

Prepared by and after
recording return to:

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20161114000418700 1/30 \$105.00
Shelby Cnty Judge of Probate, AL
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STATE OF ALABAMA)
COUNTIES OF JEFFERSON AND SHELBY)

Note to Probate Court: The property located in Jefferson County and Secured by this Mortgage is allocated as 79.3% of the total value and the property located in Shelby County and Secured by this Mortgage is allocated as 20.7% of the total value.

County Division Code: AL040
Inst. # 2016117752 Pages: 1 of 29
I certify this instrument filed on
11/8/2016 3:03 PM Doc: MTG
Alan L. King, Judge of Probate
Jefferson County, AL. Rec: \$100.00
MtgTx: \$15,750.00
Clerk: NICOLE

**MORTGAGE, ASSIGNMENT OF LEASES AND RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

THIS MORTGAGE SERVES AS A FINANCING STATEMENT FILED AS A FIXTURE FILING, PURSUANT TO SECTION 7-9A-502(c), CODE OF ALABAMA 1975, AS AMENDED.

THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "**Mortgage**"), dated as of November 7, 2016, by **201 OFFICE PARK, LLC**, an Alabama limited liability company ("**Office Park**"), **FIRST AVENUE DESIGN STUDIO, LLC**, an Alabama limited liability company ("**First Avenue**"), **DOUG BAKER CENTER, LLC**, an Alabama limited liability company ("**Doug Baker Center**"), and **1805 MCCAIN, LLC**, an Alabama limited liability company ("**1805 McCain**"), each as a mortgagor and debtor, whose address is 880 Montclair Road, Suite 250, Birmingham, AL 35213 (hereinafter referred to individually as "**Mortgagor**" and jointly and severally as "**Mortgagors**"), in favor of **IBERIABANK**, a Louisiana state-chartered bank, as mortgagee and secured party, whose address is 2340 Woodcrest Place, Birmingham, Alabama 35209, Attention: Wes Quattlebaum (hereinafter referred to as "**Lender**" said term referring always to the lawful owner and holder of the Secured Obligations (as herein defined)).

WITNESSETH:

Lender is making a loan (the "**Loan**") to Mortgagors and **OWN ALABAMA PORTFOLIO I, LLC**, an Alabama limited liability company ("**Holdco**"; jointly and severally with Mortgagors, the "**Borrowers**") in the principal amount of **Ten Million Five Hundred Thousand and No/100 Dollars (\$10,500,000.00)** pursuant to that certain Loan Agreement of even date herewith by and between Borrowers and Lender, the provisions of which are incorporated herein by reference to the same extent as if fully set forth herein (said Loan Agreement and any and all extensions and renewals thereof, amendments thereto and substitutions, restatements, or replacements therefor is referred to herein as the "**Loan Agreement**"); any terms not defined herein shall have the meanings ascribed to such terms in the Loan Agreement. The Loan is evidenced by that certain Promissory Note of even date herewith payable by Borrowers to the order of Lender in said principal amount (as the same might hereafter be amended, extended, renewed, modified, consolidated, substituted, replaced, restated, or increased, the "**Note**").

As a condition precedent to making the Loan, Lender has required that Mortgagors execute and deliver this Mortgage as security for the Loan and all other indebtedness and other Obligations of

Borrowers under the Loan Agreement, the Note, this Mortgage, and all other documents evidencing, securing, or relating to the Loan (the Loan Agreement, the Note, this Mortgage, and all such other documents, as amended, modified, replaced or restated from time to time, are collectively hereinafter referred to as the "**Loan Documents**").

ARTICLE 1: GRANTS OF SECURITY

NOW THEREFORE in consideration of the sum of Ten Dollars (\$10.00), and other valuable considerations, the receipt and sufficiency whereof are hereby acknowledged, and in order to secure the indebtedness and other Obligations of Borrowers under the Loan Documents, including but not limited to Mortgagors' obligations hereinafter set forth, each Mortgagor does hereby grant, bargain, sell, convey, give, assign, warrant, transfer, pledge, and set over unto Lender, with power of sale, subject to the Permitted Encumbrances (as defined in the Loan Agreement), and grants a security interest to Lender, and the successors and assigns of Lender, all of such Mortgagor's present and future right, title and interest in and to the following described land and interests in land, estates, easements, rights, improvements, personal property, fixtures, equipment, furniture, furnishings, appliances, and appurtenances, including all replacements and additions thereto and all cash and non-cash proceeds thereof, whether now existing or hereafter arising (hereinafter referred to collectively as the "**Property**"), to wit:

(a) The tracts, pieces, or parcels of land located in Jefferson and Shelby Counties, Alabama, more particularly described in Exhibit A attached hereto and by this reference made a part hereof (the "**Land**"), and all additional lands, estates and development rights hereafter acquired by any Mortgagor for use in connection with the Land and all additional lands and estates therein which may, from time to time, by supplemental instrument or otherwise be expressly made subject to this Mortgage;

(b) All buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements, and improvements of every nature whatsoever now owned or hereafter acquired by any Mortgagor, now or hereafter erected or located on the Land (the "**Improvements**");

(c) All easements, rights-of-way, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, air rights, and development rights, minerals, flowers, shrubs, crops, trees, timber, and other emblements now or hereafter located on, under, or above the Land or any part or parcel thereof, and all ground leases, estates, rights, titles, interests, privileges, liberties, tenements, hereditaments, appurtenances, reversions, and remainders whatsoever in any way belonging, relating, or appertaining to the Land and the Improvements or any part thereof, or which hereafter shall in any way belong, relate, or be appurtenant thereto, and all land lying in the bed of any street, road, or avenue, opened 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 any Mortgagor of, in, and to the Land and the Improvements and every part and parcel thereof, with the appurtenances thereto;

(d) All "goods" and "equipment," as such terms are defined in Article 9 of the Uniform Commercial Code, as adopted and enacted by the State of Alabama (the "**Uniform Commercial Code**"), now owned or hereafter acquired by any Mortgagor, which is used at or in connection with the Improvements or the Land or is located thereon or therein (including, but not limited to, all machinery, equipment, furnishings, and electronic data-processing and other office equipment now owned or hereafter acquired by any Mortgagor and any and all additions, substitutions and replacements of any of the foregoing), together with all attachments, components, parts, equipment and accessories installed thereon or affixed thereto (collectively, the "**Equipment**"), including, without limitation, (i) the proceeds

of any sale or transfer of the foregoing, (ii) the right, title and interest of any Mortgagor in and to any of the Equipment that may be subject to any security interest, as defined in the Uniform Commercial Code, superior in priority to the security interest of Lender, and (iii) with respect to any Equipment that is leased to any Mortgagor, all right, title, and interest of such Mortgagor in and to all deposits and the benefit of all payments now or hereafter made with respect to such Equipment (provided that the foregoing provisions shall not be interpreted or construed as Lender's consent to such creation or attachment of any lien or security interest in and to the Equipment other than in favor of Lender);

(e) All Equipment now owned, or the ownership of which is hereafter acquired, by any Mortgagor (for clarification this does not include any fixtures or other items that are the property of tenants and are removable upon the termination or expiration of a lease) which is so related to the Land and Improvements that it is deemed fixtures or real property under the laws of the State of Alabama, including, without limitation, all building or construction materials intended for construction, reconstruction, alteration, or repair of the Improvements or installation on the Land, construction equipment, appliances, machinery, plant equipment, fittings, apparatuses, fixtures and other items now or hereafter attached to, installed in or used in connection with (temporarily or permanently) any of the Improvements or the Land, including, but not limited to, engines, devices for the operation of pumps, pipes, plumbing, cleaning, call and sprinkler systems, fire extinguishing apparatuses and equipment, heating, ventilating, laundry, incinerating, electrical, air conditioning and air cooling equipment and systems, gas and electric machinery, appurtenances and equipment, pollution control equipment, security systems, disposals, dishwashers, refrigerators and ranges, recreational equipment and facilities of all kinds, and water, gas, electrical, storm and sanitary sewer facilities, utility lines and equipment (whether owned individually or jointly with others, and, if owned jointly, to the extent of any Mortgagor's interest therein) and all other utilities whether or not situated in easements, all water tanks, water supply, water power sites, fuel stations, fuel tanks, fuel supply, and all other structures, together with all accessions, appurtenances, additions, replacements, betterments and substitutions for any of the foregoing and the proceeds thereof (collectively, the "**Fixtures**");

(f) All leases, usufructs, subleases, subtenancies, licenses, occupancy agreements, and concessions relating to the use and enjoyment of all or any part of the Land or the Improvements (the "**Leases**") heretofore or hereafter entered into whether before or after the filing by or against any Mortgagor of any petition for relief under the United States Bankruptcy Code, 11 U.S.C. §§ 101 et seq. (as the same might be amended from time to time, the "**Bankruptcy Code**"), and any and all guaranties and other agreements relating to or made in connection with any of the Leases, and all right, title, and interest of each Mortgagor, its successors and assigns therein and thereunder, to secure the performance by the lessees, sublessees, tenants, subtenants, permittees, licensees, and other obligees of their obligations thereunder and all rents, additional rents, revenues, issues, and profits (including oil and gas or other mineral royalties and bonuses) from the Land and the Improvements, whether paid or accruing before or after the filing by or against any Mortgagor of any petition for relief under the Bankruptcy Code (the "**Rents**"), and all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Secured Obligations (as hereinafter defined), and all of each Mortgagor's claims and rights to damages and any other remedies in connection with or arising from the rejection of any Lease by any tenant or any trustee, custodian, or receiver pursuant to the Bankruptcy Code in the event that there shall be filed by or against any tenant any petition, action or proceeding under the Bankruptcy Code or under any other similar federal or state law now or hereafter in effect;

(g) All proceeds, including all claims to and demands for them, of the voluntary or involuntary conversion of any of the Land, the Improvements, the Equipment, the Fixtures, or any of the other Property into cash or liquidated claims, including proceeds of all present and future fire, hazard, or casualty insurance policies and all condemnation awards or payments now or hereafter to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any

condemnation or eminent domain proceeding, and all causes of action and their proceeds for any damage or injury to the Land, Improvements, Equipment, Fixtures, or any of the other Property or any part of them, or breach of warranty in connection with the construction of the Improvements, including causes of action arising in tort, contract, fraud, or concealment of a material fact;

(h) All rights to the payment of money, accounts, accounts receivable, reserves, deferred payments, refunds, cost savings, payments, and deposits, whether now or hereafter to be received from third parties or deposited by any Mortgagor with Lender or third parties (including all utility deposits, accounts for the deposit, collection, and/or disbursement of Rents, and all reserve accounts provided for under any documentation entered into or delivered by any Mortgagor in connection with the Loan), and all deposit accounts, chattel paper, instruments, documents, instruments, drafts and letter-of-credit rights (as each such term is defined in the Uniform Commercial Code), which arise from or relate to any business now or hereafter to be conducted on the Land, or to the Land and the Improvements generally;

(i) All franchises, trade names, trademarks, symbols, goodwill, service marks, trade styles, books, records, development and use rights, architectural and engineering plans, specifications and drawings, and as-built drawings, contracts, licenses, approvals, applications, consents, subcontracts, service contracts, management contracts, permits, and other agreements of any nature whatsoever now or hereafter obtained or entered into by any Mortgagor, or any managing agent of the Land and the Improvements on behalf of any Mortgagor, with respect to the use, occupation, development, construction, management, and/or operation of the Property or any part thereof or the activities conducted thereon or therein, or otherwise pertaining to the Property or any part thereof, including, without limitation, (i) all rights of any Mortgagor to receive moneys due and to become due to it under or in connection with any of the foregoing, (ii) all rights of any Mortgagor to damages arising out of or for a breach or default in respect thereof, and (iii) all rights of any Mortgagor to perform and to exercise all remedies thereunder;

(j) All of each Mortgagor's right, title and interest, now or hereafter acquired, to the payment of money from Lender (or any affiliate of Lender) to any Mortgagor under any swap, derivative, foreign exchange, or hedge transaction or arrangement (or similar transaction or arrangement howsoever described or defined) at any time entered into between any Mortgagor and Lender (or any affiliate of Lender) in connection with the Loan, including, without limitation, any Rate Management Agreement (as defined in the Loan Agreement);

(k) All rights that any Mortgagor now has or may hereafter acquire, to be indemnified and/or held harmless from any liability, loss, damage, costs or expense (including, without limitation, attorneys' fees and disbursements) relating to the Property or any part thereof;

(l) All other tangible and intangible personal property of any Mortgagor (whether or not subject to the Uniform Commercial Code), including, without limitation, all bank and other accounts and all cash and all investments therein, all proceeds, products, offspring, accessions, rents, profits, income, benefits, substitutions and replacements of and to any of the property of any Mortgagor described in the preceding clauses of this Article, and all books, correspondence, files, and other records, including, without limitation, all tapes, disks, cards, software, data, computer-readable memory, and any computer hardware or software necessary to access and process such memory in the possession of or under the control of any Mortgagor or any other person from time to time acting for any Mortgagor that at any time evidence or contain information relating to any of the property described in the preceding clauses of this Article or are otherwise necessary or helpful in the collection or realization thereof; and

(m) All proceeds of, additions and accretions to, substitutions and replacements for, and any changes in any of the property described above in this Article.

TO HAVE AND TO HOLD the Property and all parts, rights, members and appurtenances thereof, to the use, benefit and behoof of Lender, its successors and assigns forever, subject however to the terms and conditions herein.

PROVIDED, HOWEVER, that these presents are upon the condition that, if the Borrowers shall pay to the Lender the Secured Obligations, at the times and in the manner stipulated herein, in the Note and in the other Loan Documents, all without any deduction or credit for taxes or other similar charges paid by the Borrowers, and shall cause all other obligated parties to, keep, perform, and observe all and singular the covenants and promises herein, in the Note and in each of the other Loan Documents expressed to be kept, performed, and observed, all without fraud or delay, then this Mortgage, and all the properties, interests, and rights hereby granted, bargained, and sold shall cease, determine, and be void, but shall otherwise remain in full force and effect.

AND each Mortgagor covenants and agrees with the Lender and represents and warrants unto Lender as follows:

ARTICLE 2: OBLIGATIONS SECURED

2.01 This Mortgage and the grants, assignments, and transfers made in Article I hereof are given for the purpose of securing the following obligations in any order of priority as Lender may determine in its sole discretion (the "*Secured Obligations*");

(a) Payment of all indebtedness evidenced by the Note, including principal, interest, default interest, late charges, prepayment consideration, and other sums, as provided in the Note, including, without limitation, all future advances and re-advances that may subsequently be made by Lender to any Borrower evidenced by the Note or any other promissory notes at any time evidencing the Loan or any portion thereof;

(b) The full and prompt payment and performance of all of the provisions, agreements, covenants and obligations herein contained and contained in the Loan Agreement, the Note, and the other Loan Documents, and the payment of all other sums herein and therein covenanted to be paid, including but not limited to the Obligations (as such term is defined in the Loan Agreement);

(c) Any and all additional advances made by Lender pursuant to this Mortgage or the other Loan Documents to protect or preserve the Property or the lien or security interest created hereby on the Property, or for taxes, assessments or insurance premiums as hereinafter provided or for performance of any of a Mortgagor's obligations hereunder or Borrowers' obligations under the other Loan Documents or for any other purpose provided herein or in the other Loan Documents (whether or not the original Mortgagor remains the owner of the Property at the time of such advances);

(d) Any and all existing and future obligations of any Borrower under any Rate Management Agreement (as defined in the Loan Agreement) on a pari passu basis with all other obligations secured hereby;

(e) Any and all other indebtedness now owing or which may hereafter be owing by any Borrower to Lender, however and whenever incurred or evidenced, whether express or implied, direct or indirect, absolute or contingent, or due or to become due, and all renewals, modifications,



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consolidations, replacements and extensions thereof, it being contemplated by each Mortgagor and Lender that a Borrower might hereafter become so indebted to Lender; and

(f) Payment and performance of all modifications, amendments, extensions, consolidations, and renewals, however evidenced, of any of the obligations described in (a) through (e) above.

2.02 This Mortgage secures not only any existing Secured Obligations, but also future advances, whether such advances are obligatory or to be made at the option of Lender, or otherwise, and whether made before or after default or maturity or other similar events, to the same extent as if such future advances were made on the date of the execution of this Mortgage.

ARTICLE 3: COVENANTS

3.01 Payment of Secured Obligations. Each Mortgagor shall and shall cause all other Borrowers to perform, observe and comply with the provisions hereof and of each of the other Loan Documents and duly and punctually will pay to Lender the sum of money expressed in the Note with interest thereon in accordance therewith and all other sums required to be paid by any Mortgagor pursuant to the provisions of this Mortgage or by any other Borrower pursuant to the Note and/or other Loan Documents, all without any deduction or credit for taxes or other similar charges paid by any Mortgagor or any other Borrower. The payment and performance of all Secured Obligations are secured by this Mortgage.

3.02 Incorporation by Reference. All the covenants, conditions, and agreements contained in the Note and all of the other Loan Documents are hereby made a part of this Mortgage to the same extent and with the same force as if fully set forth herein.

3.03 Warranty of Title Subject to the Permitted Encumbrances, Office Park is lawfully seized of an indefeasible estate in fee simple in the Land described on the attached Exhibit A-1 and the Property related thereto which is hereby mortgaged and has good and absolute title to all such Property in which a security interest is herein granted, and Office Park has, subject to the Permitted Encumbrances, good right, full power, and lawful authority to sell, convey, mortgage and grant a security interest in the same in the manner and form aforesaid.

(b) Subject to the Permitted Encumbrances, First Avenue is lawfully seized of an indefeasible estate in fee simple in the Land described on the attached Exhibit A-2 and the Property related thereto which is hereby mortgaged and has good and absolute title to all such Property in which a security interest is herein granted, and First Avenue has, subject to the Permitted Encumbrances, good right, full power, and lawful authority to sell, convey, mortgage and grant a security interest in the same in the manner and form aforesaid.

(c) Subject to the Permitted Encumbrances, Doug Baker Center is lawfully seized of an indefeasible estate in fee simple in the Land described on the attached Exhibit A-3 and the Property related thereto which is hereby mortgaged and has good and absolute title to all such Property in which a security interest is herein granted, and Doug Baker Center has, subject to the Permitted Encumbrances, good right, full power, and lawful authority to sell, convey, mortgage and grant a security interest in the same in the manner and form aforesaid.

(d) Subject to the Permitted Encumbrances, 1805 McCain is lawfully seized of an indefeasible estate in fee simple in the Land described on the attached Exhibit A-4 and Exhibit A-5 and the Property related thereto which is hereby mortgaged and has good and absolute title to all such

Property in which a security interest is herein granted, and 1805 McCain has, subject to the Permitted Encumbrances, good right, full power, and lawful authority to sell, convey, mortgage and grant a security interest in the same in the manner and form aforesaid.

(e) Except for the Permitted Encumbrances, the Property is free and clear of all liens, charges, and encumbrances whatsoever, including conditional sales contracts, chattel mortgages, security agreements, financing statements, and anything of a similar nature, and Mortgagors shall and will warrant and forever defend the title thereto unto the Lender, its successors and assigns, against the lawful claims of all persons whomsoever.

3.04 Taxes on Secured Obligations. Mortgagors will pay, on or before the due date thereof or otherwise in accordance with the other Loan Documents, all taxes, assessments, charges, expenses, costs, and fees that might now or hereafter be levied upon, or assessed or charged against, or incurred in connection with, the Note, the Secured Obligations, this Mortgage, or any of the other Loan Documents, including, without limitation, any sales or use tax that might be imposed on Lender with respect to the Secured Obligations. In the event of the passage of any state, federal, municipal, or other governmental law, order, rule, or regulation, subsequent to the date hereof, in any manner changing or modifying the laws now in force governing the taxation of mortgages or security agreements, or debts secured thereby, or in the manner of collecting such taxes, so as to adversely affect Lender (excluding any tax upon Lender's income derived from the Secured Obligations), Mortgagors will pay any such tax on or before the due date thereof. If any Mortgagor fails to make such prompt payment or if, in the opinion of Lender, any such state, federal, municipal, or other governmental law, order, rule, or regulation prohibits any Mortgagor from making such payment or would penalize any Mortgagor if such Mortgagor makes such payment, or if, in the opinion of Lender, the making of such payment might result in the imposition of interest beyond the maximum amount permitted by applicable law, then, upon ninety (90) days' notice, the entire Secured Obligations will, at the option of Lender, become immediately due and payable. Mortgagors shall have the right, before any such tax, assessment, fee, or charges become delinquent, to contest or object to the amount or validity of any such tax, assessment, fee, or charge by appropriate legal proceedings, provided that said right shall not be deemed or construed in any way as relieving, modifying, or extending any Mortgagor's covenant to pay any such tax, assessment, fee, or charge at the time and in the manner provided herein unless (i) Mortgagors have given prior written notice to Lender of Mortgagors' intent to so contest or object, (ii) Mortgagors shall demonstrate to Lender's reasonable satisfaction that the legal proceedings shall conclusively operate to prevent the imposition of any fine or penalty against Lender and shall not affect the validity, enforceability, or priority of this Mortgage, and (iii) Mortgagors shall have established reasonable reserves or provided other assurances reasonably acceptable to Lender regarding the payment of any additional tax, fines, penalties, or interest that might be due in the event that such contest or objection is determined adversely to any Mortgagor in whole or in part.

3.05 Casualty. If the Property or any part thereof is damaged by fire or any other cause, Mortgagors will give immediate written notice of the same to Lender. Lender is hereby authorized and empowered, at its option, to adjust or compromise any loss under any Insurance Policies and to collect and receive the proceeds from any such Insurance Policies, provided that if the Net Proceeds (as defined in the Loan Agreement) payable with respect to such damage is reasonably anticipated to be less than the Casualty Benchmark (as defined in Loan Agreement) and no Event of Default then exists, Mortgagors shall be entitled to settle and compromise such claim subject only to the prior reasonable consent of Lender. Each insurance company is hereby authorized and directed to make payment for all such losses directly to Lender as its interest might appear, instead of to any Mortgagor and Lender jointly. If any insurance company fails to disburse directly and solely to Lender but instead disburses either solely to any Mortgagor or to any Mortgagor and Lender jointly, Mortgagors agree immediately to endorse and transfer such proceeds to Lender to the extent of Lender's interest therein. Upon the failure of any Mortgagor to

endorse and transfer such proceeds as aforesaid, Lender may execute such endorsements or transfers for and in the name of such Mortgagor, and each Mortgagor hereby irrevocably appoints Lender as such Mortgagor's agent and attorney-in-fact so to do. Lender shall not be held responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure. The proceeds of any insurance collected by Lender arising from any casualty affecting the Property, after deduction of Lender's reasonable costs and expenses (including, but not limited to, reasonable legal costs and expenses actually incurred), in collecting the same, shall be applied as provided in the Loan Agreement.

3.06 Condemnation. Mortgagors shall promptly give Lender written notice of the actual or threatened in writing commencement of any condemnation or eminent domain proceeding affecting the Property and shall deliver to Lender copies of any and all papers served in connection with such proceedings. No taking by any public or quasi-public authority through eminent domain or otherwise (including but not limited to any transfer made in lieu of or in anticipation of the exercise of such taking) shall limit or otherwise affect any Mortgagor's obligations hereunder or any Borrower's obligations under the Note or any of the other Loan Documents to which any Borrower is a party. Lender is authorized, at its option, to commence, appear in, and prosecute, through counsel selected by Lender, in its own or in any Mortgagor's name, any action or proceeding relating to any such condemnation. If an Event of Default exists, upon Lender giving notice to Mortgagors of the same, Lender shall have the sole and exclusive right to compromise or settle any claim for compensation. All such compensation, awards, damages, claims, rights of action, and proceeds and the right thereto are hereby assigned by Mortgagors to Lender, and Lender is authorized, at its option, to collect and receive all such compensation, awards, or damages and to give proper receipts and acquittances therefor without any obligation to question the amount of any such compensation, awards, or damages. Lender will be entitled to all compensation, awards, and other payments or relief therefor without any obligation to question the amount of any such compensation, awards, or damages. Lender shall not be limited to the interest paid on the award by the condemning authority but shall be entitled to receive out of the award interest at the rate or rates provided herein and in the Note. If the Property is sold, through foreclosure or otherwise, prior to the receipt by Lender of such award or payment, Lender shall have the right, whether or not a deficiency judgment on the Note shall have been sought, recovered or denied, to receive said award or payment, or a portion thereof sufficient to pay the Secured Obligations. Mortgagors shall file and prosecute or cause to be filed and prosecuted its claim or claims for any such award or payment in good faith and with due diligence and cause the same to be paid over to Lender, and hereby irrevocably authorizes and empowers Lender, in the name of any Mortgagor or otherwise, to collect and receive any such award or payment and to file and prosecute such claim or claims, and although it is hereby expressly agreed that the same shall not be necessary in any event, Mortgagors shall, upon demand of Lender, make, execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning any such award or payment to Lender, free and clear of any encumbrances of any kind or nature whatsoever. Any such compensation, awards, and other payments received by Lender, after deducting therefrom all of Lender's expenses incurred in the collection and administration of such sums, including reasonable attorney's fees actually incurred, shall be applied as provided in the Loan Agreement.

3.07 Care of Property. Mortgagors will preserve and maintain the Property in good condition and repair, will not commit or suffer any waste, and will not do or suffer to be done anything that will increase the risk of fire or other hazard to the Property or any part thereof.

3.08 Leases and Management Agreements. No Mortgagor shall violate the terms of the Loan Agreement with respect to any Lease or tenancy of or affecting the Property, or any management agreement, of or affecting the Property.

3.09 Further Assurances; After Acquired Property. At any time, and from time to time, upon request by Lender, each Mortgagor will make, execute and deliver or cause to be made, executed and delivered, to Lender, any and all other further instruments, certificates, and other documents as may, in the reasonable opinion of Lender, be necessary or desirable to (i) perfect and protect the lien and security interest created or purported to be created hereby, (ii) enable Lender to exercise and enforce any and all rights and remedies hereunder in respect of the Property, or (iii) effect otherwise the purposes of this Mortgage, including, without limitation, (A) executing and filing such financing or continuation statements, or amendments thereto, as may be necessary or desirable or that Lender might request to perfect and preserve the security interest created by this Mortgage as a first and prior security interest upon and mortgage upon all of the Property (subject to Permitted Encumbrances), whether now owned or hereafter acquired by any Mortgagor, (B) if certificates of title are now or hereafter issued or outstanding with respect to any of the Property, by immediately causing the interest of Lender to be properly noted thereon at Mortgagors' expense, and (C) furnishing to Lender from time to time statements and schedules further identifying and describing the Property and such other reports in connection with the Property as Lender might reasonably request, all in reasonable detail. If an Event of Default has occurred and is continuing, Lender may make, execute, and record any and all such instruments, certificates, and documents for and in the name of each Mortgagor, and Mortgagors hereby irrevocably appoint Lender the agent and attorney in fact of each Mortgagor so to do, which power of attorney is coupled with an interest and irrevocable. The lien and security interest hereof shall attach automatically without any further act or deed required of any Mortgagor or Lender to all after-acquired property of the kind described herein attached to or used in connection with the operation of the Property or any part thereof.

3.10 Indemnification of Expenses.

(a) Mortgagors will pay, reimburse, and indemnify Lender for all attorney's fees and expenses by Lender in any suit, action, trial, appeal, bankruptcy or other legal proceeding or dispute of any kind in which Lender is made a party or appears as party plaintiff or defendant, affecting the Secured Obligations, this Mortgage or the interests created herein, or the Property, or any appeal thereof, including, but not limited to, any foreclosure action, any condemnation action involving the Property or any action to protect the security hereof, any bankruptcy or other insolvency proceeding commenced by or against any Borrower, any lessee of the Property (or any part thereof) or any guarantor of any of the Secured Obligations, and any such amounts paid by Lender shall be added to the Secured Obligations and shall be secured by this Mortgage. Mortgagors will indemnify and hold Lender harmless from and against all claims, damages, and expenses, including attorney's fees and court costs resulting from any action by a third party against Lender relating to this Mortgage or the interests created herein, or the Property, including, but not limited to, any action or proceeding claiming loss, damage or injury to person or property, or any action or proceeding claiming a violation of any national, state or local law, rule or regulation. Any provision to the contrary in this Mortgage notwithstanding, no Mortgagor shall be obligated to indemnify Lender with respect to any claims, damages, and expenses arising from the willful misconduct or gross negligence of Lender.

(b) Each Mortgagor acknowledges that it has undertaken the obligation to pay all mortgage taxes, recording taxes, intangibles taxes and documentary taxes, as applicable, now or hereafter due in connection with the Secured Obligations and the Loan Documents, and Mortgagors agree to indemnify and hold Lender harmless from any such mortgaged taxes, recording taxes, intangibles taxes and documentary stamp taxes, and any interest or penalties, that Lender might hereafter be required to pay in connection with the Secured Obligations or Loan Documents. The agreements of this subsection (b) shall expressly survive satisfaction of this Mortgage and the repayment of the Secured Obligations.

3.11 Estoppel Certificates. After request by Lender, Mortgagors, within ten (10) business days, shall furnish Lender or any proposed assignee with a statement, duly acknowledged and certified,

setting forth (i) that, except as provided in such statement, there are no Defaults or Events of Default under the Note or this Mortgage, (ii) whether any offsets or defenses exist against the Secured Obligations and, if any are alleged to exist, a detailed description thereof, (iii) that all Leases are in full force and effect and (provided the Property is not a residential multifamily property) have not been modified (or if modified, setting forth all modifications), (iv) the date to which the Rents thereunder have been paid pursuant to the Leases, (v) the amount of security deposits held by any Mortgagor under Leases and that such amounts are consistent with the amounts required under the Leases, and (vi) as to any other matters reasonably requested by Lender and reasonably related to the Leases, the Secured Obligations, the Property or this Mortgage.

3.12 Replacement Documents. Upon receipt of an affidavit of an officer of Lender as to the loss, theft, destruction or mutilation of the Note or any other Loan Document which is not of public record, and, in the case of any such mutilation, upon surrender and cancellation of such Note or other Loan Document which is not of public record, and, in the case of any such mutilation, upon surrender and cancellation of such Note or other Loan Document, Mortgagors will cause Borrowers to issue, in lieu thereof, a replacement note or other Loan Document, dated the date of such lost, stolen, destroyed or mutilated note or other Loan Document in the same principal amount thereof and otherwise of like tenor.

3.13 Subrogation. Lender shall be subrogated to the claims and liens of all parties whose claims or liens are discharged or paid by Lender in order to protect or preserve the Property and the value thereof as security for Secured Obligations.

3.14 Limit of Validity. To the extent the fulfillment of any provision of this Mortgage at the time such provision is to be performed shall involve transcending the limit of validity presently prescribed by any applicable usury or similar law, the obligation to be fulfilled under such provision shall ipso facto be reduced to the limit of such validity.

1. Financing Statements. Lender may file and refile such financing statements, continuation statements, or other documents as Lender shall require from time to time with respect to the Property. Each Mortgagor agrees that the filing of financing statement(s) in the records normally having to do with the Collateral shall not in any way affect the agreement of Mortgagors that everything used in connection with the production of income from the Property or adapted for use therein or that is described or reflected in this Mortgage is, and at all times and for all purposes and in all proceedings, both legal or equitable, shall be, regarded as part of the Land conveyed hereby. No Mortgagor shall, without Lender's prior written approval, amend or terminate any financing statement filed by Lender with respect to the Property or permit any other person to file a Uniform Commercial Code financing statement with respect to all or any portion of Property.

3.15 Hazardous Material. Each Mortgagor shall be subject to and shall comply with the terms of the Environmental Indemnity Agreement.

ARTICLE 4: DUE ON SALE OR ENCUMBRANCE

Notwithstanding anything to the contrary in this Mortgage and except for Permitted Transfers and Permitted Encumbrances, as such terms are defined in the Loan Agreement, in the event that any Mortgagor, without the prior written consent of Lender, which consent may be denied or granted by Lender in its sole discretion, sells, disposes, assigns, transfers, alienates, mortgages, pledges, hypothecate, or encumbers in any manner or in any way, whether voluntary, involuntary, or by operation of law, the Property or any part thereof or any interest therein,

Lender may, at Lender's option, declare all the Secured Obligations immediately due and payable and invoke any rights and remedies permitted by this Mortgage and the other Loan Documents. Lender will not be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to declare the Secured Obligations immediately due and payable upon the occurrence of any transfer described without Lender's prior written consent or as otherwise expressly permitted herein. This provision will apply to every such transfer regardless of whether voluntary or not, or whether or not Lender has consented to any previous transfer, except for those expressly allowed herein. Any transfer made in contravention of this Article shall be null and void and of no force and effect.

ARTICLE 5: EVENTS OF DEFAULT AND REMEDIES

5.01 Events of Default. Subject to the provisions of the Loan Agreement, the occurrence or existence of any one or more of the following events, whether voluntary, involuntary, or effected by operation of law, shall constitute an "*Event of Default*" under this Mortgage:

(a) The occurrence or existence of an Event of Default pursuant to, and as defined in, the Loan Agreement, the Note, or any other Loan Document, including, without limitation, Borrowers' failure to pay any installment of principal or interest under the Note or any other sum due thereunder on the due date thereof, which failure continues beyond any cure period and notice requirement set forth in the Loan Agreement or the Note, as the case may be;

(b) The occurrence or existence of any default or violation of the provisions of Article 4 of this Mortgage;

(c) The default or failure of any Mortgagor properly and timely to comply with the terms and conditions of this Mortgage (other than a default or failure that is addressed elsewhere in this Section) that is not cured within applicable cure periods set forth herein or, if no cure period is specified therefor, is not cured within thirty (30) days after notice is sent by Lender to such Mortgagor specifying such default.

5.02 Acceleration of Maturity. If an Event of Default has occurred and is continuing, Lender may declare all of the Secured Obligations to be forthwith due and payable (other than Secured Obligations arising under any Rate Management Agreement, which shall be governed by the terms and conditions of such Rate Management Agreement), whereupon all the Secured Obligations shall become and be forthwith due and payable, without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by each Mortgagor, and Lender may immediately enforce payment of all such amounts and exercise any or all of its rights and remedies under this Mortgage, the Loan Agreement, and the other Loan Documents. No delay or omission on the part of Lender to exercise such option when entitled so to do shall be considered as a waiver of such right.

5.03 Right of Lender to Enter and Take Possession.

(a) If an Event of Default has occurred and is continuing, each Mortgagor, upon demand of Lender, shall forthwith surrender to Lender the actual possession of the Property and, if and to the extent permitted by law, Lender itself, or by such officers or agents as it may appoint, may enter and take possession of all or any part of the Property without the appointment of a receiver or an application therefor, and may exclude Mortgagors and their agents and employees wholly therefrom, and take possession of the books, papers and accounts of Mortgagors.

(b) If any Mortgagor shall for any reason fail to surrender or deliver the Property or any part thereof after such demand by Lender, Lender may obtain a judgment or decree conferring upon Lender the right to immediate possession or requiring each Mortgagor to deliver immediate possession of the Property to Lender. Mortgagors will pay to Lender, upon demand, all actual expenses of obtaining such judgment or decree, including compensation to Lender, its attorneys and agents, and all such expenses and compensation shall, until paid, become part of the Secured Obligations and shall be secured by this Mortgage.

(c) Upon every such entering upon or taking of possession, Lender may hold, store, use, operate, manage and control the Property and conduct the business thereof, and, from time to time (i) make all necessary and proper repairs, renewals, replacements, additions, betterments, and improvements thereto and purchase or otherwise acquire additional fixtures, personalty, and other property; (ii) insure or keep the Property insured; (iii) manage and operate the Property and exercise all the rights and powers of any Mortgagor, in its name or otherwise, with respect to the same, and (iv) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted Lender, all as Lender may from time to time determine to be to its best advantage. Lender may collect and receive all Rents, including those past due as well as those accruing thereafter, and after deducting (aa) all expenses of taking, holding, managing, and operating the Property (including compensation for the services of all persons employed for such purposes), (bb) the cost of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements, purchases, and acquisitions, (cc) the cost of such insurance, (dd) such taxes, assessments, and other charges as Lender may reasonably determine to pay, (ee) other proper charges upon the Property or any part thereof, and (ff) the compensation and expenses of attorneys and agents of Lender, Lender shall apply the remainder of the money so received to the other Secured Obligations in such order, priority, and proportions as Lender may elect. Lender's sole duty with respect to the custody, safekeeping, and physical preservation of the Property shall be to deal with it in the same manner as Lender deals with similar property for its own account. For the purpose of carrying out the provisions of this Section 5.03, each Mortgagor hereby constitutes and appoints Lender the true and lawful attorney in fact of such Mortgagor, which power of attorney is coupled with an interest and irrevocable, to do and perform, from time to time, any and all actions necessary and incidental to such purpose and does, by these presents, ratify and confirm any and all actions of said attorney in fact on the Property. Anything in this Section 5.03 to the contrary notwithstanding, Lender shall not be obligated to discharge or perform the duties of a landlord to any tenant or incur any liability as a result of any exercise by Lender of its rights under this Mortgage, and Lender shall be liable to account only for the Rents actually received by Lender.

(d) Whenever all the Secured Obligations shall have been paid and no Events of Default shall continue to exist, Lender shall surrender possession of the Property to Mortgagors and their successors or assigns. The same right of taking possession, however, shall exist if any subsequent Event of Default shall occur and be continuing.

5.04 Performance by Lender. If any Mortgagor defaults in the payment of any tax, lien, assessment, or charge levied or assessed against the Property (which Mortgagors have not contested or appealed in accordance with the provisions of the Loan Agreement), or in the payment of any utility charge, whether public or private, or in the payment of any insurance premium, or in the procurement of insurance coverage and the delivery of the insurance policies required in this Mortgage, or in the performance or observance of any other covenant, condition, or term of this Mortgage and such default is not remedied within applicable notice and cure periods, then Lender, at its option, may perform or observe the same, and all payments made or costs incurred by Lender in connection therewith shall constitute Secured Obligations and shall be, without demand, immediately repaid by Mortgagors to Lender with interest thereon at the Default Rate specified in the Note. Lender shall be the sole judge of the legality, validity, and priority of any such tax, lien, assessment, charge, claim, and premium, of the

necessity for any such actions, and of the amount necessary to be paid in connection therewith. Lender is hereby empowered to enter and to authorize others to enter upon the Property or any part thereof for the purpose of performing or observing any such defaulted covenant, condition, or term, without thereby becoming liable to any Mortgagor. Notwithstanding anything to the contrary herein, Lender shall have no obligation, explicit or implied, to pay, perform or observe any such term, covenant or condition.

5.05 Appointment of a Receiver. If an Event of Default has occurred and is continuing, Lender, upon application to a court of competent jurisdiction, shall be entitled as a matter of strict right, without notice and, without regard to the adequacy of any security for the Secured Obligations or the solvency of any party bound for its payment, to the appointment of a receiver to take possession of and to operate the Property and to collect the rents, profits, issues and revenues thereof. The receiver shall have all of the rights and powers permitted under the laws of the state wherein the Property is situated. Mortgagors will pay to Lender upon demand all expenses, including, without limitation, all reasonable receivers' fees, attorneys' fees, and agent's compensation, incurred pursuant to the provisions of this Section 5.05, and all such expenses shall constitute Secured Obligations.

5.06 Power of Sale. If an Event of Default has occurred and is continuing, Lender, at its option, may sell the Property or any part thereof pursuant to power of sale (which is hereby granted by each Mortgagor to Lender) at public outcry to the highest bidder for cash in front of the Court House door in the county where said Property or part thereof is located, either in person or by auctioneer, after having first given notice of the time, place and terms of sale by publication once a week for three (3) successive weeks prior to said sale in some newspaper published in said county, and, in the event of one or more sale(s) hereunder or under any applicable provision of law of less than all the Property, this Mortgage shall continue as a lien on the remaining Property until all Property is sold. At any sale conducted pursuant to this Section, Lender may execute and deliver to the purchaser a conveyance of the Property, or applicable part of the Property, or any personal property or fixtures included in or located on the Property or part thereof, in fee simple, which conveyance may contain recitals as to the occurrence of an Event of Default hereunder, and to this end each Mortgagor hereby constitutes and appoints Lender its agent and attorney in fact to make such sale and conveyance and thereby to divest each Mortgagor of all right, title or equity in and to any and all Property owned by it and to vest the same in the purchaser or purchasers at such sale or sales, and all the reasonable acts and doings of said agent and attorney in fact are hereby ratified and confirmed. The aforesaid power of sale and agency hereby granted are coupled with an interest and are irrevocable by dissolution or otherwise, are granted as cumulative of the other remedies provided by law for collection of the Secured Obligations, and shall not be exhausted by one exercise thereof but may be exercised until full payment of the Secured Obligations. Lender may bid at said sale(s) and purchase the Property, or any part thereof, if the highest bidder therefor.

5.07 Lender's Power of Enforcement. If an Event of Default has occurred and is continuing, Lender may either with or without entry or taking possession as hereinabove provided or otherwise and in lieu of or in addition to exercising any power of sale hereinafter given in this Mortgage, proceed by suit or suits at law or in equity or any other appropriate proceeding or remedy (i) to enforce payment of the Note or the performance of any term thereof or any other right, (ii) to foreclose this Mortgage and to sell the Property or any portion thereof as provided by law or in equity, and (iii) to pursue any other remedy available to it, all as Lender shall deem most effectual for such purposes. Lender shall take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, as Lender may determine.

5.08 Uniform Commercial Code Remedies. This Mortgage is a "security agreement" within the meaning of the Uniform Commercial Code. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of each Mortgagor in the Property. Each Mortgagor by executing and delivering this Mortgage has granted and hereby grants to

Lender, as security for the Secured Obligations, a security interest in the Property to the full extent that the Property may be subject to the Uniform Commercial Code (said portion of the Property so subject to the Uniform Commercial Code being referred to in this Mortgage as the "*Collateral*"). If an Event of Default occurs and is continuing, Lender may exercise, in addition to all other rights and remedies granted to it in this Mortgage and in any other Loan Document, all rights and remedies of a secured party under the Uniform Commercial Code. Without limiting the generality of the foregoing, Lender, without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except any notice required by law referred to below) to or upon any Mortgagor or any other person (all and each of which demands, defenses, advertisements and notices are hereby waived), may in such circumstances forthwith collect, receive, appropriate and realize upon the Collateral, or any part thereof, and/or may forthwith sell, lease, assign, give option or options to purchase, or otherwise dispose of and deliver the Collateral or any part thereof (or contract to do any of the foregoing), in one or more parcels at public or private sale or sales, at any exchange, broker's board or office of Lender or elsewhere upon such terms and conditions as it may deem advisable and at such prices as it may deem best, for cash or on credit or for future delivery without assumption of any credit risk. Lender shall have the right upon any such public sale or sales, and, to the extent permitted by law, upon any such private sale or sales, to purchase the whole or any part of the Collateral so sold, free of any right or equity of redemption in any Mortgagor, which right or equity is hereby waived or released. Mortgagors further agrees, at Lender's request, to assemble the Collateral and make it available to Lender at places which Lender shall reasonably select, whether at any Mortgagor's premises or elsewhere. If any notice of a proposed sale or other disposition of the Collateral shall be required by law, such notice shall be deemed reasonable and proper if given at least ten (10) days before such sale or other disposition.

5.09 Purchase by Lender. Upon any foreclosure or other sale of or any portion of the Property, Lender may bid for and purchase the Property or any part thereof and shall be entitled to apply all or any part of the Secured Obligations as a credit to the purchase price.

5.10 Application of Proceeds of Sale. Any purchase money, proceeds, and avails of any sale or other disposition of the Property, or any part thereof, or any other sums collected by Lender pursuant to this Mortgage, the Note, or the other Loan Documents may be applied by Lender to the payment of the Secured Obligations in such priority and proportions as Lender in its discretion shall deem proper.

5.11 Mortgagor as Tenant Holding Over. If any sale of the Property or any part thereof occurs pursuant to this Mortgage, each Mortgagor shall be deemed a tenant holding over and shall forthwith deliver possession to the purchaser or purchasers at such sale or be summarily dispossessed according to provisions of law applicable to tenants holding over.

5.12 Remedies Cumulative. No right, power, or remedy conferred upon or reserved to Lender by this Mortgage or any of the other Loan Documents is intended to be exclusive of any other right, power, or remedy, but each and every such right, power, and remedy shall be cumulative and concurrent and shall be in addition to any other right, power, and remedy given under this Mortgage, any such other Loan Document, or now or hereafter existing at law or in equity or by statute. The exercise by Lender of any such right, power, and remedy shall not operate as an election of remedies by Lender and shall not preclude the exercise by Lender of any or all other such rights, powers, or remedies. If the sale of all or any part of the Property is permitted hereunder, then such sale of the Property may be in one or more parcels and in such manner and order as Lender, in its sole discretion, may elect, it being expressly understood and agreed that the right of sale arising out of an Event of Default shall not be exhausted by any one or more sales, but other and successive sales may be made until all of the Property has been sold or until the Secured Obligations have been fully satisfied.

5.13 Waiver of Appraisal, Valuation, Exemption, Etc. Each Mortgagor agrees, to the full extent permitted by law, that in case of an Event of Default hereunder, neither such Mortgagor nor anyone claiming through or under such Mortgagor will set up, claim or seek to take advantage of any stay, extension, exemption, or laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, or the absolute sale of the Property or any part thereof, or the delivery of possession thereof immediately after such sale to the purchaser at such sale, and each Mortgagor, for itself and all who may at any time claim through or under such Mortgagor, hereby waives to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the assets subject to the lien and security interest of this Mortgage marshaled upon any foreclosure or sale under the power herein granted.

5.14 Suits to Protect the Property. Lender shall have power (i) to institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Property by any acts which may be unlawful or any violation of this Mortgage, (ii) to preserve or protect its interest in the Property and in the Rents, and (iii) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule, or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule, or order would impair the security hereunder or be prejudicial to the interest of Lender.

5.15 Delay or Omission No Waiver. No delay or omission of Lender or of any holder of the Note to exercise any right, power, or remedy accruing upon any Event of Default shall exhaust or impair any such right, power, or remedy or shall be construed to be a waiver of any such Event of Default, or acquiescence therein, and every right, power, and remedy given by this Mortgage to Lender may be exercised from time to time and as often as may be deemed expedient by Lender.

5.16 No Waiver of Event of Default to Affect Another, etc. No waiver of any Event of Default hereunder shall extend to or shall affect any subsequent or any other then existing Event of Default or shall impair any rights, powers, or remedies consequent thereon. If Lender (i) grants forbearance or an extension of time for the payment of any of the Secured Obligations, (ii) takes other or additional security for the payment of the Secured Obligations, (iii) waives or does not exercise any right granted in the Note, this Mortgage, or any of the other Loan Documents, (iv) releases any part of the Property from the lien and interest of this Mortgage or otherwise changes any of the terms of the Note, this Mortgage, or any of the other Loan Documents, (v) consents to the filing of any map, plat, or replat pertaining to the Property, (vi) consents to the granting of any easement or license affecting the Property, or (vii) makes or consents to any agreement subordinating the lien and interest of this Mortgage, then any such act or omission shall not release, discharge, modify, change, or affect the original liability under the Note, this Mortgage, or otherwise of any Mortgagor or any subsequent purchaser of the Property or any part thereof, or any maker, co-signer, endorser, surety, or guarantor, nor shall any such act or omission preclude Lender from exercising any right, power, or privilege herein granted or intended to be granted in the event of any other Event of Default then made or of any subsequent Event of Default, nor, except as otherwise expressly provided in an instrument or instruments executed by Lender, shall the lien and security interest of this Mortgage be altered thereby. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Property, Lender, at its option, without notice to any person or entity, hereby is authorized and empowered to deal with any such vendee or transferee with reference to the Property or the Secured Obligations, or with reference to any of the terms or conditions hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any of the liabilities or undertakings hereunder.

5.17 Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting any Mortgagor or its creditors or property, Lender, to the extent permitted by law, shall be entitled to file such proofs of claim and other

documents as may be necessary or advisable in order to have the claims of Lender allowed in such proceedings for the entire amount due and payable by Mortgagors under this Mortgage at the date of the institution of such proceedings and for any additional amount which may become due and payable by any Mortgagor hereunder after such date.

5.18 Discontinuance of Proceedings. If Lender shall have proceeded to invoke any right, remedy or recourse permitted under the Loan Documents and shall thereafter elect to discontinue or abandon it for any reason, Lender shall have the unqualified right to do so and, in such an event, each Mortgagor and Lender shall be restored to their former positions with respect to the Loan, all obligations, the Loan Documents, the Property and otherwise, and the rights, remedies, recourses and powers of Lender shall continue as if the right, remedy or recourse had never been invoked, but no such discontinuance or abandonment shall waive any Event of Default which may then exist or the right of Lender thereafter to exercise any right, remedy or recourse under the Loan Documents for such Event of Default.

ARTICLE 6: MISCELLANEOUS

6.01 Successors and Assigns. This Mortgage shall inure to the benefit of and be binding upon Mortgagors and Lender and their respective heirs, executors, legal representatives, successors, successors-in-title, and assigns. Whenever a reference is made in this Mortgage to "Mortgagor," "Mortgagors", "Borrowers" or "Lender," such reference shall be deemed to include a reference to the heirs, executors, legal representatives, successors, successors-in-title and assigns thereof, as the case may be, but shall not imply any permission to make or permit any transfer which is otherwise prohibited.

6.02 Terminology. All personal pronouns used in this Mortgage, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles and Articles are for convenience only and neither limit nor amplify the provisions of this Mortgage, and all references herein to Articles, Sections or subparagraphs shall refer to the corresponding Articles, Sections or subparagraphs of this Mortgage unless specific reference is made to Articles, Sections or subparagraphs of another document or instrument.

6.03 Severability; Complete Agreement. If any provisions of this Mortgage or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Mortgage and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law. This Mortgage, the Note and the other Loan Documents constitute the full and complete agreement of the parties and supersede all prior negotiations, correspondence, and memoranda relating to the subject matter hereof, and this Mortgage may not be amended except by a writing signed by the parties hereto.

6.04 Applicable Law. This Mortgage shall be governed by the laws of the State of Alabama. If, for any reason or to any extent any word, term, provision, or clause of this Mortgage or any of the other Loan Documents, or its application to any person or situation, shall be found by a court or other adjudicating authority to be invalid or unenforceable, the remaining words, terms, provisions or clauses shall be enforced, and the affected word, term, clause or provision shall be applied, to the fullest extent permitted by law.

6.05 Limitation of Interest. It is the intent of Mortgagors and Lender in the execution of this Mortgage and all other Loan Documents to contract in strict compliance with the usury laws governing the Loan evidenced by the Note. In furtherance thereof, Lender and Mortgagors stipulate and agree that none of the terms and provisions contained in the Loan Documents shall ever be construed to create a contract for the use, forbearance, or detention of money requiring payment of interest at a rate in excess of

the maximum interest rate permitted to be charged by the laws governing the Loan evidenced by the Note. Any Mortgagor or any guarantor, endorser or other party now or hereafter becoming liable for the payment of the Note shall never be liable for unearned interest on the Note and shall never be required to pay interest on the Note at a rate in excess of the maximum interest that may be lawfully charged under the laws governing the Loan evidenced by the Note, and the provisions of this paragraph shall control over all other provisions of the Note and any other instrument executed in connection herewith which may be in apparent conflict herewith. In the event any holder of the Note shall collect monies that are deemed to constitute interest and that would otherwise increase the effective interest rate on the Note to a rate in excess of that permitted to be charged by the laws governing the Loan evidenced by the Note, all such sums deemed to constitute interest in excess of the legal rate shall be applied to the unpaid principal balance of the Note and if in excess of such balance, shall be immediately returned to the Mortgagors upon such determination.

6.06 Notices, Etc. All notices and other communications provided hereunder shall be in writing and shall be given in accordance with the provisions of the Loan Agreement.

6.07 Joint And Several Liability. If more than one Person or entity signs this Mortgage as Borrower, the obligations of such Persons shall be joint and several.

6.08 Assignment. This Mortgage is assignable by Lender and any assignment hereof by Lender shall operate to vest in the assignee all rights and powers herein conferred upon and granted to Lender.

6.09 Time of the Essence. Time is of the essence with respect to each and every covenant, agreement and obligation of each Mortgagor under this Mortgage and of Borrowers under the Note and all other Loan Documents.

6.10 Waiver of Jury Trial. **TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EACH MORTGAGOR HEREBY WAIVES ANY RIGHT THAT IT MAY HAVE TO A TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SETOFF, DEMAND, ACTION OR CAUSE OF ACTION (A) ARISING OUT OF OR IN ANY WAY RELATED TO THIS MORTGAGE OR THE LOAN, OR (B) IN ANY WAY CONNECTED WITH OR PERTAINING OR RELATED TO OR INCIDENTAL TO ANY DEALINGS OF LENDER AND/OR ANY MORTGAGOR WITH RESPECT TO THE LOAN DOCUMENTS OR IN CONNECTION WITH THIS MORTGAGE OR THE EXERCISE OF EITHER PARTY'S RIGHTS AND REMEDIES UNDER THIS MORTGAGE 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. EACH MORTGAGOR AGREES THAT LENDER MAY FILE A COPY OF THIS MORTGAGE WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY, AND BARGAINED AGREEMENT OF EACH MORTGAGOR 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 ANY MORTGAGOR AND LENDER SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.**

6.11 Document Protocols. Except as expressly modified above, this Mortgage is governed by the Document Protocols set forth in Article 11 of the Loan Agreement, which Document Protocols are specifically incorporated herein by reference as if fully set forth herein.



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Signature Pages Follow]



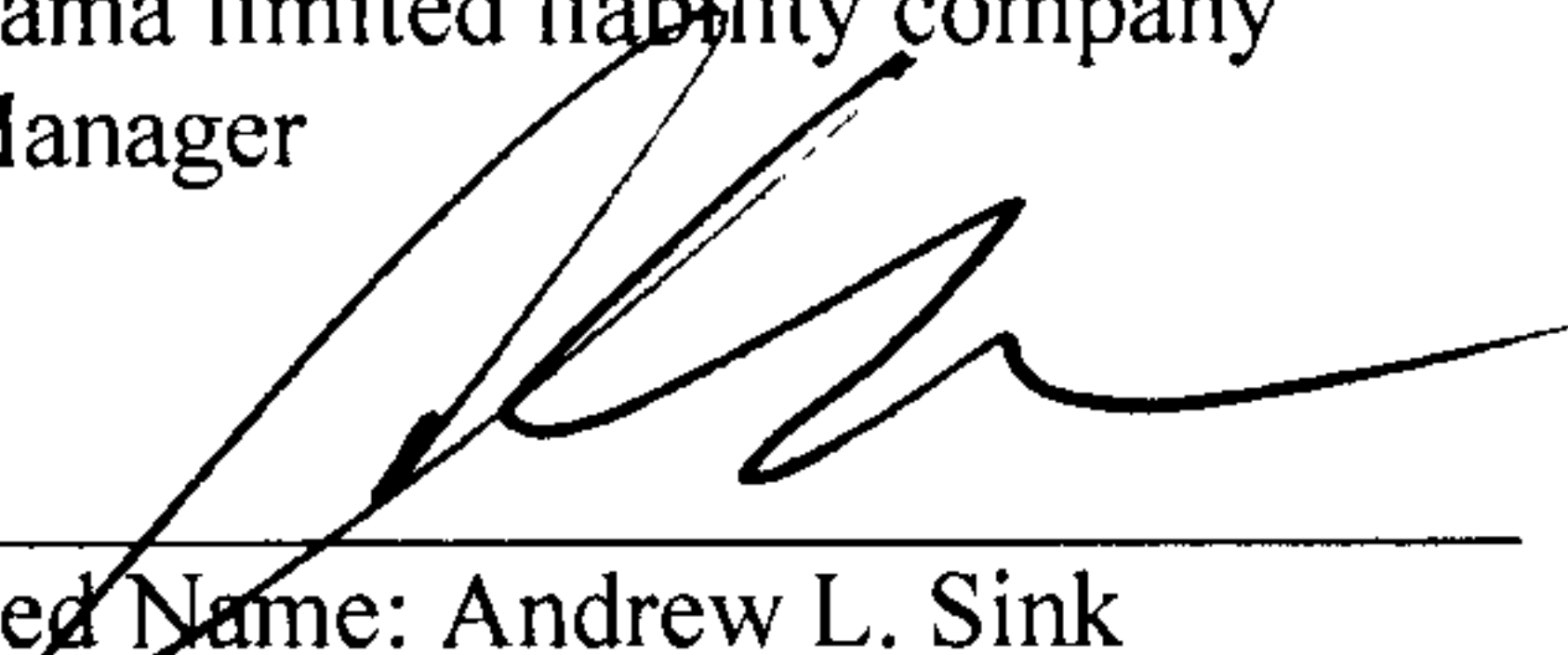
20161114000418700 18/30 \$105.00
Shelby Cnty Judge of Probate, AL
11/14/2016 12:56:53 PM FILED/CERT

IN WITNESS WHEREOF, Mortgagors have caused this Mortgage to be duly executed and delivered under seal effective as of the date first above written.

201 OFFICE PARK, LLC, an Alabama limited liability company

By: OWN ALABAMA PORTFOLIO I, LLC, an Alabama limited liability company
Its Sole Member

By: Founders Investment Properties, LLC, an Alabama limited liability company
Its Manager

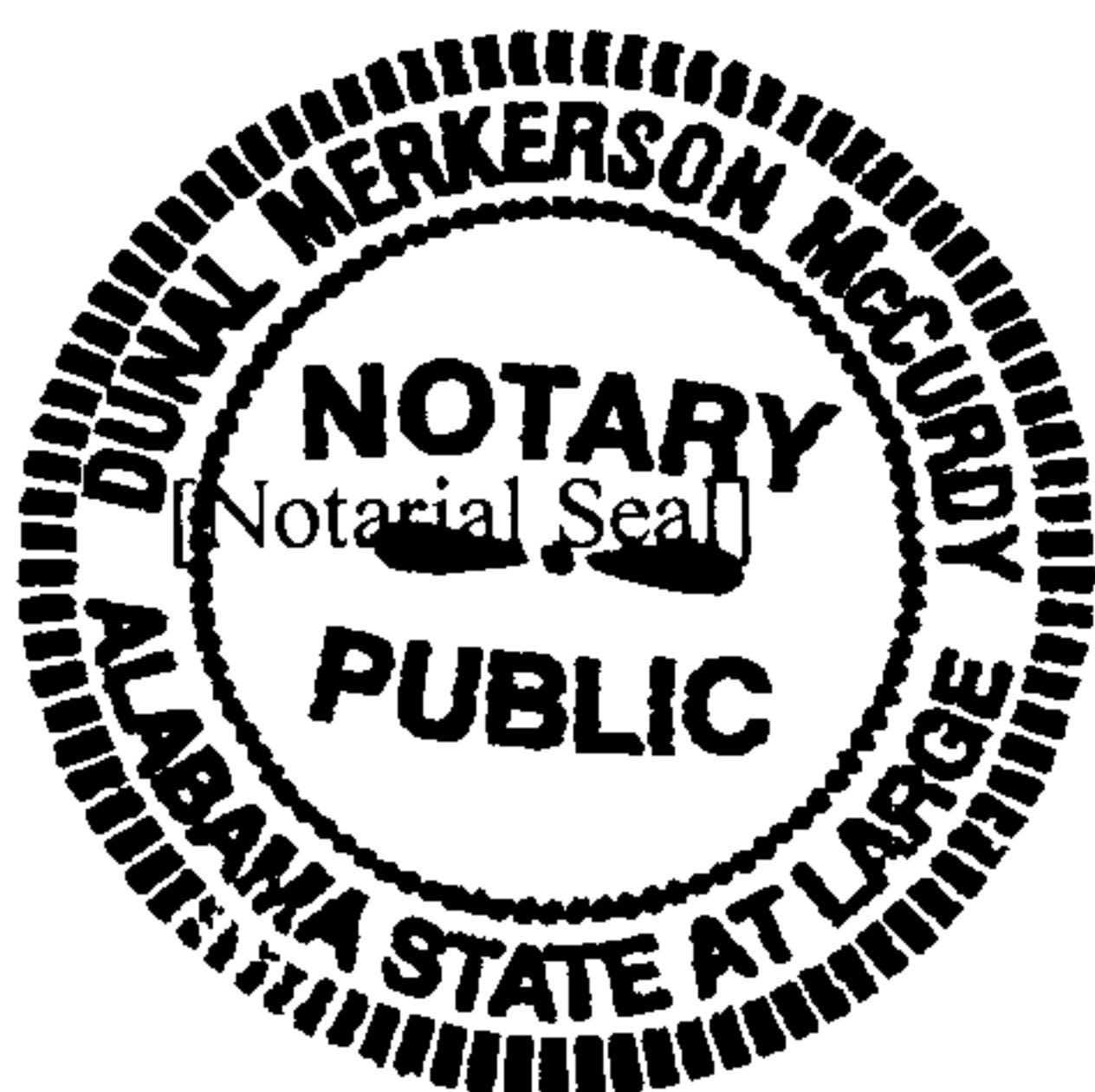
By: 
Printed Name: Andrew L. Sink
Title: Authorized Member

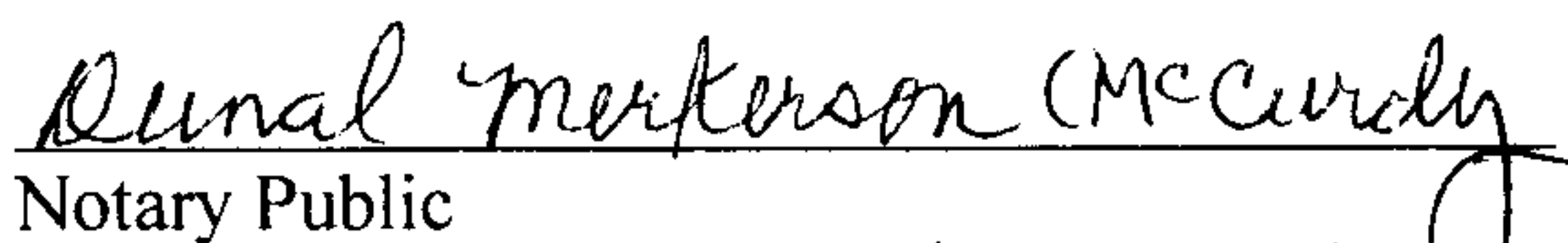
STATE OF ALABAMA)

COUNTY OF JEFFERSON)

I, the undersigned Notary Public in and for said County, in said State, hereby certifies that Andrew L. Sink, whose name as Authorized Representative of Founders Investment Properties, LLC, an Alabama limited liability company, the sole Manager of Own Alabama Portfolio I, LLC, an Alabama limited liability company, the sole Member of 201 OFFICE PARK, 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 Representative and with full authority, executed the same voluntarily for and as the act of said limited liability company acting in its capacity as aforesaid.

Given under my hand and official seal, this 3rd day of November, 2016.



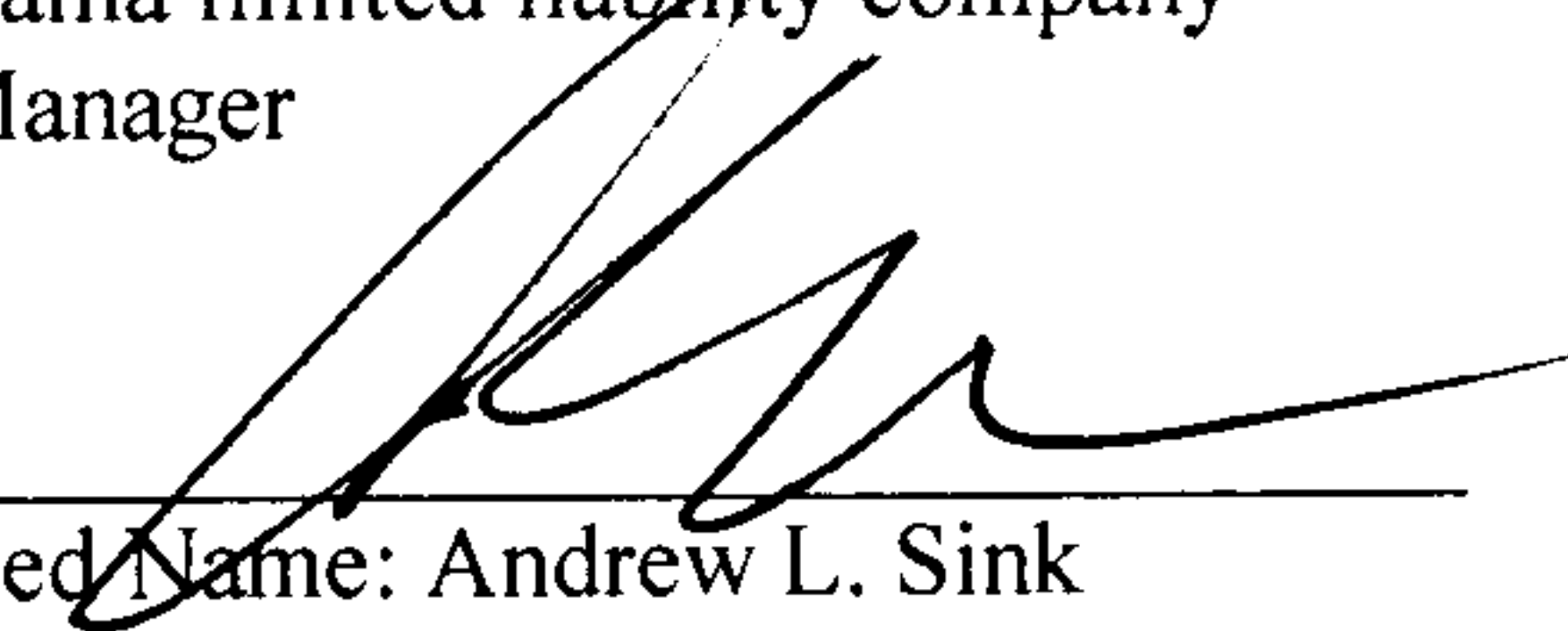

Notary Public
My Commission Expires: 1.13.20


20161114000418700 19/30 \$105.00
Shelby Cnty Judge of Probate, AL
11/14/2016 12:56:53 PM FILED/CERT

FIRST AVENUE DESIGN STUDIO, LLC, an
Alabama limited liability

By: **OWN ALABAMA PORTFOLIO I, LLC**, an
Alabama limited liability company
Its Sole Member

By: **Founders Investment Properties, LLC**, an
Alabama limited liability company
Its Manager

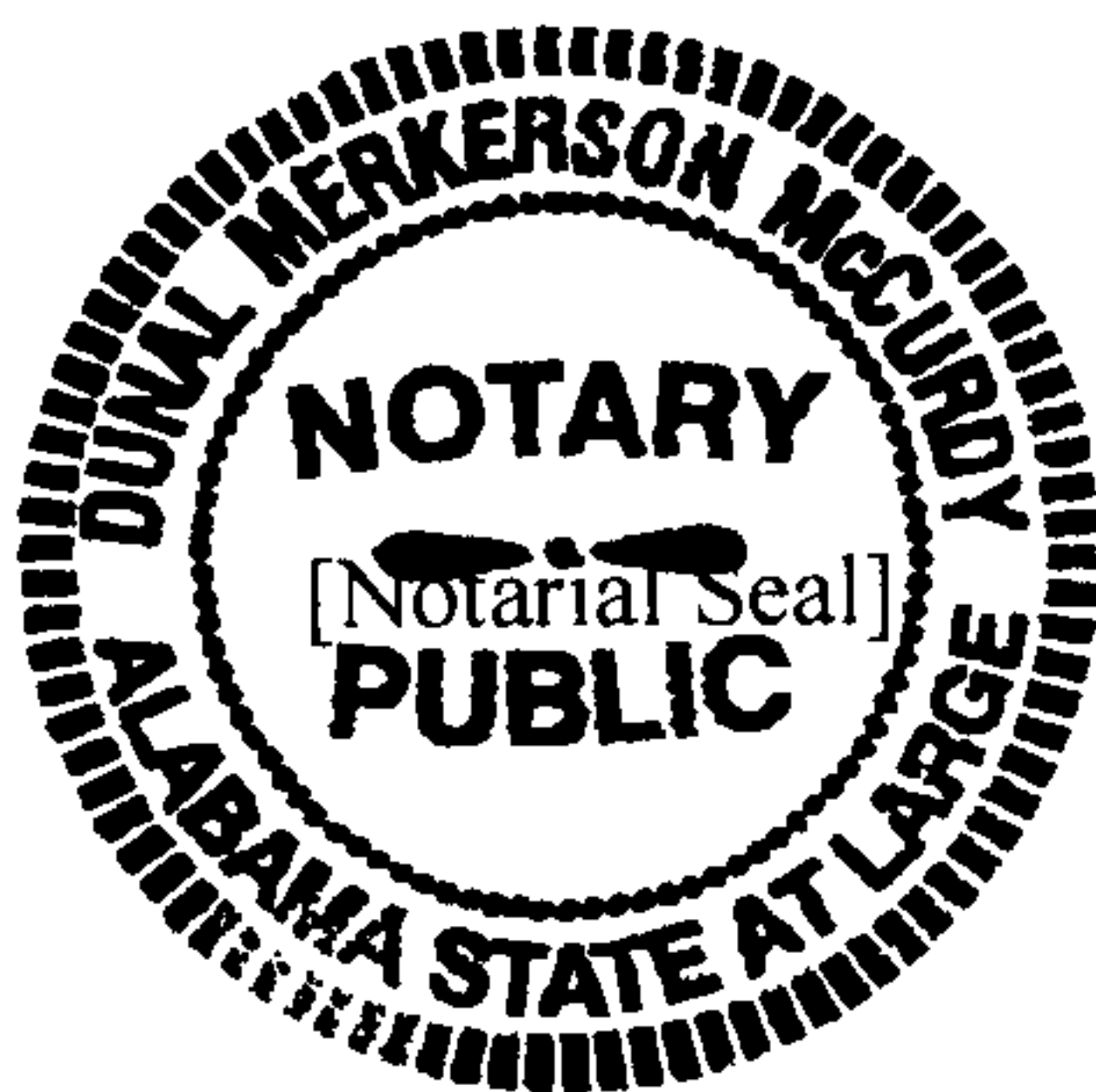
By: 
Printed Name: Andrew L. Sink
Title: Authorized Member

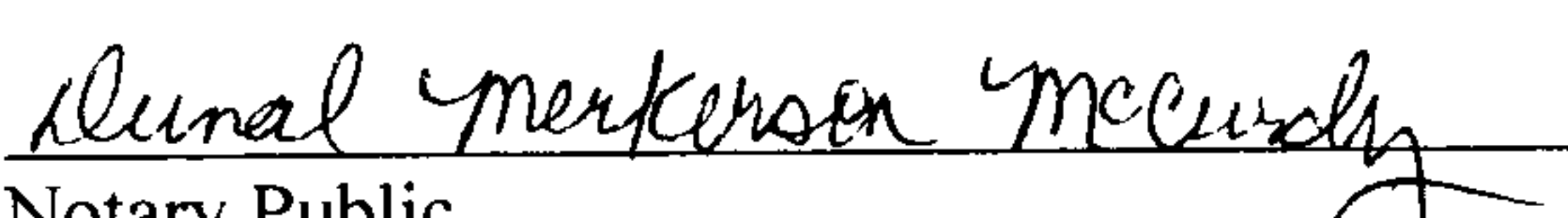
STATE OF ALABAMA)

COUNTY OF JEFFERSON)

I, the undersigned Notary Public in and for said County, in said State, hereby certifies that Andrew L. Sink, whose name as Authorized Representative of Founders Investment Properties, LLC, an Alabama limited liability company, the sole Manager of Own Alabama Portfolio I, LLC, an Alabama limited liability company, the sole Member of FIRST AVENUE DESIGN STUDIO, LLC, an Alabama limited liability, 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 Representative and with full authority, executed the same voluntarily for and as the act of said limited liability company acting in its capacity as aforesaid.

Given under my hand and official seal, this 3rd day of November, 2016.




Notary Public
My Commission Expires: 1.13.20

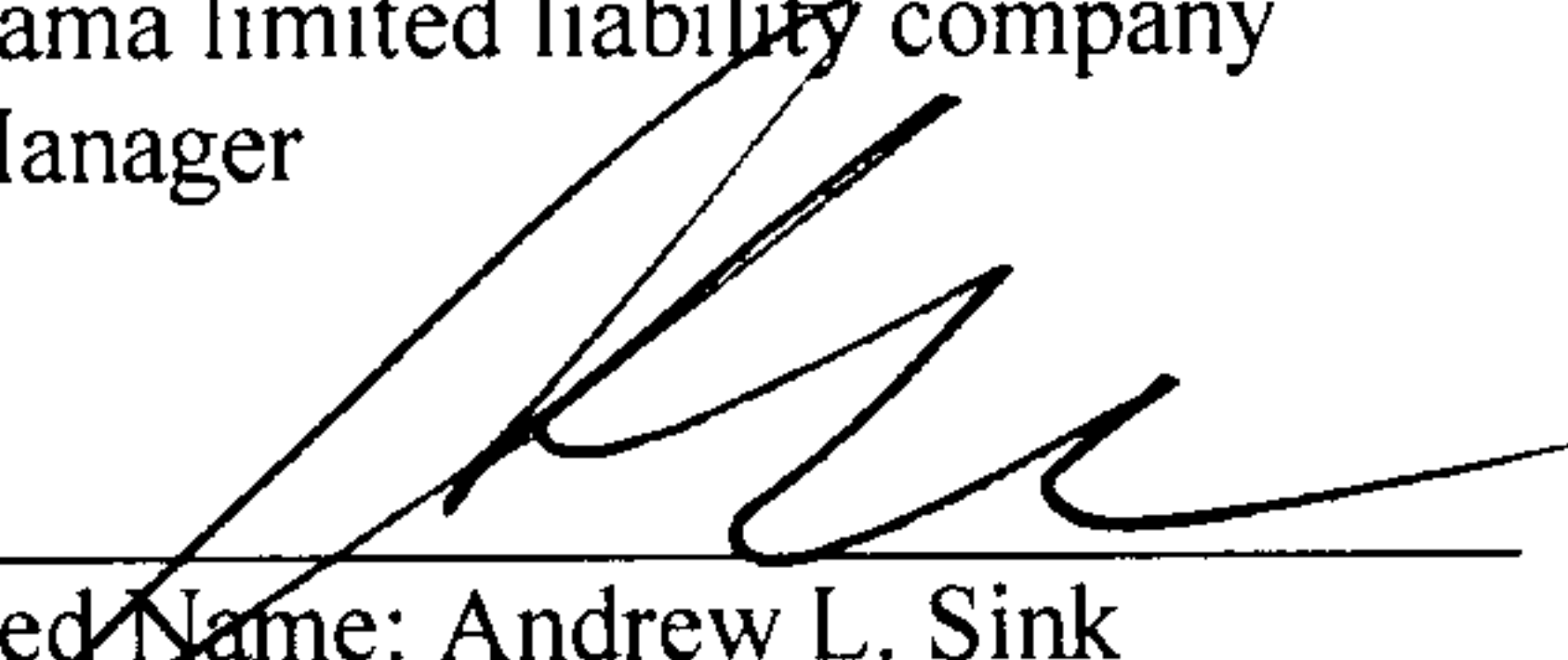


20161114000418700 20/30 \$105.00
Shelby Cnty Judge of Probate, AL
11/14/2016 12:56:53 PM FILED/CERT

DOUG BAKER CENTER, LLC, an Alabama limited liability company

By: **OWN ALABAMA PORTFOLIO I, LLC**, an Alabama limited liability company
Its Sole Member

By: **Founders Investment Properties, LLC**, an Alabama limited liability company
Its Manager

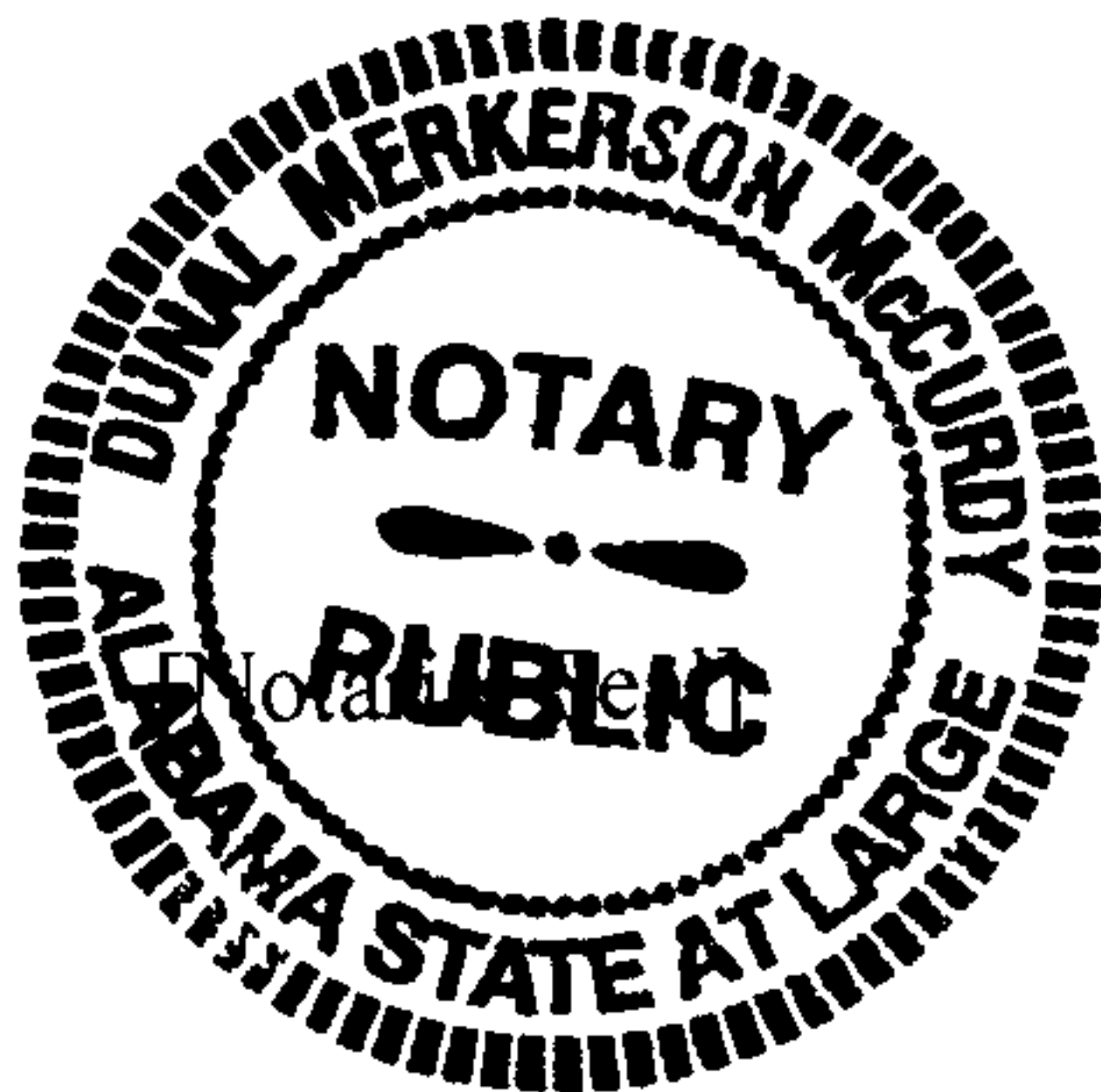
By: 
Printed Name: Andrew L. Sink
Title: Authorized Member

STATE OF ALABAMA)

COUNTY OF JEFFERSON)

I, the undersigned Notary Public in and for said County, in said State, hereby certifies that Andrew L. Sink, whose name as Authorized Representative of Founders Investment Properties, LLC, an Alabama limited liability company, the sole Manager of Own Alabama Portfolio I, LLC, an Alabama limited liability company, the sole Member of DOUG BAKER CENTER, 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 Representative and with full authority, executed the same voluntarily for and as the act of said limited liability company acting in its capacity as aforesaid.

Given under my hand and official seal, this 3rd day of November, 2016.



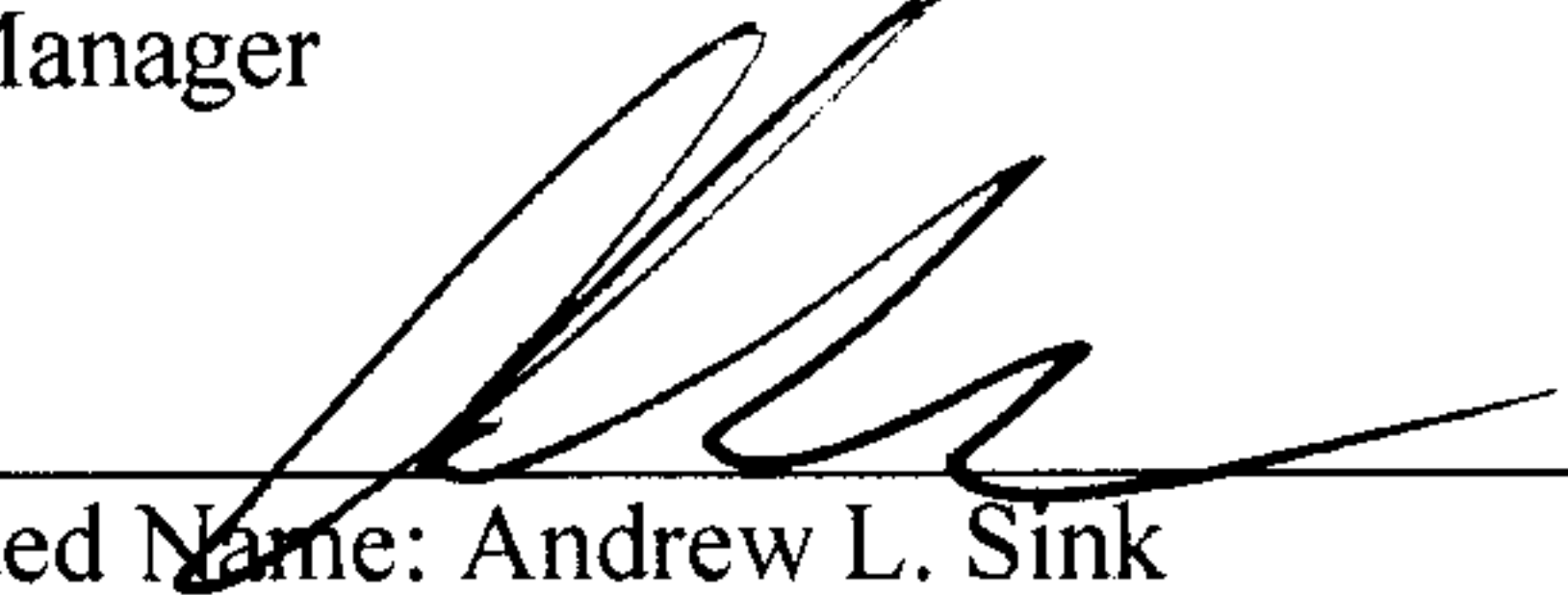

Notary Public
My Commission Expires: 1.13.20


20161114000418700 21/30 \$105.00
Shelby Cnty Judge of Probate, AL
11/14/2016 12:56:53 PM FILED/CERT

1805 MCCAIN, LLC, an Alabama limited liability company

By: OWN ALABAMA PORTFOLIO I, LLC, an Alabama limited liability company
Its Sole Member

By: Founders Investment Properties, LLC, an Alabama limited liability company
Its Manager

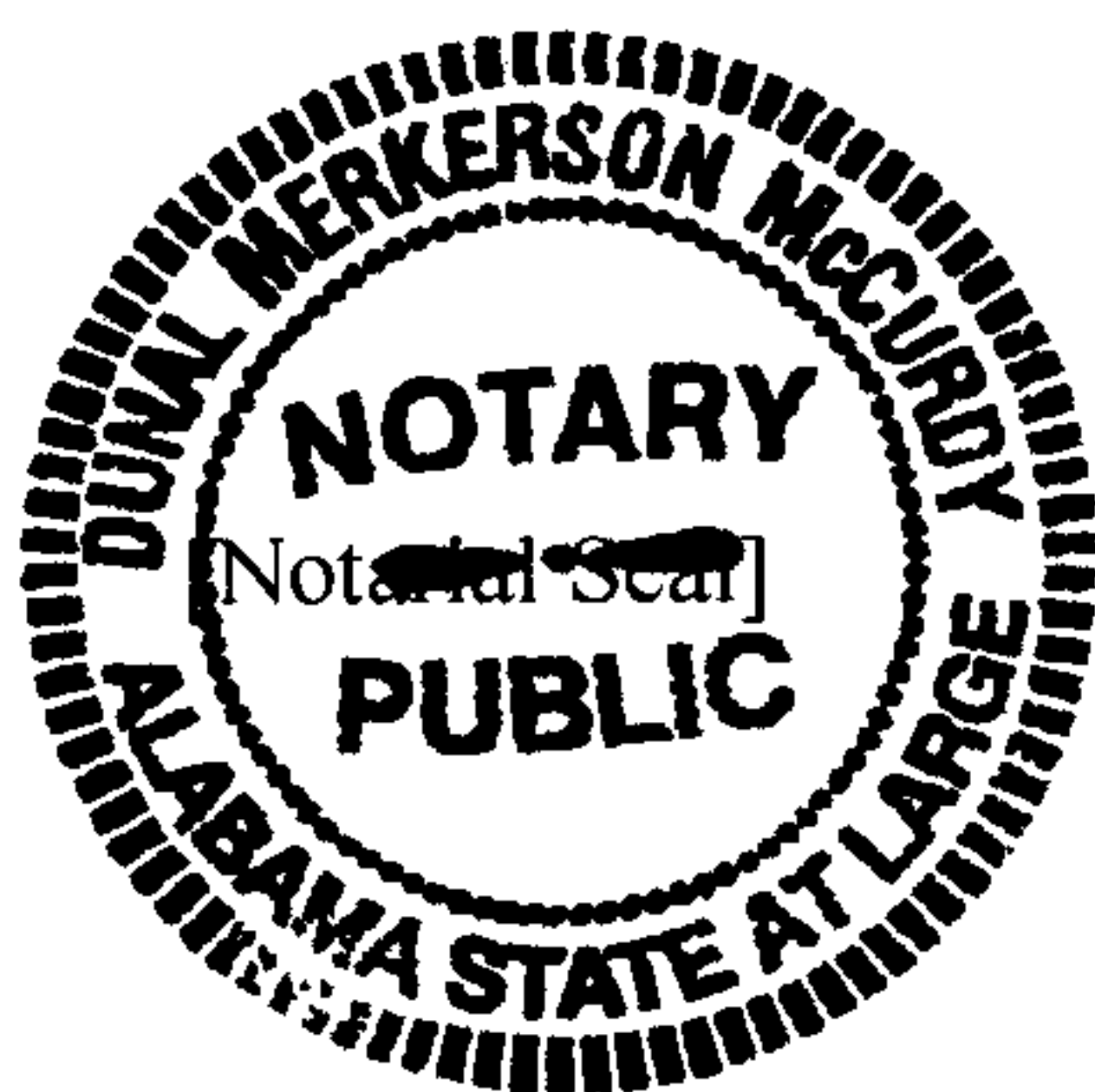
By: 
Printed Name: Andrew L. Sink
Title: Authorized Member

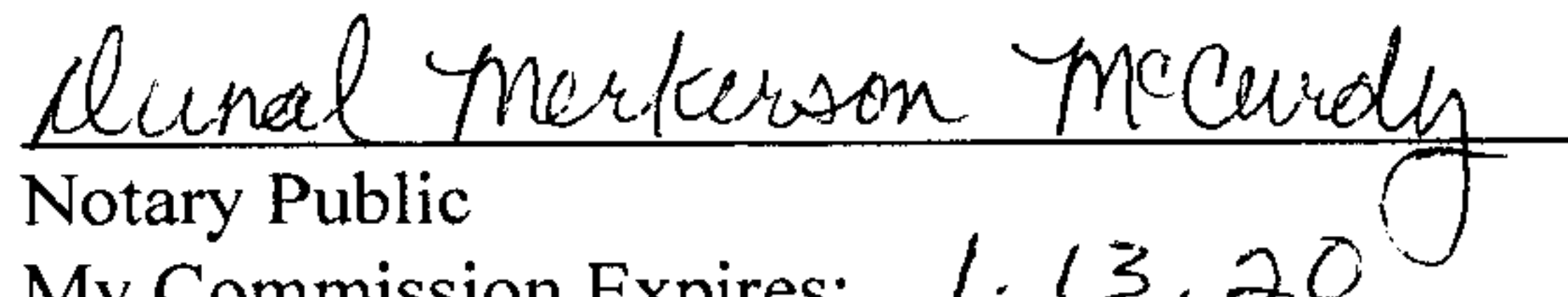
STATE OF ALABAMA)

COUNTY OF JEFFERSON)

I, the undersigned Notary Public in and for said County, in said State, hereby certifies that Andrew L. Sink, whose name as Authorized Representative of Founders Investment Properties, LLC, an Alabama limited liability company, the sole Manager of Own Alabama Portfolio I, LLC, an Alabama limited liability company, the sole Member of 1805 MCCAIN, 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 Representative and with full authority, executed the same voluntarily for and as the act of said limited liability company acting in its capacity as aforesaid.

Given under my hand and official seal, this 3rd day of November, 2016.




Notary Public
My Commission Expires: 1.13.20


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Shelby Cnty Judge of Probate, AL
11/14/2016 12:56:53 PM FILED/CERT

EXHIBIT A

**MORTGAGE, ASSIGNMENT OF LEASES AND RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

Description of the Land

(SEE ATTACHED)



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Shelby Cnty Judge of Probate, AL
11/14/2016 12:56:53 PM FILED/CERT

EXHIBIT A-1
Office Park Legal

Lot 1, according to the Survey of First Addition to Office Park, as recorded in Map Book 80, Page 45, in the Probate Office of Jefferson County, Alabama, Birmingham Division.


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EXHIBIT A-2
First Avenue Legal

Lot 1, according to the Lakeview Land Resurvey Number 2, a Non-Residential Subdivision, as recorded in Map Book 216, Page 17, in the Probate Office of Jefferson County, Alabama.


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EXHIBIT A-3
Doug Baker Center Legal

Lot 3 of The Village at Lee Branch Sector 1 – Phase 2, as recorded in Map Book 33, page 58, being a re-subdivision of Lot 5A of The Village at Lee Branch Sector 1 – Revision 1 as recorded in Map Book 31, pages 130A & 130B, in the Probate Office of Shelby County, Alabama, being more particularly described as follows:

Commence at an iron pin found at the Northeast corner of the Northeast quarter of the Southwest quarter of Section 5, Township 19 South, Range 1 West, Shelby County, Alabama; thence proceed South 88° 49' 06" West along the North line of said Northeast quarter of Southwest quarter for 66.55 feet to the Southwest corner of Lot 2 of "THE VILLAGE AT LEE BRANCH, SECTOR 1, REVISION 1" as recorded in Map Book 31, pages 43A and 43B in the Office of The Probate Judge, Shelby County, Alabama; thence proceed North 01° 10' 54" West along the West line of said Lot 2 for 119.95 feet to the Southeast corner of Lot 3A of "A RESUBDIVISION OF THE VILLAGE AT LEE BRANCH" as recorded in Map Book 31, pages 130A and 130B in the Office of the Judge of Probate, Shelby County, Alabama; thence proceed South 89° 04' 30" West along the South line of said Lot 3A for 180.92 feet to a point; thence proceed North 56° 26' 42" West along the Southwest line of said Lot 3A for 93.23 feet to a point of the Southerly right of way margin of Doug Baker Boulevard; thence proceed South 33° 33' 18" West along said Southerly right of way margin for 84.38 feet to a point at the beginning of a curve to the right, said curve being tangent to the last described course and having a central angle of 26° 21' 14", a radius of 537.50 feet and a chord which bears South 46° 43' 54" West for 245.06 feet; thence proceed Southwesterly along said Southerly right of way margin and along the arc of said curve for 247.23 feet to the POINT OF BEGINNING of the herein described parcel; thence leaving said Southerly right of way margin of Doug Baker Boulevard, proceed South 31° 05' 10" East for 30.50 feet to a point; thence proceed South 38° 02' 48" East for 32.43 feet to a point; thence proceed South 40° 50' 32" East for 119.19 feet to a point; thence proceed North 49° 09' 28" East for 66.50 feet to a point at the beginning of a curve to the right, said curve being tangent to the last described course and having a central angle of 90° 00' 00", a radius of 4.50 feet and a chord which bears South 85° 50' 32" East for 6.36 feet; thence proceed Easterly along the arc of said curve for 7.07 feet to the end of said curve; thence proceed South 40° 50' 32" East and tangent to the last described curve for 16.00 feet to a point; thence proceed North 49° 09' 28" East for 124.46 feet to a point at the beginning of a curve to the right, said curve being non-tangent to the last described course and having a central angel of 04° 24' 48", a radius of 560.10 feet and a chord which bears North 32° 11' 48" East for 43.13 feet; thence proceed Northeasterly along the arc of said curve for 43.14 feet to a point at the beginning of a curve to the left, said curve being non-tangent to the last described curve and having a central angel of 78° 01' 30", a radius of 99.53 feet and a chord which bears North 05° 13' 13" West for 125.30 feet; thence proceed Northerly along the arc of said curve for 135.53 feet to the end of said curve; thence proceed North 46° 33' 26" West and non-tangent to the last described curve for 15.10 feet to a point at the beginning of a curve to the left; said curve being non-tangent to the last described course and having a central angle of 08° 13' 03", a radius of 211.21 feet and a chord which bears North 52° 19' 56" West for 30.27 feet; thence proceed Northwesterly along the arc of said curve for 30.29 feet to the end of said curve; thence proceed North 56° 26' 42" West and tangent to the last described curve for 25.04 feet to a point; thence proceed South 33° 30' 26" West for 28.37 feet to a point; thence proceed North 56° 29' 34" West for 10.03 feet to a point; thence proceed North 70° 31' 43" West for 20.62 feet to a point on a curve to the right, said curve being non-tangent to the last described course and having a central angel of 15° 36' 23", a radius of 547.50 feet and a chord which bears South 41° 15' 30" West for 148.67 feet; thence proceed Southwesterly along the arc of said curve for 149.13 feet to a point; thence proceed North 42° 24' 14" West for 10.00 feet to a point on the Southerly right of way margin of Doug Baker Boulevard, said Southerly right of way margin being in a curve to the right, said curve begin non-tangent to the last described course and having a central angel of 10° 49' 11", a radius of 537.50 feet; and a chord which bears South 54° 29' 55" West for 101.35 feet;



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thence proceed Southwesterly along the arc of said curve and along said Southerly right of way for 101.50 feet to the POINT OF BEGINNING.

TOGETHER WITH THE FOLLOWING APPURTENANT RIGHTS:

Agreement of covenants, conditions and restrictions and grant of easements as recorded in Official Records Instrument No. 20040624000345530, as amended by that certain First Amendment to Agreement of Covenants, Conditions and Restrictions and Grant of Easements as recorded in Official Records Book 20130913000372210, in the Office of the Judge of Probate, Shelby County, Alabama.

Declaration of Easements and Restrictions as recorded in Official Records Instrument No. 20040601000288850, as amended in Official Records Instrument No. 20040624000345520, in the Office of the Judge of Probate, Shelby County, Alabama.



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EXHIBIT A-4
1805 McCain Legal

One parcel of land located in the NE ¼ of Section 25, Township 20 South, Range 3 West, Shelby County, Alabama, being more particularly described as follows: Commence at the NE corner of the NE ¼ of said Section 25; thence S 0 deg-00'00" W along the east line of said Section a distance of 305.77'; thence N 88 deg-47'10" W a distance of 154.47'; thence S 0 deg-00'00" W a distance 139.65' to the POINT OF BEGINNING; thence continue along last described course a distance of 107.0'; thence S 45 deg-00'00" W a distance of 97.93'; thence S 0 deg-00'00" W a distance of 54.28'; thence N 88 deg-47'10" W a distance of 243.57' to the easterly R.O.W. line of McCain Parkway (50' R.O.W.); thence N 1 deg-32'02" E along said R.O.W. line a distance of 173.69' to the beginning of a curve to the right having a radius of 365.0' and a central angle of 4 deg-31'51" and subtended by a chord which bears N 3 deg-47'57" E a distance of 28.86'; thence along the arc of said curve and said R.O.W. line a distance of 28.86'; thence leaving said R.O.W. line N 85 deg-42'54" E a distance of 307.06' to the POINT OF BEGINNING. Containing 1.40 acres, more or less.


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EXHIBIT A-5
1805 McCain Legal

A parcel of land located in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 25, Township 20 South, Range 3 West, Shelby County, Alabama, more particularly described as follows

Commence at the NE corner of the NE $\frac{1}{4}$ of said Section 25; Thence South 0 deg. 00 min. 00 sec. West along the east line of said Section a distance of 305.77 feet, thence North 88 deg. 47 min. 10 sec. West a distance of 154.47 feet to the Point of Beginning; thence North 0 deg 00 deg. 00 sec. East a distance of 40.75 feet; Thence North 88 deg. 47 min. 10 sec. West a distance of 233.99 feet to a point on the easterly right of way line of McCain parkway (50' R.O.W.), said point also lying on a curve to the right having a radius of 302.04 feet, a central angle of 14 deg. 08 min. 44 sec. and subtended by a chord which bears South 22 deg. 06 min. 20 sec. West a chord distance of 74.38 feet, thence along the arc of said curve and said right of way line a distance of 74.57 feet to the end of aforesaid curve and the beginning of a curve to the left having a radius of 365.00 feet, a central angle of 23 deg. 06 min. 49 sec. and subtended by a chord which bears South 17 deg. 37 min. 17 sec. West a chord distance of 146.25 feet; thence along the arc of said curve and said right of way line a distance of 147.24 feet; thence leaving said right of way line, North 85 deg. 42 min. 54 sec. East a distance of 307.06 feet; thence North 0 deg. 00 min. 00 sec. East a distance of 139.65 feet to the Point of Beginning.


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PROBATE COURT OF JEFFERSON COUNTY
110 COURTHOUSE
BIRMINGHAM, ALABAMA
ALAN L KING, JUDGE
205-325-5411

I, Alan L. King, Judge of Probate of Jefferson County, do hereby certify that
this office collected a total tax of _____ on a mortgage/deed from
201 Office Park LLC, First Avenue Design
Studio LLC, Doug Baker Center LLC, 1805 to Iberiabank
filed on November 8, 2016 and recorded in Volume 2016117753 page _____
Inst. #

Alan L. King

Alan L King
Judge of Probate

