

*This instrument was prepared by
and when recorded return to:*

Claude McCain Moncus, Esq.
CORLEY MONCUS, P.C.
728 Shades Creek Parkway, Suite 100
Birmingham, AL 35209


20160415000124740 1/8 \$36.00
Shelby Cnty Judge of Probate, AL
04/15/2016 02:45:17 PM FILED/CERT

ASSUMPTION AGREEMENT AND CONSENT TO TRANSFER

This Assumption Agreement and Consent to Transfer (this "Agreement") is made effective as of April 4, 2016 by and among **ODYSSEY INVERNESS, LLC**, an Alabama limited liability company ("Original Borrower"), **EYES ON THE PRIZE, LLC**, an Alabama limited liability company ("New Borrower"), **GORDON R. MITCHELL a/k/a G. ROBERT MITCHELL** an individual ("Guarantor") and **OAKWORTH CAPITAL BANK**, an Alabama limited liability company (the "Lender").

RECITALS:

A. The Lender is the holder of that certain Promissory Note (the "Note"), dated June 14, 2013, in the original principal amount of \$2,760,000.00 made by Original Borrower to the Lender, which Note evidences a loan ("Loan") made by Lender to Original Borrower. To secure the repayment of the Note, Original Borrower executed and delivered a Mortgage and Security Agreement dated June 14, 2013 (the "Mortgage") which Mortgage was recorded on June 18, 2013 in Instrument #20130618000250630 in the Probate Office of Shelby County, Alabama (the "Probate Office"), and an Assignment of Rents and Leases dated June 14, 2013 (the "Assignment of Rents") which Assignment of Rents was recorded on June 18, 2013 in Instrument #20130618000250640 in the Probate Office, and a UCC-1 Financing Statement (the "UCC-County") was filed in Instrument #20130618000250650 of the Probate Office and a UCC-1 Financing Statement (the "UCC-SOS") was filed at 13-0290340 in the Office of the Alabama Secretary of State's Office. The Mortgage, the Assignment of Rents, the UCC-County and the UCC-SOS are herein referred to as the "Security Instruments."

B. The New Borrower has agreed to assume and be obligated for the payment and performance of all of Original Borrower's obligations under the Note, the Security Instruments and all other documents executed in connection with the Loan, as listed on Exhibit "B" to this Agreement (collectively, the "Loan Documents").

C. The Guarantor is unconditionally obligated for the obligations under the Loan Documents, pursuant to his Guaranty of Payment and Performance dated June 14, 2013 (the "Guaranty").

D. The Lender has been asked to consent to the transfer of the Original Borrower's ownership interest in the property to the New Borrower (the "Transfer") and the assumption by the New Borrower of the obligations of the Original Borrower under the Loan Documents.

E. The Lender has agreed to consent to the Transfer subject to the terms and conditions herein stated; provided, that this Agreement is executed by the parties hereto.

Now, Therefore, in consideration of the foregoing and the mutual covenants and promises set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Original Borrower, New Borrower, Guarantor, and Lender agree as follows:

1. Assumption by the New Borrower of Obligations of Original Borrower. The New Borrower hereby assumes all obligations of the Original Borrower under the Loan Documents.
2. Consent to Transfer. The Lender hereby consents to the Transfer and to the assumption by the New Borrower of all of the obligations of the Original Borrower under the Loan Documents, subject to the terms and conditions set forth in this Agreement. The Lender's consent to the Transfer is not intended to be and shall not be construed as a consent to any subsequent transfer which requires the Lender's consent pursuant to the terms of the Loan Documents.
3. Obligations of Guarantor. Nothing set forth herein shall release or change the liability of the Guarantor or any other party who may now be or after the date of this Agreement, become liable, primarily or secondarily, under the Loan Documents. Except as expressly modified hereby, the Note, the Security Instruments, the Guaranty and the other Loan Documents shall remain in full force and effect. The Guarantor consents to this Agreement, the transfer by the Original Borrower to the New Borrower, the assumption of the Loan Documents by the New Borrower, and agrees that the Loan Documents are fully supported by the Guaranty executed by the Guarantor.
4. Cross-Collateralization. The New Borrower agrees and covenants with the Lender that the Loan to Odyssey Child Development Trace Crossings, LLC, a Delaware limited liability company ("Odyssey Trace Crossings") in the original principal amount of \$1,662,000.00 (the "Odyssey Tract Crossings Loan") is hereby cross-collateralized with this Loan and the Collateral described in the Odyssey Trace Crossing Loan Documents shall secure, in addition to the Odyssey Cross Tracing Loan and on a *pari passu* basis with this Loan, the obligations of the New Borrower and the Guarantor under these Loan Documents, including, without limitation, the obligations of the New Borrower and the Guarantor to pay the principal and interest on this Loan, 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 these Loan Documents.
5. Representations. Original Borrower, New Borrower and Guarantor hereby represent, covenant, and agree that the obligations of the Original Borrower, New Borrower and Guarantor under the Note and the Guaranty Agreement are not subject to reduction, set-off, defense, or counter-claim of any nature whatsoever.
6. Costs. The New Borrower agrees to pay all fees and costs (including attorneys' fees) incurred by the Lender in connection with the Lender's consent to and approval of the Transfer.
7. Financial Information. The New Borrower represents and warrants to the Lender that all financial information and information regarding the New Borrower provided to the Lender is true and correct as of the date provided to the Lender and remains materially true and correct as of the date of this Agreement.
8. Addresses. New Borrower's address for notice hereunder and under the Loan Documents is:

EYES ON THE PRIZE, LLC
Attn: G. Robert Mitchell
217 Country Club Park #114
Birmingham, AL 35213

9. Miscellaneous.

(a) This Agreement shall be construed according to and governed by the laws of the jurisdictions in which the Property is located without regard to its conflicts of law principles.

(b) If any provision of this Agreement is adjudicated to be invalid, illegal or unenforceable, in whole or in part, it will be deemed omitted to that extent and all other provisions of this Agreement will remain in full force and effect.

(c) No change or modification of this Agreement shall be valid unless the same is in writing and signed by all parties hereto.

(d) The captions contained in this Agreement are for convenience of reference only and in no event define, describe or limit the scope or intent of this Agreement or any of the provisions or terms hereof.

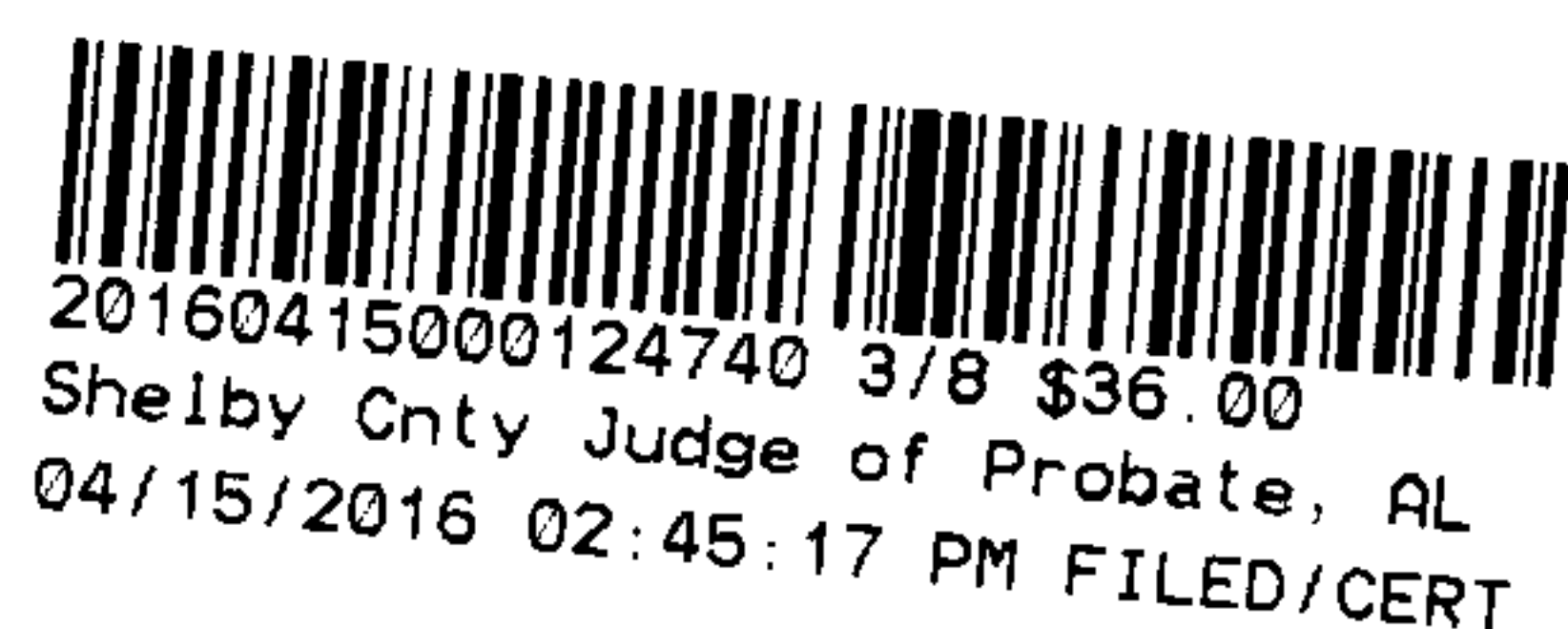
(e) This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, legal representatives, successors and assigns.

(f) This Agreement may be executed in any number of counterparts with the same effect as if all parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart.

(g) The Note shall remain in full force and effect and is expressly ratified and confirmed by the New Borrower. New Borrower acknowledges and agrees that the terms, conditions, and provisions of the Note (including, without limitation, provisions for the accrual of interest and making of monthly payments) shall apply to periods of time prior to the effective date of this Amendment, and New Borrower will fully perform and comply with all such terms and conditions.

(g) THIS WRITTEN AGREEMENT AND THE OTHER LOAN DOCUMENTS, AS AMENDED, REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

[Signature pages to follow]



IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

ORIGINAL BORROWER:

ODYSSEY INVERNESS, LLC, an Alabama limited liability company

By: G. Robert Mitchell [Seal]

Name: G. Robert Mitchell

Title: Manager

NEW BORROWER:

EYES ON THE PRIZE, LLC, an Alabama limited liability company

By: G. Robert Mitchell [Seal]

Name: G. Robert Mitchell

Title: Manager

GUARANTOR:

G. Robert Mitchell [Seal]

Robert G. Mitchell a/k/a G. Robert Mitchell

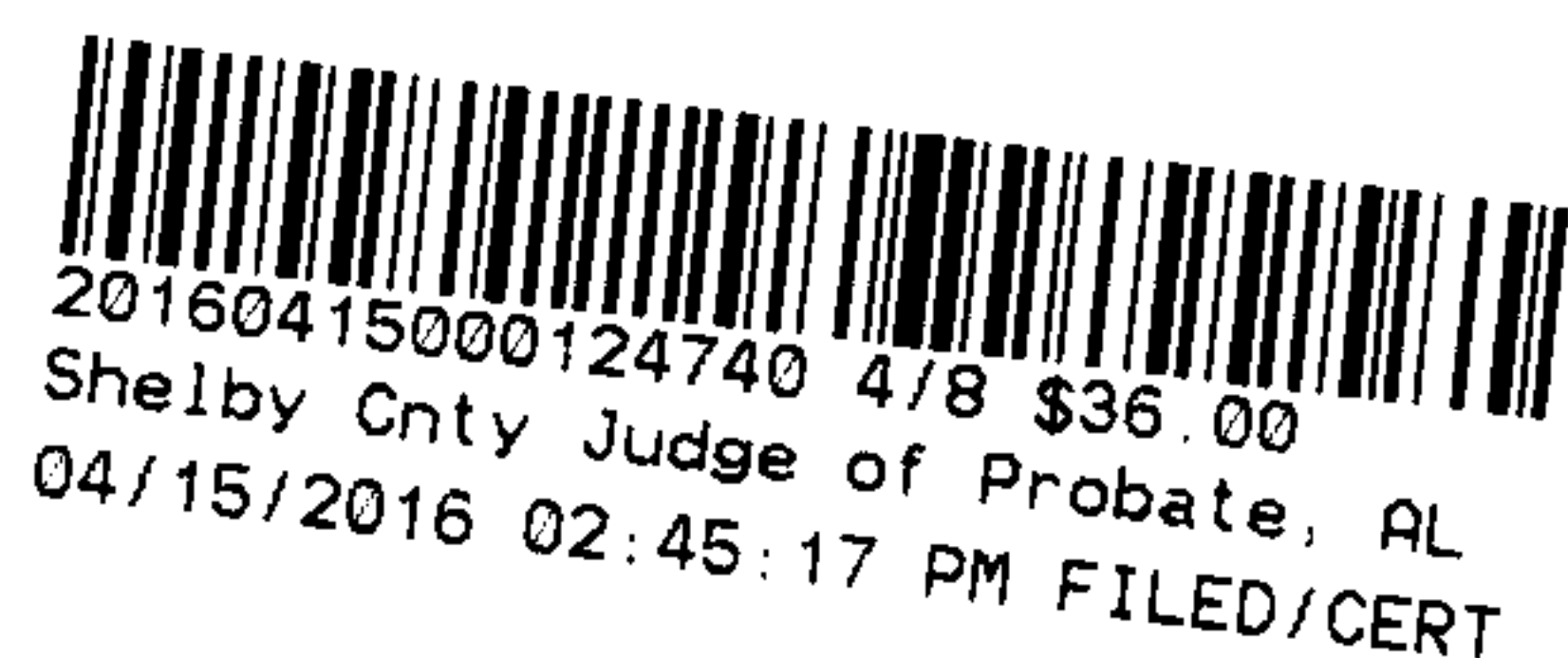
LENDER:

OAKWORTH CAPITAL BANK, an Alabama banking corporation

By: T. Lane Wooley [Seal]

Name: T. Lane Wooley

Title: Managing Director

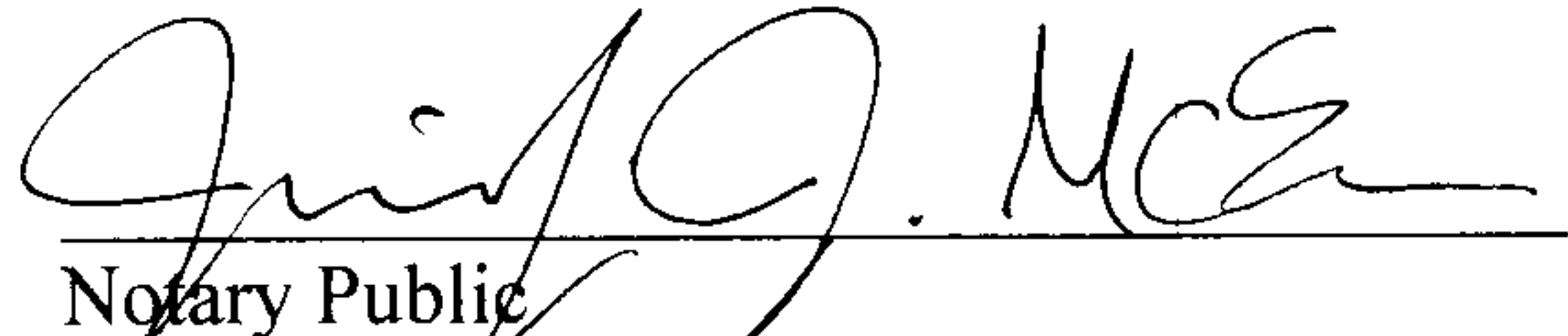


STATE OF ALABAMA)
 :
COUNTY OF JEFFERSON)

I, the undersigned Notary Public in and for said County, in said State, hereby certify that G. Robert Mitchell, whose name as Manager of **Odyssey Inverness, 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 the instrument, he as such Manager, and with full authority, executed the same for and as the act of said limited liability company.

Given under my hand and official seal this 31st day of March, 2016.

[NOTARIAL SEAL]


Notary Public
My Commission Expires: _____

My commission expires: 2/9/2019

STATE OF ALABAMA)
 :
COUNTY OF JEFFERSON)

I, the undersigned Notary Public in and for said County, in said State, hereby certify that G. Robert Mitchell, whose name as Manager of **Eyes on the Prize, 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 the instrument, he as such Manager, and with full authority, executed the same for and as the act of said limited liability company.

Given under my hand and official seal this 31st day of March, 2016.

[NOTARIAL SEAL]


Notary Public
My Commission Expires: _____

My commission expires: 2/9/2019


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Assumption Agreement and Consent to Transfer
Odyssey Inverness, LLC
Page 5

STATE OF ALABAMA)
 :
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that **Robert G. Mitchell, a/k/a R. Guy Mitchell**, whose name is signed to the foregoing, and who is known to me, acknowledged before me on this day that, being informed of the contents of the foregoing, he executed the same voluntarily on the day the same bears date.

Given my hand and official seal this the 31st day of March, 2016.

[NOTARY SEAL]



Notary Public
My Commission Expires: _____

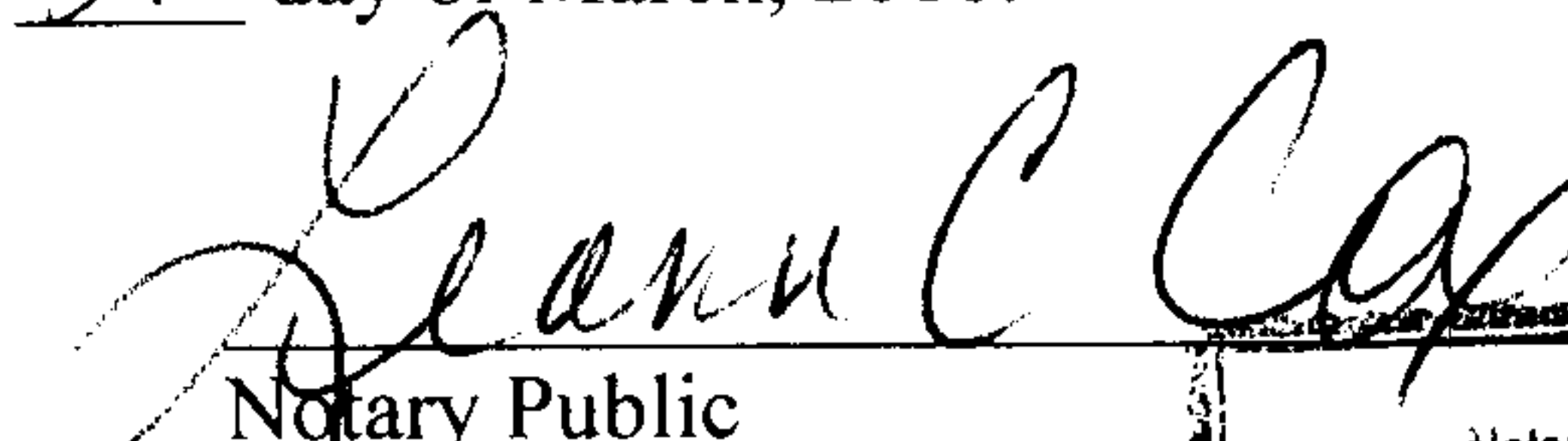
My commission expires: 2/9/2019

STATE OF ALABAMA)
 :
COUNTY OF JEFFERSON)

I, the undersigned Notary Public in and for said County, in said State, hereby certify that T. Lane Wooley, whose name as Managing Director of **Oakworth Capital 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 the instrument, he as such officer, and with full authority, executed the same for and as the act of said bank.

Given under my hand and official seal this 31st day of March, 2016.

[NOTARIAL SEAL]



Notary Public
My Commission Expires: _____

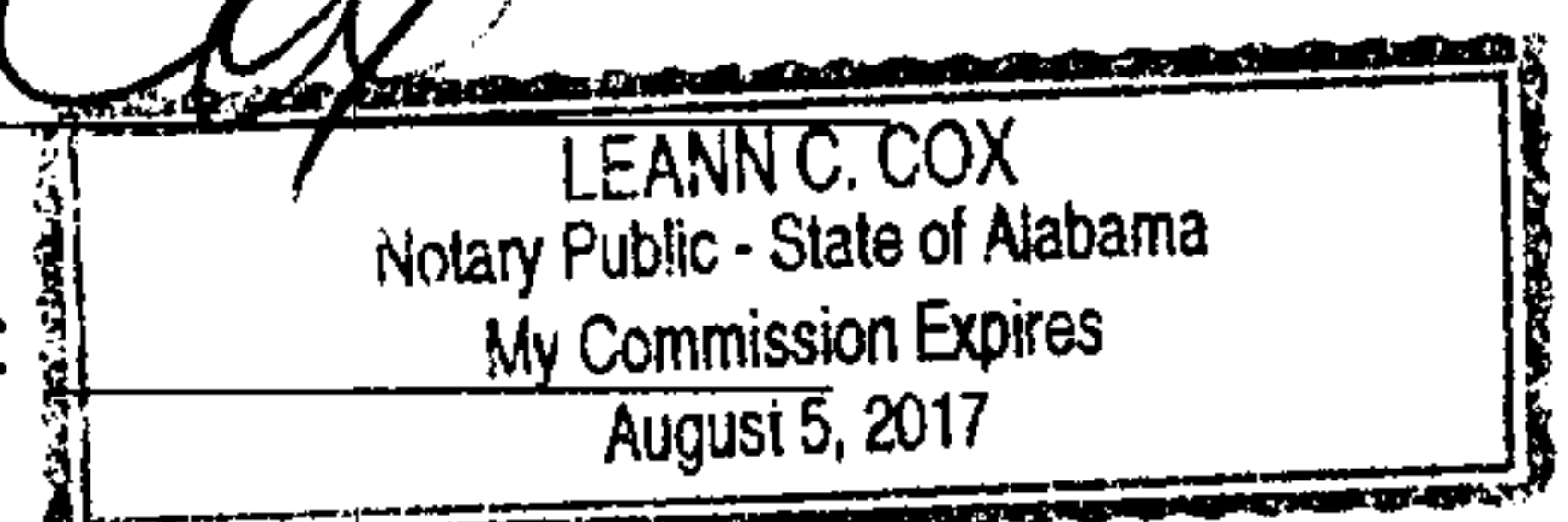


EXHIBIT A
to
ASSUMPTION AGREEMENT AND CONSENT TO TRANSFER

Parcel I:

Lot 2-B according to a Resurvey of Lot 2, Heatherbrooke Office Park, as recorded in Map Book 12, Page 36, in the Office of the Judge of Probate of Shelby County, Alabama; being situated in Shelby County, Alabama.

Parcel II:

Part of Lot I, Heatherbrooke Office Park Resurvey, as recorded in Map Book 23, Page 46, in the Office of the Judge of Probate of Shelby County, Alabama; being situated in Section 36, Township 18 South, Range 2 West, Shelby County, Alabama; more particularly described as follows:

Commence at the Northwest corner of the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of said Section 36, and run thence South 88 degrees 15 minutes 29 seconds East along the Northerly line of the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of said Section 36 for a distance of 179.93 feet; thence leaving said Northerly line South 01 degrees 44 minutes 02 seconds West for a distance of 169.47 feet to the point of beginning of the parcel herein described; thence South 79 degrees 32 minutes 29 seconds East for a distance of 179.18 feet; thence South 18 degrees 35 minutes 30 seconds West for a distance of 80.00 feet to the Northeasterly corner of Lot 2-B, Heatherbrooke Office Park, as shown on the Map or Plat thereof, recorded in Map Book 12, Page 36, in the office of the Judge of Probate of Shelby County Alabama; thence run North 75 degrees 12 minutes 10 seconds West along the Northerly boundary line of said Lot 2-B, for a distance of 158.00 feet; thence leaving said Northerly boundary line North 01 degrees 44 minutes 02 seconds East for a distance of 68.03 feet to the point of beginning; being situated in Shelby County, Alabama.



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Assumption Agreement and Consent to Transfer
Odyssey Inverness, LLC
Page 7

EXHIBIT B
to
ASSUMPTION AGREEMENT AND CONSENT TO TRANSFER

1. Loan Agreement dated June 14, 2013
2. Promissory Note dated June 14, 2013.
3. Mortgage and Security Agreement dated June 14, 2013, and recorded in Instrument No. 20130618000250630 of the Shelby County Probate Office, Alabama (the "Probate Office").
4. UCC Financing Statement recorded in Instrument No. 20130618000250650 in the Probate Office.
5. UCC Financing Statement recorded in File No. 13-0290340 in the Alabama Secretary of State's Office.
6. Assignment of Rents and Leases dated June 14, 2013, and recorded in Instrument No. 20130618000250640 in the Probate Office.
7. Guaranty of Payment and Performance dated June 14, 2013
8. Environmental Indemnity Agreement dated June 14, 2013
9. Debt Subordination Agreement dated June 14, 2013
10. Borrower's Affidavit dated June 14, 2013


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