040601000288850 MADE BY AIG BAKER EAST VILLAGE, LLC, AS AMENDED BY AMENDMENT NO. 1 TO DECLARATION OF EASEMENT AND RESTRICTIONS WAS RECORDED JUNE 24, 2004 AS DOCUMENT NUMBER 20040524000345520; AMENDMENT TO DECLARATION OF EASEMENT AND RESTRICTIONS WAS RECORDED MAY 11, 2012 AS DOCUMENT NUMBER 20120511000165500, AS AMENDED BY AMENDMENT NO. 3 TO DECLARATION OF EASEMENT AND RESTRICTIONS WAS RECORDED JANUARY 27, 2014 AS DOCUMENT NUMBER 20140127000026530; AS AMENDED BY AMENDMENT NO. 4 TO DECLARATION OF EASEMENT AND RESTRICTIONS WAS RECORDED OCTOBER 14, 2014 AS DOCUMENT NUMBER 2014014000323410.

E. AGREEMENT OF COVENANTS, CONDITIONS AND RESTRICTIONS AND GRANT OF EASEMENTS DATED JUNE 21, 2004 AND RECORDED JUNE 24, 2004 AS DOCUMENT NUMBER 20040624000345530 MADE BY AIG BAKER EAST VILLAGE, LLC, AS AMENDED BY FIRST AMENDMENT TO AGREEMENT OF COVENANTS, CONDITIONS AND RESTRICTIONS AND GRANT OF EASEMENTS DATED SEPTEMBER 3, 2013 AND RECORDED SEPTEMBER 13, 2013 AS DOCUMENT NUMBER 20130913000372210.

F. TO THE EXTENT THAT AN INTEREST IN REAL PROPERTY IS CREATED, DECLARATION OF LIMITED USE RESTRICTIONS DATED JUNE 29, 2007 AND RECORDED JULY 2, 2007 AS DOCUMENT NUMBER 20070702000309430 MADE BY AND BETWEEN AIG BROOKSTONE, LLC AND AIG BAKER EAST VILLAGE, LLC.

G. TO THE EXTENT AN INTEREST IN REAL PROPERTY IS CREATED, AGREEMENT REGARDING MAINTENANCE OBLIGATIONS FOR PAD C – THE VILLAGE AT LEE BRANCH – PHASE II DATED AS OF JUNE 21, 2004 AND RECORDED JUNE 24, 2004 AS DOCUMENT NUMBER 20040624000345540.



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