


**This Instrument Prepared by:**

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20170707000242980 1/5 \$27.00  
Shelby Cnty Judge of Probate, AL  
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**This Instrument is being used as additional  
Security for Mortgage recorded at**

**20170707000242970**

**COLLATERAL ASSIGNMENT OF LEASES AND RENTS**

Made as of the 30th day of June, 2017, by **APA HOTEL, L.L.C.**, an Alabama Limited Liability Company, with principal office address of 707 Key Drive, Birmingham, AL 35242 (the "Assignor"), to **ALABAMA CREDIT UNION**, with its principal office at 220 Paul W. Bryant Drive, East, Tuscaloosa, AL 35401 ("Assignee");

**RECITALS**

A. Assignors have executed and delivered to Assignee a certain Promissory Note in the principal amount of **TWO MILLION THREE HUNDRED TWENTY-FIVE THOUSAND & NO/100 (\$2,325,000.00) DOLLARS** (the "Note"), secured by a Mortgage recorded in Shelby County, Alabama, at \_\_\_\_\_ (the "Mortgage") with respect to the real property and improvements of Assignor located in Shelby County, Alabama, more particularly described as follows:

Lot 4A1 of Blumberg's Resurvey, as recorded in Map Book 19, Page 102, in the Probate Office of Shelby County, Alabama, and being situated in the Northwest 1/4 of Section 36, Township 18 South, Range 2 West, Shelby County, Alabama, and being more particularly described as follows:

Begin at the Southwest corner of said Northwest 1/4 of the Northwest 1/4 of Section 36, Township 18 South, Range 2 West and run North along the West line of said 1/4 - 1/4 Section 289.22 feet; thence an interior angle of 51 degrees 22 minutes 09 seconds and run to the right in a southeasterly direction 83.03 feet; thence an interior angle of 269 degrees 42 minutes 38 seconds and run to the left in a northeasterly direction 68.18 feet; thence an interior angle of 180 degrees 01 minutes 00 seconds and run to the left continuing in a northeasterly direction 193.71 feet; thence an interior angle of 90 degrees 00 minutes 00 seconds and run to the right in a southeasterly direction 6.04 feet; thence an interior angle of 270 degrees 00 minutes 00 seconds and run to the left in a northeasterly direction 4.00 feet; thence an interior angle of 90 degrees 00 minutes 00 seconds and run to the right in a southeasterly direction 5.00 feet; thence an interior angle of 90 degrees 00 minutes 00 seconds and run to the right in a southwesterly direction 5.00 feet; thence an interior angle of 90 degrees 00 minutes 00 seconds and run to the right in a northwesterly direction 8.14 feet; thence an interior angle of 270 degrees 00 minutes 00 seconds and run to the left in a southwesterly direction 180.64 feet; thence an interior angle of 270 degrees 00 minutes 00 seconds and run to the left in a southeasterly direction 3.36 feet; thence an interior angle 90 degrees 00 minutes 00 seconds and run to the right in a southwesterly direction 12.06 feet; thence an interior angle of 270 degrees 00 minutes 32 seconds and run to the left in southeasterly direction 241.61 feet; thence an interior angle of 93 degrees 05 minutes 32 seconds and run to the right in a southwesterly direction 173.95 feet to a point on the South

line of said 1/4 - 1/4 section; thence turn an interior angle of 123 degrees 59 minutes 43 seconds and run right southwesterly direction 198.95 feet to the point of beginning.

Together with all those certain appurtenant easements, rights and other benefits created by and described in that certain Cross Easement Agreement, dated February 14, 1995, recorded as Instrument #1995-04461.

(the "Mortgaged Premises").

B. As additional security for the Note and the obligations of Assignors thereunder, Assignors have executed and delivered to Assignee this Collateral Assignment of Leases and Rents.

NOW, THEREFORE, in consideration of Assignee making the loan evidenced by the Note, Assignor does hereby transfer, assign, deliver, and grant a security interest to Assignee in all of the right, title, and interest of Assignors in and to (1) all leases, subleases, tenancies, and any other agreements, whether written or oral, now or hereafter existing with respect to any portion or portions of the Mortgaged Premises, together with any renewals or extensions thereof or any agreements in substitution therefor (all of which are hereinafter collectively referred to as the "Assigned Leases"), (2) all rents and other payments of every kind due or payable and to become due or payable to Assignor by virtue of the Assigned Leases, or otherwise due or payable and to become due or payable to Assignor as the result of any use, possession, or occupancy of any portion or portions of the Mortgaged Premises, and (3) all right, title, and interest of Assignor in and to any and all guaranties of the Assigned Leases.

TO HAVE AND TO HOLD the same unto Assignee, its successors and assigns, for the purpose of securing (1) payment of the Note together with the interest thereon; (2) payment of all other sums, with interest thereon, to become due and payable to Assignee hereunder, under the Mortgage, or under any other instrument securing the Note; (3) performance and discharge of each and every obligation, covenant, and agreement of Assignor contained herein, or in the Note, Mortgage, or other obligation of Assignor to Assignee; and (4) payment of any other obligation of Assignors to Assignee now or hereafter existing, said obligations being hereinafter collectively referred to as the "Obligations."

This instrument is delivered and accepted upon the following terms and conditions:

1. Assignors' License to Operate if No Default. So long as Assignors are not in default in the performance of the Obligations (hereinafter referred to as an "Event of Default"), Assignors shall have a license to manage and operate the Mortgaged Premises and to collect, receive, and apply for its own account, all rents, issues, and profits accruing by virtue of the Assigned Lease, and to execute and deliver proper receipts and acquittances therefor

2. Assignee's Rights in Event of Default.

2.1 Immediately upon the occurrence of any Event of Default, the license shall cease and terminate, and in such event, in addition to any other remedies of Assignee, upon notice from Assignee to each lessee of an Assigned Lease, all rentals thereafter payable to Assignors shall be paid to Assignee.

2.2 The Assignors do hereby constitute and appoint Assignee, irrevocably, with full power of substitution and revocation, their true and lawful attorney, for it and in its name, place, and stead, to do and perform any or all of the actions which Assignors are entitled to perform in connection with the Assigned Leases, as fully, to all intents and purposes, as it could do if present, hereby ratifying and confirming all that its attorney or any substitute for its attorney shall lawfully do or cause to be done by virtue hereof. Any action, or failure or refusal to act, by Assignee under this subparagraph shall be at its election and without any liability on its part.



2.3 The Assignee shall apply the net amount of rents, issues, and profits received by it from the Mortgaged Premises, in the following order of priority: (i) to the payment of all proper costs and charges (including any liability, loss, expense, or damage hereinafter referred to in ¶ 4.1 hereof); (ii) to the payment of all accrued but unpaid interest due under the Note; (iii) to the payment of principal under the Note to be applied to principal installments in the inverse order of maturity; (iv) to the payment of any other amounts owed to Assignee and secured by the Mortgage; and (v) to Assignor or such entity or persons legally entitled thereto.

2.4 The Assignee shall be accountable to Assignor only for monies actually received by Assignee and the acceptance of this assignment shall not constitute a satisfaction of any of the Obligations, except to the extent of amounts actually received and applied by Assignee on account of the same.

2.5 The rights and powers of Assignee hereunder shall continue and remain in full force and effect until all amounts secured hereby are paid in full.

3. Covenants of Assignors. The Assignor, for its company, itself and for its successors and assigns, agree and warrant as follows:

(a) That each of the Assigned Leases now or hereafter in effect is and shall be a valid and subsisting lease and that there are no defaults on the part of any of the parties thereto;

(b) That Assignors have not sold, assigned, transferred, mortgaged, or pledged any of the rents, issues, or profits from the Mortgaged Premises or any part thereof, whether now or hereafter to become due, to any person, firm, or corporation other than the Assignee;

(c) That no rents, issues, or profits of the Mortgaged Premises, or any part thereof, becoming due subsequent to the date hereof have been collected other than as specifically provided in the Assigned Leases, nor has payment of any of the same been anticipated, waived, released, discounted, or otherwise discharged or compromised;

(d) That it will not assign, pledge, or otherwise encumber the Assigned Leases or any of the rents thereunder unless the prior written consent of the Assignee shall have been obtained thereto;

(e) That it will not, without in each case having obtained the prior written consent of Assignee thereto, directly or indirectly amend, modify, cancel, terminate, or accept any surrender of the Assigned Leases or any one or more of them;

(f) That it will not waive or give any consent with respect to any default or variation in the performance of any material term, covenant, or condition on the part of any lessee, sublessee, tenant, or other occupant to be performed under the Assigned Leases, but will at all times take proper steps to enforce all of the provisions and conditions thereof;

(g) That it will perform and observe, or cause to be performed and observed, all of the terms, covenants, and conditions on their part to be performed and observed with respect to each of the Assigned Leases;

(h) That it will, upon written request by the Assignee, serve such written notices upon any lessee under any Assigned Lease or any other occupant of any portion of the Mortgaged Premises concerning this assignment, or include among the written provisions of any instrument hereafter creating any such lease, sublease, tenancy, or right of occupancy specific reference to this assignment, and make, execute, and deliver all such powers of attorney, instruments of pledge or assignment, and such other instruments or documents as Assignee may reasonably request at any time for the purpose of securing its rights hereunder; and



(i) That it will furnish to Assignee, on demand, true copies of all Assigned Leases hereafter executed and true copies of each document effecting the renewal, amendment or modification of any Assigned Lease.

4. Indemnification.

4.1 Assignors hereby agree to indemnify and hold Assignee harmless against and from (a) any and all liability, loss, damage, and expense, including reasonable attorneys' fees, that it may or shall incur or that may be asserted under or in connection with any of the Assigned Leases, or by reason of any action taken by Assignee under any of the Obligations (including without limitation any action that Assignee in its discretion may take to protect its interest in the Mortgaged Premises), and (b) any and all claims and demands whatsoever that may be incurred by or asserted against Assignors by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, and conditions contained in any of the Assigned Leases.

4.2 Should Assignee incur any such liability as described in ¶ 4.1, the amount thereof, together with interest thereon at the lower of the highest rate permitted by law or five percent (5%) above the rate charged on the Note, shall be payable by Assignors to Assignee immediately upon demand, or at the option of Assignee, Assignee may reimburse itself therefor out of any rents, issues, or profits of the Mortgaged Premises collected by Assignee.

4.3 Nothing contained herein shall operate or be construed to obligate Assignee to perform any of the terms, covenants, or conditions contained in any Assigned Lease, or to take any measure to enforce collection of any of said rents or other payments, or otherwise to impose any obligation upon Assignee with respect to any of said leases, including, but not limited to, any obligation arising out of any covenant of quiet enjoyment therein contained.

4.4 Prior to actual entry into and taking possession of the Mortgaged Premises by Assignee, this assignment shall not operate to place upon Assignee any responsibility for the operation, control, care, management, or repair of the Mortgaged Premises, and the execution of this assignment by Assignor shall constitute conclusive evidence that all responsibility for the operation, control, care, management, and repair of the Mortgaged Premises is and shall be that of Assignor prior to such actual entry and taking of possession.

5. Exercise of Remedies. Failure of Assignee to avail itself of any of the terms, covenants, and conditions of this assignment for any period of time, or at any time or times, shall not be construed or deemed to be a waiver of any of its rights hereunder. The rights and remedies of Assignee under this assignment are cumulative and are not in lieu of but are in addition to any other rights and remedies that Assignee shall have under or by virtue of any other of the Obligations. The rights and remedies of Assignee hereunder may be exercised from time to time and as often as such exercise is deemed expedient.

6. Termination of this Assignment. Upon payment in full of all the indebtedness secured by the Mortgage, as evidenced by a recorded satisfaction or discharge of the Mortgage, as well as any sums which may be payable hereunder, this assignment shall become and be void and of no effect and, in that event, upon the request of Assignor and at their expense, Assignee covenants to execute and deliver to Assignors instruments effective to evidence the termination of this assignment and/or the reassignment to Assignors of the rights, power, and authority granted herein.

7. Notice. Any notice, demand, request, or other communication given hereunder or in connection herewith (hereinafter "Notices") shall be deemed sufficient if in writing and sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the party to receive such Notice at the address such party may hereafter designate by Notice given in like fashion. Notices shall be deemed given when mailed. Notwithstanding the foregoing, routine communications such as ordinary distribution checks, copies of documents, etc., may be sent by ordinary first-class mail.

8. Miscellaneous Provisions.

8.1 Whenever the context so requires, reference herein to the neuter gender shall include the masculine and/or feminine gender, and the singular number shall include the plural.

8.2 This assignment shall be construed and enforced in accordance with and governed by the laws of the State of Alabama.

8.3 No change, amendment, modification, cancellation, or discharge hereof, or of any part hereof, shall be valid unless Assignee shall have consented thereto in writing.

8.4 In the event there is any conflict between the terms and provisions of the Mortgage and the terms and provisions of this assignment, the terms and provisions of this assignment shall prevail.

8.5 The terms, covenants, and conditions contained herein shall inure to the benefit of, and bind Assignee and Assignor and their respective successors and assigns or heirs, executors, administrators, successors, and assigns, as the case may be.

8.6 The captions of this assignment are for convenience and reference only and do not in any way define, limit, or describe the scope or interest of this assignment nor in any way affect this assignment.

IN WITNESS WHEREOF, APA HOTEL, L.L.C., an Alabama Limited Liability Company, has hereunto caused this instrument to be executed by and through its undersigned Members, who are duly authorized, on this the 30th day of June, 2017.

APA HOTEL, L.L.C., AN ALABAMA  
LIMITED LIABILITY COMPANY

20170707000242980 5/5 \$27.00  
Shelby Cnty Judge of Probate AL  
07/07/2017 02:28:07 PM FILED/CERT

By: [Signature]  
Amrutlal Vallabhbhai, Member

By: [Signature]  
Anishkumar Amrutlal, Member

STATE OF ALABAMA §  
LEE COUNTY § ss.  
§

I, the undersigned authority, a notary public in and for said state in said county, hereby certify that Amrutlal Vallabhbhai and Anishkumar Amrutlal, whose names as Members of APA Hotel, L.L.C., an Alabama Limited Liability Company, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the foregoing instrument, they, as such Members and with full authority, executed the same voluntarily for and as the act of APA Hotel, L.L.C. on the day the same bears date.

Given under my hand and official seal on this the 30<sup>th</sup> day of June, 2017.



[Signature]  
Notary Public  
My Commission Expires: \_\_\_\_\_