



20170523000180050 1/5 \$28.00  
Shelby Cnty Judge of Probate, AL  
05/23/2017 02:07:32 PM FILED/CERT

## **MORTGAGE ASSUMPTION AGREEMENT**

(With Release of Liability)

THIS MORTGAGE ASSUMPTION AGREEMENT (hereinafter referred to as the "Agreement") made and entered into as of this 4th day of May, 2017, by and between Fidelity Bank d/b/a Fidelity Bank Mortgage (hereinafter referred to as the "Lender"), Steven S. Pan and Elena Pan (hereinafter referred to as "Purchaser") and Jack Foster Cook and Melody Pan Cook (hereinafter referred to as the "Original Borrower").

WITNESSETH:

WHEREAS, Lender is the holder and owner of the following documents (hereinafter sometimes collectively referred to as the "Loan Documents"):

1. Mortgage Note dated February 11, 2016, in the original principal face amount of Three Hundred Ten Thousand Four Hundred Seventy One and No/100 Dollars (\$310,471.00) executed and delivered by Jack Foster Cook and wife, Melody Pan Cook (hereinafter referred to as the "Original Borrower") in favor of Lender (hereinafter referred to as the "Note"); and,

2. Mortgage given by the Original Borrower, Jack Foster Cook and wife, Melody Pan Cook, as "Mortgagor", to the Lender, Fidelity Bank d/b/a Fidelity Bank Mortgage, as "Mortgagee" dated February 11, 2016, filed for record on March 11, 2016, which Mortgage is recorded on the Public Records of Shelby County, Alabama, in Instrument No. 20160311000078450 (hereinafter referred to as the "Mortgage"), and which Mortgage encumbers the real property as described therein; and,

WHEREAS, the Original Borrower is desirous of conveying the property encumbered by the Mortgage, (hereinafter to as the "Property") to Purchaser; and,

WHEREAS, the Purchaser desires to receive said Property and formally assume the Mortgage and perform all of the covenants and conditions contained in the Mortgage Note, the Mortgage and all other Loan Documents as partial consideration for its purchase of the Property and as consideration for the Lender's willingness to consent to the sale of the Property which is encumbered by the Loan Documents; and,

WHEREAS, the Mortgage expressly prohibits the conveyance of the Property without the express written consent of the Lender; and,

WHEREAS, the Lender is unwilling to give its consent to the transfer of the Property to the Purchaser unless the Purchaser shall assume all of the obligations heretofore imposed by the Loan Documents upon the Original Borrower, with the Original Borrower being released from liability.

NOW, THEREFORE, for and in consideration of the sum of TEN DOLLARS (\$10.00) and in consideration of the Premises and of the mutual covenants contained herein, and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties hereto agree as follows:

1. **Assumption.** Purchaser expressly assumes the Loan Documents and agrees to perform all covenants, conditions, duties and obligations contained therein and agrees to pay the Note and the obligations evidenced thereby in a prompt and timely manner in accordance with the terms thereof.

2. **Consent to Conveyance.** Lender hereby consents to the transfer of the Property to the Purchaser, but the Lender expressly reserves the right to withhold its consent to any future sale or transfer of the Property, as provided for in the Mortgage.

3. **Release of Liability.** The Original Borrower is released from all liability and obligations under the Note, Mortgage and Other Loan Documents.

**4. Warranties and Representations.** Purchaser affirms, warrants, represents and covenants that Purchaser has no defenses nor rights of set-off against Lender or against the payment, collection or enforcement of the indebtedness evidenced by the Note and secured by the Mortgage and owed to Lender. Purchaser further warrants and represents as follows:

a. Purchaser has done no acts nor omitted to do any act which might prevent Lender from, or limit Lender in, acting upon or under any of the provisions herein, in the Mortgage, in the Note or any other Loan Documents;

b. Purchaser is not prohibited under any other agreement with any other person or any judgment or decree, from the execution and delivery of this Agreement, the performance of each and every covenant hereunder or under the Mortgage, Note or any other Loan Documents;

c. No action has been brought or threatened which would in any way interfere with the right of Purchaser to execute this Agreement and perform all of Purchaser's obligations contained herein, in the Note, in the Mortgage, or in any other Loan Document;

d. All financial statements of Purchaser, if any, are true and correct in all respects, fairly present the respective financial conditions of the subjects thereof, as of the respective dates thereof and no material adverse change has occurred that would affect Purchaser's or Guarantors', if any, ability to repay the indebtedness evidenced by the Note and secured by the Mortgage;

**5. Acknowledgments.** Purchaser acknowledges that:

a. The Loan Documents are in full force and effect; and,

b. The principal balance of the loan as represented by the aforesaid Note as of the date of this Agreement is Three Hundred Four Thousand Four Hundred Eight and 39/100 Dollars (\$304,408.39) and principal and interest are unconditionally due and owing to the Lender as provided in the Note.

c. The next principal and interest payment in the amount of \$1,459.95 is due and payable on May 1, 2017.

**6. Costs.** Purchaser shall pay all costs of the assumption made hereby, to include without limitation, attorneys' fees and recording costs, as well as the cost of an endorsement to Lender's title insurance policy insuring the lien of the Mortgage after the recording of this Agreement, if required by Lender. Purchaser shall pay all the attorney's fees and Owner's Policy of Title Insurance. Such costs shall be due at closing hereunder and the payment thereof shall be a condition precedent to Lender's consent to the transfer of the Property to Purchaser. In the event that it is determined that additional costs relating to this transaction are due, Purchaser agrees to pay such costs immediately upon demand.

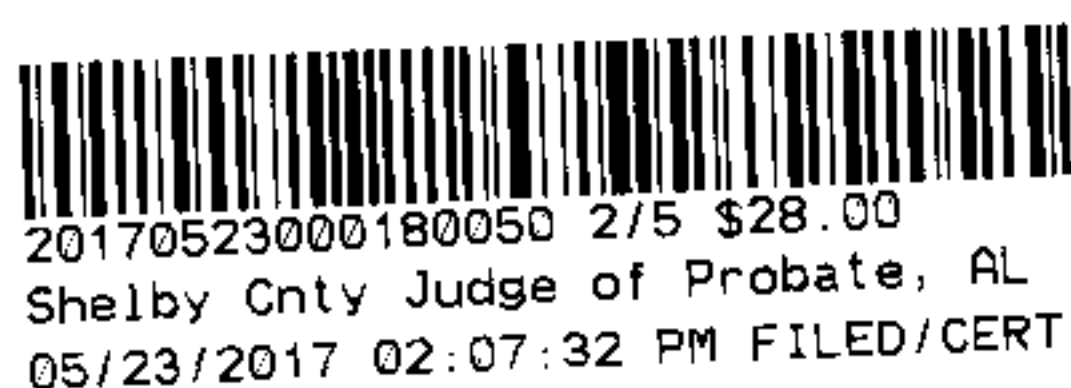
**7. Recordation.** The recording of this Agreement on the Public Records shall evidence the closing of the transaction described herein.

**8. Paragraph Headings.** The paragraph headings used herein are for convenience of reference only and shall not be used in the interpretation or construction hereof.

**9. Governing Law.** This Agreement shall be governed, interpreted and construed by, through and under the laws of the State of Alabama.

**10. Time of the Essence.** Time is of the essence of this Agreement.

**11. Attorneys' Fees.** All costs incurred by Lender in enforcing this Agreement and in collection of sums due Lender from Purchaser, to include, without limitation, reasonable attorneys' fees through all trials, appeals, and proceedings, to include, without limitation, any proceedings pursuant to the bankruptcy laws of the United States and any arbitration



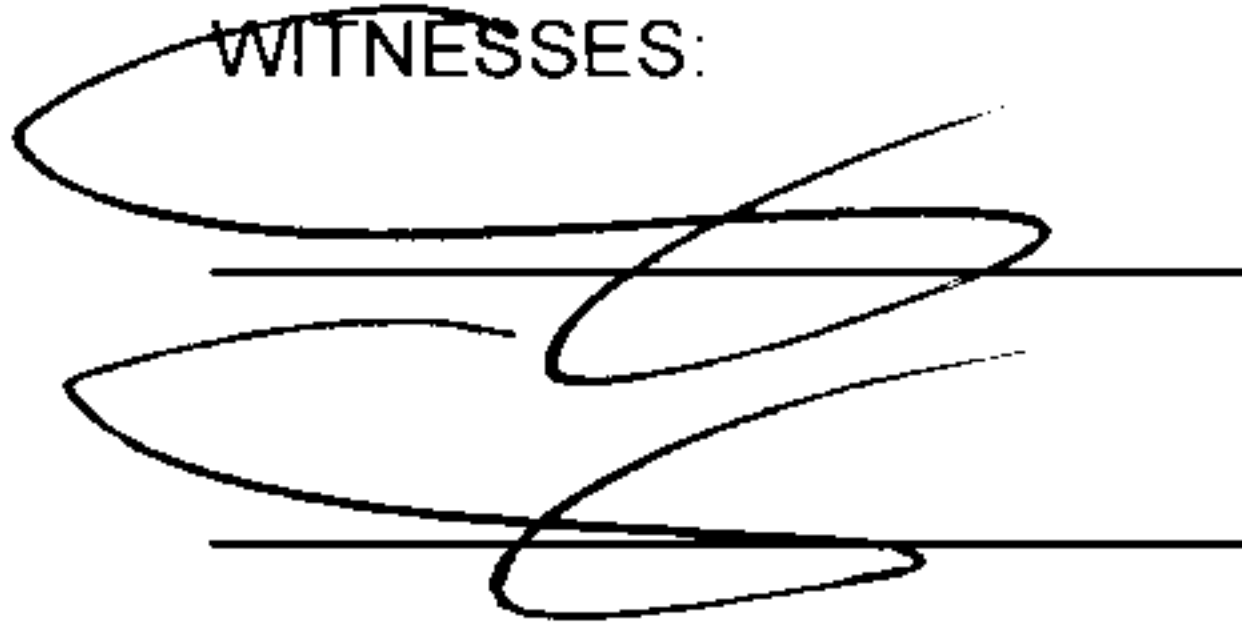
proceedings, shall be paid by Purchaser.


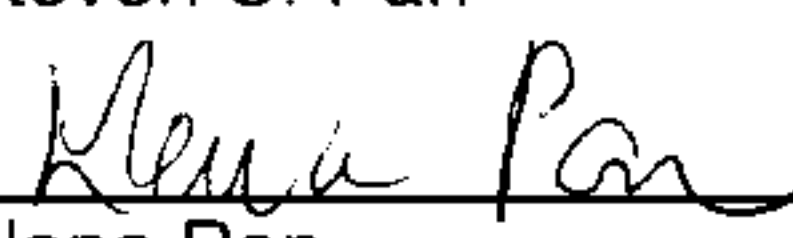
12. **Binding Effect.** This Agreement shall inure to the benefit of and be binding upon the parties hereto as well as their successors and assigns, heirs and personal representatives.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as follows:

As to Purchaser this 4th day of May, 2017.

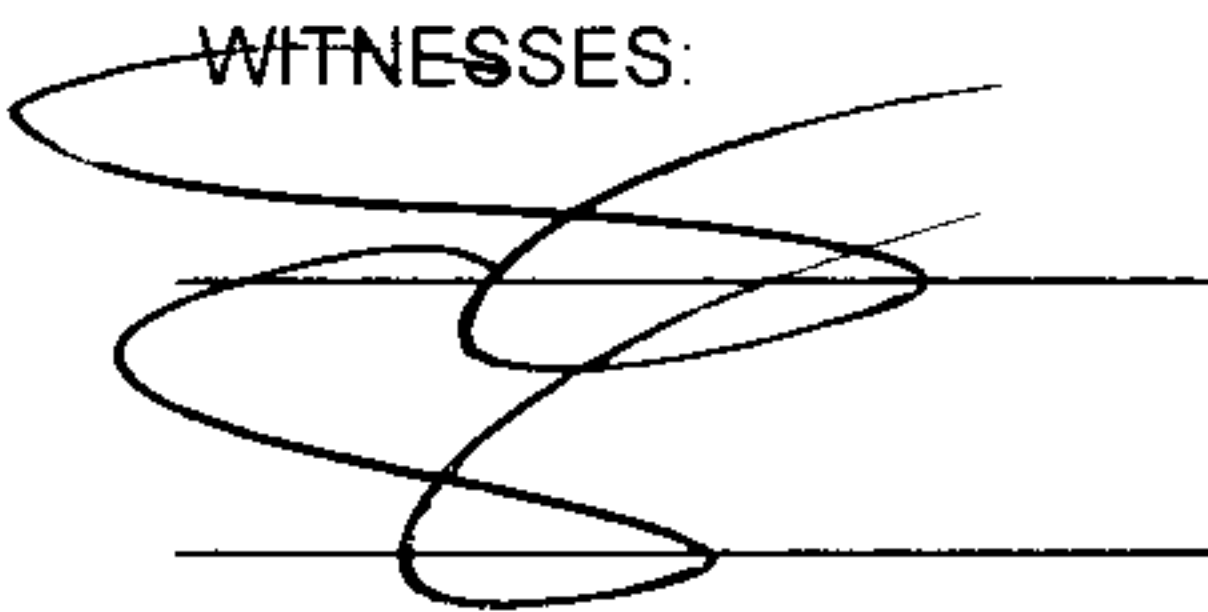
WITNESSES:

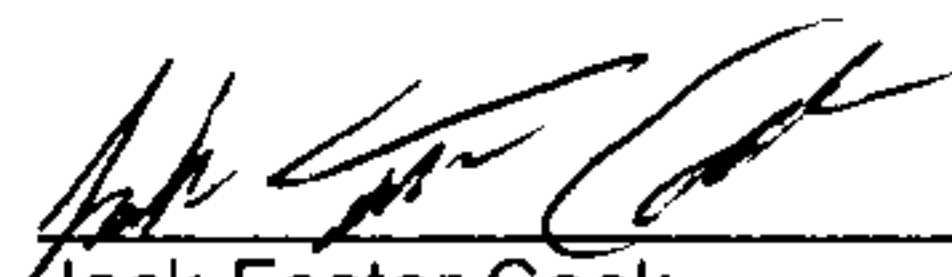



  
\_\_\_\_\_  
Steven S. Pan  
  
\_\_\_\_\_  
Elena Pan

As to Original Borrower this 4th day of May, 2017.

WITNESSES:



  
\_\_\_\_\_  
Jack Foster Cook  
  
\_\_\_\_\_  
Melody Pan Cook

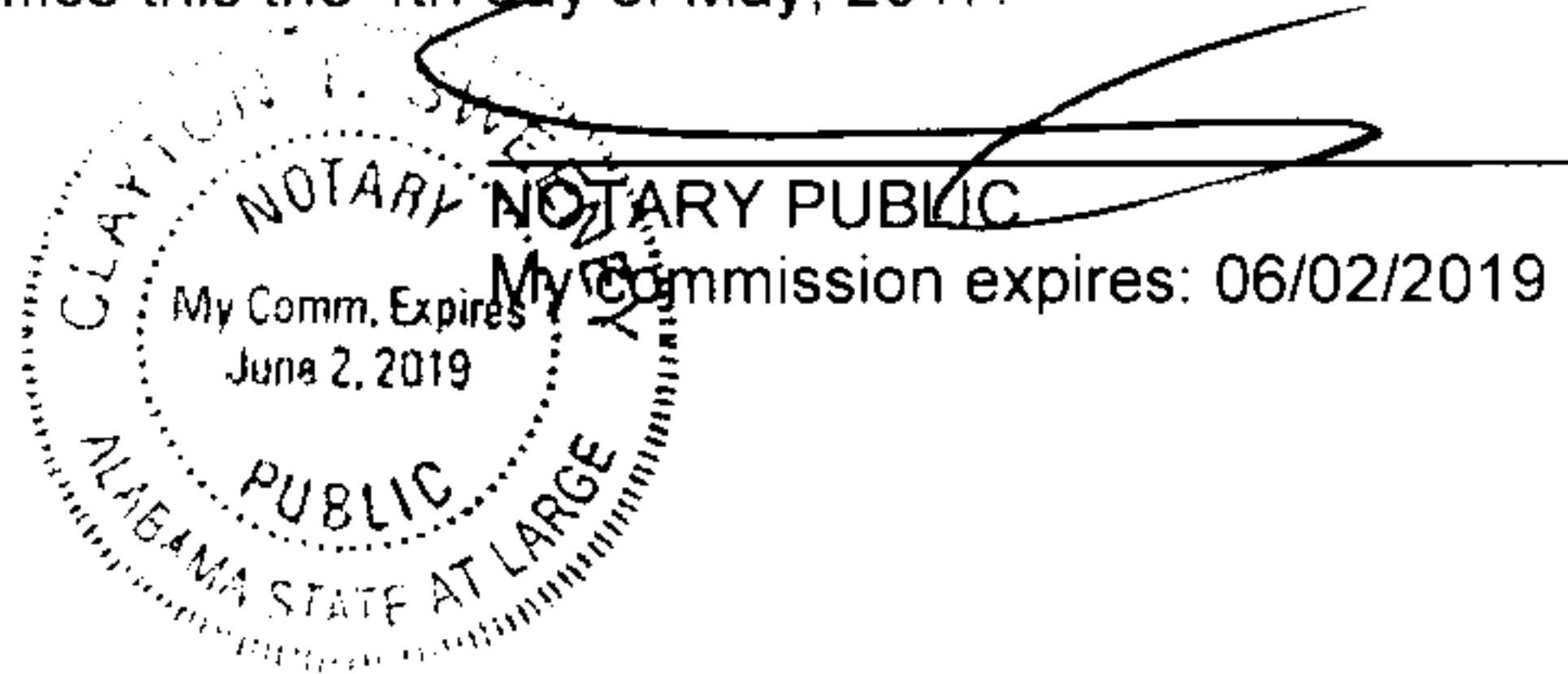


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STATE OF ALABAMA)  
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County and for said State, hereby certify that Seven S. Pan and wife, Elena Pan, whose names are signed to the foregoing conveyance and who are known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, they executed the same voluntarily on the day the same bears date.

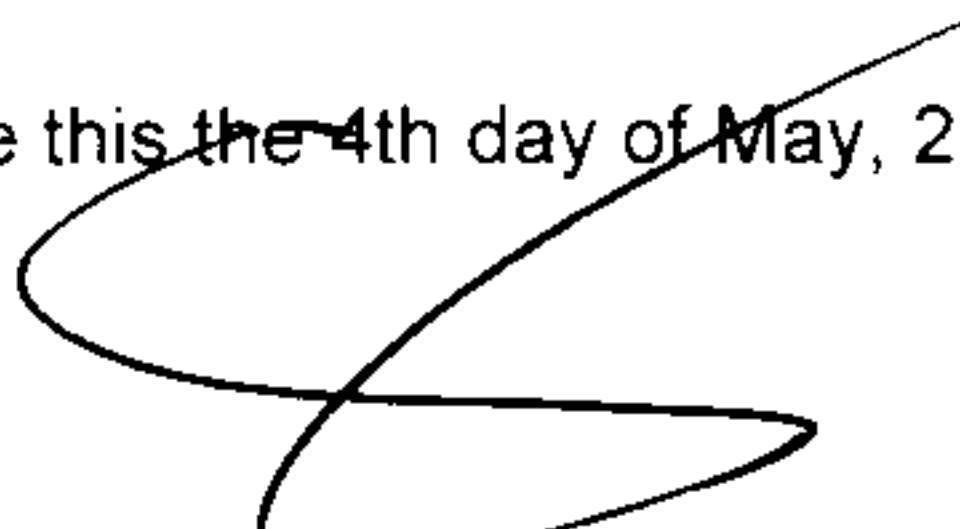
Given under my hand and seal of office this the 4th day of May, 2017.




STATE OF ALABAMA)  
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County and for said State, hereby certify that Jack Foster Cook and wife, Melody Pan Cook whose names are signed to the foregoing conveyance and who are known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, they executed the same voluntarily on the day the same bears date.

Given under my hand and seal of office this the 4th day of May, 2017.

  
\_\_\_\_\_  
NOTARY PUBLIC  
My commission expires: 06/02/2019



  
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### CONSENT OF LENDER

The lender joins in the execution of this mortgage assumption agreement to grant its consent to the assumption of the mortgage and to acknowledge that the Original Borrowers are hereby released of Liability from all obligations of the Note and Mortgage and other Loan Documents.

As to Lender this 5<sup>th</sup> day of May, 2017.

Fidelity Bank d/b/a Fidelity Bank Mortgage

WITNESSES:

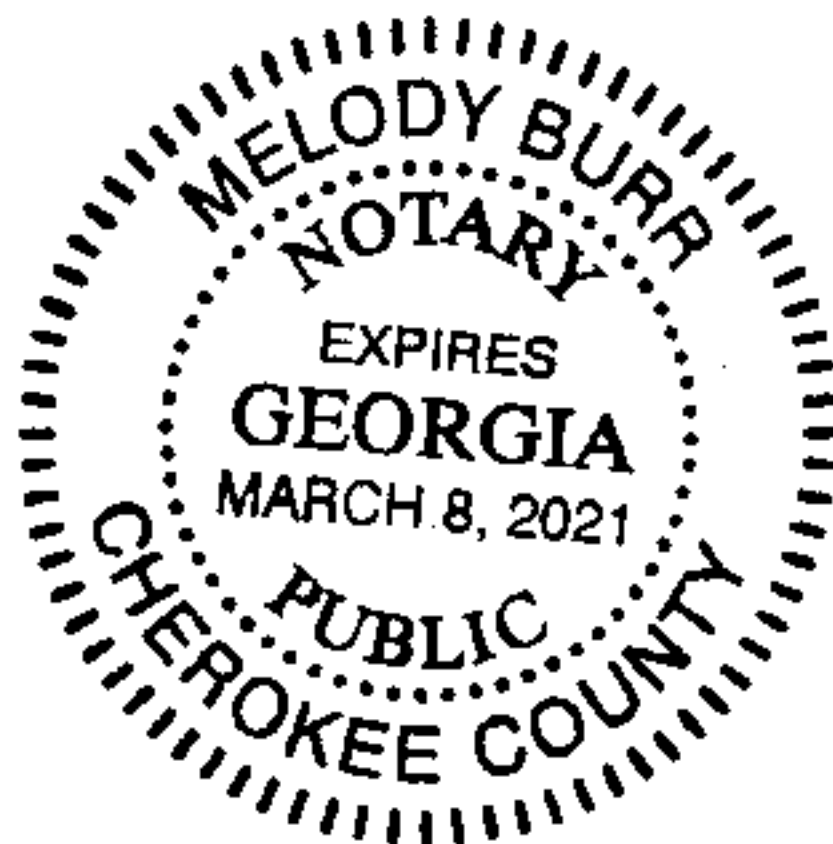
\_\_\_\_\_

By: [Signature]  
Its: Loan Officer

STATE OF GEORGIA )  
COUNTY OF Fulton )

I, the undersigned, a Notary Public in and for said County and for said State, hereby certify that Joey Dorsett, whose name as Loan Officer, of Fidelity Bank d/b/a Fidelity Bank Mortgage, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he/she, with full authority and acting in his/her capacity as such officer, executed the same voluntarily for and as the act of said Banking corporation.

Given under my hand and seal of office this the 5 day of May, 2017.



[Signature]  
NOTARY PUBLIC  
My commission expires:

(AFFIX SEAL)

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