

ASSIGNMENT OF RENTS AND LEASES

The following terms shall have the meanings set forth below, as used in this instrument:

Lender: BancorpSouth Bank

Lender's Notice Address: 475 Southland Dr S Hoover AL 35226

Loan Amount: \$540,000.00

Mortgage: The Mortgage and Security Agreement executed by Owner in favor of Lender this date to further Secure the Obligation (defined below).

Owner: Donovan Builders LLC

Owner's Notice Address: 3590 B Pelham PKWY PMB 178 Pelham, AL 35124

BY THIS ASSIGNMENT, the Owner, for value received, hereby assigns to the Lender all of Owner's right, title, privileges and interest which Owner has and may have in the leases, operating agreements, management agreements, concession agreements, licenses, and all similar agreements, now existing or hereafter made and affecting the real property and the improvements and equipment thereon described in **Exhibit A** attached hereto and incorporated herein by reference (collectively referred to as the "Property"), together with all extensions, renewals, modifications or replacements of said leases and agreements, and together with any and all guarantees of the obligations of the lessees and other obligors there under, whether now existing or hereafter executed, and all extensions and renewals of said guarantees. All said leases and all other said agreements described in this Paragraph 1, together with any and all guarantees, modifications, extensions and renewals thereof, are hereinafter collectively and severally referred to as the "Lease".

1. **OWNER'S PURPOSE** in making this assignment is to relinquish, convey, and assign to Lender its right to collect and enjoy the rents, royalties, issues, profits, income and other benefits at any time accruing by virtue of the Lease (hereinafter called "Rents and Profits") as additional security for the outstanding indebtedness to Lender as evidenced by the note in favor of Lender (herein called the "Obligation") dated this same date, in the aggregate original principal sum equal to the Loan Amount executed by Owner, and as additional security for the Owner's obligations under the Mortgage executed to better secure the Obligation; and to furnish security for the performance of Owner's obligations contained herein, and in the Obligation, and in all of the other documents executed by Owner in connection with the making or closing of the Loan. The Obligation, the Mortgage, and other said loan documents, and all other documents executed in

connection with this loan are referred to as the "Loan Documents".

2. **THE PARTIES INTEND** that this Assignment shall be a present, absolute and unconditional assignment and shall, immediately upon execution, give Lender the right to collect the Rents and Profits and to apply them in payment of the principal and interest and all other sums payable on Owner's Obligation, as well as all other sums payable under the Loan Documents. However, Lender hereby grants to Owner a license to collect, subject to the provisions set forth below and in the Loan Documents, the Rents and Profits as they respectively become due and to enforce the Lease, so long as there is no default by Owner in performance of the terms, covenants or provisions of the Obligation, the Loan Documents or this Assignment. Nothing contained herein, nor any collection of Rents and Profits by Lender or by a receiver, shall be construed to make Lender a "mortgagee-in-possession" of the Property so long as Lender has not itself entered into actual possession of the Property.

3. **UPON THE OCCURRENCE OF ANY DEFAULT** under the terms and conditions of this Assignment or any of the Loan Documents, this Assignment shall constitute a direction to and full authority to any and all obligors under the Lease and any guarantor of the Lease to pay all Rents and Profits to Lender without proof of the default relied upon. Owner hereby irrevocably authorizes any and all obligors under the Lease and any guarantor to rely upon and comply with any notice or demand by Lender for the payment to Lender of any Rents and Profits due or to become due. Any and all obligors under the Lease and any guarantor shall have no right or duty to inquire whether a default has actually occurred and Owner shall have no claim against any obligor under the Lease or any guarantor for any Rents and Profits paid by such obligor Lessee or such guarantor to Lender pursuant to Lender's demand or notice.

4. **OWNER WARRANTIES:**

- (a) No default exists on the part of Owner under any Lease;
- (b) No rent or other payment has been or will be collected under any Lease more than one month in advance;
- (c) Neither the Lease nor any interest therein has been previously or will be assigned or pledged by Owner;
- (d) No concession has been or will be granted to any Lessee in the form of a waiver, release, reduction, discount or other alteration of rent or other payment due or to become due.

All of the foregoing warranties shall be deemed to be reaffirmed on and as of the time of each Lease executed by Owner on the Property.

5. Owner agrees that nothing herein shall be construed to impose any liability or obligation on Lender under or with respect to the Lease. Owner does not delegate or assign to Lender, and Lender does not accept or assume any of the duties, obligations, or liabilities of



Borrower as provided in the Lease. Despite the present and absolute assignment by Owner to Lender of the Lease, Lender will not be required to perform any of the agreements or conditions contained in the Lease and nothing in this Agreement will impose any obligation upon Lender (including any liability under any covenant of quiet enjoyment as provided in the Lease). Owner retains and will perform all duties, obligations, and liabilities of Owner as provided in the Lease, provided that Lender, in the sole and absolute option of Lender may cure any default as provided in the Lease on behalf of Owner, and Owner will reimburse Lender on demand for all amounts paid and expended by Lender to cure the defaults of Owner as provided in the Lease.

6. This Assignment is intended to be supplementary to and not in substitution for or in derogation of any assignment of rents contained in the Loan Documents. Failure of the Lender to avail itself of any terms, covenants or conditions of this Assignment for any period of time or for any reason shall not constitute a waiver thereof.

7. Notwithstanding any future modification of the terms of the Loan Documents, this Assignment and the rights and benefits hereby assigned and granted shall continue in favor of Lender in accordance with the terms of this Assignment.

8. This Assignment shall be binding upon and inure to the benefit of the respective heirs, legal representatives, successors and assigns of the parties hereto (including without limitation, in the case of Lender, any third parties now or hereafter acquiring any interest in the Obligation or any part thereof, whether by virtue of assignment, participation or otherwise). The words "Owner", "Lender", "obligor under the Lease", and "guarantor", wherever used herein, shall include the persons and entities named herein or in the Lease or any guaranty and designated as such and their respective heirs, legal representatives, successors, and assigns, provided that any action taken by the named Lender or any successor designated as such by an instrument recorded in the appropriate office of the County in which the Property is located referring to this Assignment shall be sufficient for all purposes notwithstanding that Lender may have theretofore assigned or participated any interest in the Obligation to a third party. All words and phrases shall be taken to include the singular or plural number, and the masculine, feminine, or neuter gender, as may fit the case.

9. Any change, amendment, modification, abridgement, cancellation, or discharge of this Assignment or any term or provision hereof shall be invalid without the written consent of Lender.

10. Upon payment to Lender of the full amount of all indebtedness and obligations secured hereby and by the Loan Documents, as evidenced by a recorded satisfaction or release of the Mortgage, Note, and guarantees, this Assignment shall be void and of no further effect.

11. All notices given hereunder shall be given in the manner set forth in the Mortgage.

12. If any provision hereof is determined to be illegal or unenforceable for any reason, the remaining provisions hereof shall not be affected thereby.

13. This Assignment shall be governed by and construed in accordance with the laws of the State of Alabama.

IN WITNESS WHEREOF, this document has been executed by the undersigned under seal on this 25 of August, 2016.

Donovan Builders LLC

By: Jack A. Donovan Sr.

By: Michelle L. Donovan

(INDIVIDUAL)

STATE OF
COUNTY OF

Alabama)
Jefferson)

I, Jerrica Pike Fletcher a notary public, hereby certify that Jack A . Donovan & Michelle L. Donovan whose name(s) is /are signed to the foregoing conveyance, and who is/are known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he/she/they executed the same voluntarily on the day the same bears date. Given under my hand this 25 day of August, 2016.

Jerrica Pike Fletcher
Notary Public
My Commission Expires: 5-1-17

JERRICA PIKE FLETCHER
Notary Public, State of Alabama
Alabama State At Large
My Commission Expires
May 01, 2017

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Shelby Cnty Judge of Probate, AL
09/28/2016 12:57:49 PM FILED/CERT

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Exhibit A

Legal Description


A parcel of land in the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 24, Township 20 South, Range 3 West, Shelby County, Alabama, described as follows: Commence at the Northwest corner of said Section 24; thence run South along the West Section line 421.59 feet to a point on the centerline of a railroad track; thence turn left 25 degrees 06 minutes 32 seconds and run Southeast 248.34 feet along said centerline; thence turn left 100 degrees 52 minutes 15 seconds and run Northeast 73.32 feet to a point on the railroad right-of-way; thence turn right 100 degrees 52 minutes 15 seconds and run Southeast 143.89 feet to the center of a 16 foot drainage easement and the point of beginning; thence continue last course 148.24 feet to the North right-of-way of Shelby County Highway # 52; thence turn left 80 degrees 25 minutes 28 seconds and run Northeast 130.07 feet along said right-of-way to the point of a clockwise curve having a delta angle of 01 degree 27 minutes 44 seconds and a radius of 1934.73 feet; thence run along the arc of said curve 49.38 feet; thence turn left 93 degrees 52 minutes 07 seconds from tangent and run Northwest 116.34 feet; thence turn left 19 degrees 42 minutes 30 seconds and run Northwest 79.14 feet to the center of said 16 foot drainage easement; thence turn left 82 degrees 15 minutes 14 seconds and run Southwest 174.63 feet along said drainage easement to the point of beginning; being situated in Shelby County, Alabama.



Jack A. Donovan SR



Michelle L. Donovan



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Shelby Cnty Judge of Probate, AL
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