

COLLATERAL ASSIGNMENT OF CONTRACTS,
PLANS, PERMITS, & APPROVALS

R:1702122963

THIS COLLATERAL ASSIGNMENT OF CONTRACTS, PLANS, PERMITS, AND APPROVALS (this "**Assignment**") is made as of January 17, 2018, by PFM Holdings, LLC, a limited liability company organized and existing under the laws of Tennessee, whose address is 82 Brookwood Terrace, Nashville, TN 37205 (PFM Holdings, LLC and their successors and/or assigns, are collectively referred to herein as the the "**Assignors**"); and DAC Retail, LLC dba Revolver Finance, a limited liability company organized and existing under the laws of the State of Texas, whose address is 1601 Elm Street, 33rd Floor, Dallas, Texas 75201 (the "**Assignee**").

WITNESSETH

WHEREAS, the Assignee has agreed to lend to the Assignors the principal amount of \$370,000 (the "**Loan**"); and

WHEREAS, the Loan is evidenced by a certain Loan Agreement (as the same may be amended, restated, or modified from time to time, the "**Loan Agreement**") dated as of even date herewith and a Promissory Note (as the same may be amended, restated, or modified from time to time, the "**Note**"), in the principal amount of \$370,000 executed by the Assignors, payable to the Assignee, and dated as of even date herewith; and

WHEREAS, the Loan is secured by among other things, the following security instrument (as the same may be amended, restated, or modified from time to time, each, a "**Security Instrument**"), encumbering certain real property described therein (the "**Mortgaged Property**");

A certain Mortgage, Assignment of Rents, and Security Agreement granted by PFM Holdings, LLC to the Lender on the property known as 1012 Pinecliff Rd., Birmingham, AL 35242.

WHEREAS, the Assignee is unwilling to make the Loan unless this Assignment is executed by the Assignors and delivered to the Assignee.

NOW, THEREFORE, in consideration of the Loan, and intending to be legally bound, the Assignors do hereby agree as follows:

1. **Assignment of Agreements.** The Assignors hereby assign, transfer, and set over unto the Assignee all of the Assignors' right, title, privileges, and interest in and to the Additional Collateral (as hereinafter defined) and all rights and benefits therefrom as security for the full, timely, and faithful repayment by Assignors of the principal, interest, and any and all other sums due under the Note, the Loan Agreement, the Security Instrument, and any other document delivered in connection with or as security for the Loan (collectively, the "**Loan Documents**"), and performance by the Assignors of all of their obligations under the Loan Documents, to the fullest extent permitted by law and by the terms of the Additional Collateral.
 - A. The following constitute the "**Additional Collateral**" hereby assigned, transferred, and set over to the Assignee:
 - (i) All licenses, permits, approvals, certificates and agreements with or from all boards, agencies, departments, governmental or quasi-governmental, relating directly or indirectly to the ownership, use, operation and maintenance of the Mortgaged Property and the construction, use, development, renovation and installation of improvements to the Mortgaged Property, whether heretofore or hereafter issued or executed (collectively the "**Licenses**"; said boards, agencies, departments, governmental or otherwise being hereinafter collectively referred to as "**Governmental Authorities**").
 - (ii) All contracts, subcontracts, agreements, service agreements, rights, warranties and purchase orders which have heretofore been or will hereinafter be executed by or on behalf of the Assignors, or which have been or will hereafter be assigned to the Assignors, as well as all

promotional, sales and/or marketing materials, products or documents in connection with or relating to the current or future development, construction, renovation or improvement of the Mortgaged Property or to the use, access, operation, sale and maintenance of the Mortgaged Property (All of the contracts, agreements and other items referred to in subparagraphs (ii), (iii), (iv), (v), (vi), and (vii) of this Section 1(A) are hereinafter referred to as the "**Contracts**" and the parties with whom or to whom such Contracts have been or are given are hereinafter collectively referred to as the "**Contractors**").

- (iii) All other contracts now or hereafter entered into, including, but without limitation, those certain architects' agreements, engineers' agreements, development agreements and management agreements, if any.
- (iv) All and any agreements of purchase and sale between the Assignors and a bonfire third party, now existing or hereafter made, for all or any portion or portions of the Mortgaged Property, as said agreements of purchase and sale may have been, or may from time to time be hereafter, modified or extended.
- (v) All rights necessary to provide the Mortgaged Property with utility services including, but not limited to sewer, water, electricity and gas services as approved by those governmental authorities having jurisdiction thereof.
- (vi) All other agreements now or in the future with respect to the management, maintenance and operation of the Mortgaged Property and the business conducted thereon.
- (vii) All plans, specifications, surveys, drawings, and reports between the Assignors and any other party, existing as of the date hereof or entered into or created in the future with respect to the Mortgaged Property.

2. **Performance of Agreements.**

- A. The Assignors will fulfill or perform each and every condition and covenant of any Additional Collateral to be fulfilled or performed by the Assignors, give prompt notice to the Assignee of any notice of default by the Assignors under any Contracts, Licenses, or other Additional Collateral received by the Assignors together with a complete copy of any such notice, and at the sole cost and expense of the Assignors, enforce, short of termination of any Contracts, the performance or observance of each and every covenant and condition of the Contracts by the contracting party to be performed or observed.
- B. The Assignors shall not alter, modify, or change any Contracts, or terminate the term thereof, or accept a surrender thereof, or cancel any Contracts or waive or release any party from the performance or observance by said party of any obligations or conditions thereof, or anticipate any rents or other payments payable to the Assignors under any of the Contracts, without the prior written consent of the Assignee, which consent shall not be unreasonably withheld, conditioned, or delayed.

3. **Indemnification.** The Assignee shall not be obligated to perform or discharge any obligation under any Assigned Agreement or under or by reason of, the assignment of the Assigned Agreements, and the Assignors hereby agree to indemnify the Assignee against, and hold it harmless from, any and all liability, loss, or damage which it may incur under any Contracts or under, or by reason of, the assignment of the Contracts and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligation or undertaking on its part to perform or discharge under any of the terms of the Contracts. Should the Assignee incur any such liability, loss, or damage under any Contract or under, or by reason of, this assignment of the Additional Collateral, or in defense against any such claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, together with interest thereon at the default rate set forth in

the Note, shall be secured hereby and by the Security Instrument, and the Assignors shall reimburse the Assignee therefor immediately upon demand.

4. **The Assignee's Performance of Agreements.** Should the Assignors fail to make any payment, do any act or refrain from any act which this assignment of the other Additional Collateral requires, then the Assignee may, without any obligation, make such payment or do or prevent such act in such a manner and to such extent as the Assignee may reasonably deem necessary or advisable to protect the security provided hereby, which rights of the Assignee shall specifically include, without limitation, the right to appear in and defend any action or proceeding purporting to affect the security hereof and the rights or powers of the Assignee hereunder, and also the right to perform and discharge the Assignors' obligations, covenants, conditions, duties and agreements contained in any of the Contracts or other Additional Collateral. The Assignors shall, immediately upon demand, reimburse the Assignee for any and all costs or expenses incurred by the Assignee in connection with the foregoing rights and privileges, including without limitation reasonable attorneys' fees, and until such sums shall have been paid, the amount thereof, together with interest thereon at the default rate set forth in the Note, shall be secured hereby and by the Security Instrument.
5. **Representations and Warranties.** The Assignors represent and warrant that (i) the Assignors have not executed any prior assignment or pledged of any of their rights, nor are their rights encumbered with respect to any of the Additional Collateral, except as they are encumbered by the Security Instrument and herein; (ii) the Assignors have the full and lawful right, power and authority to assign the Assigned Agreements; (iii) All Contracts and Licenses are valid and enforceable and unmodified, and no party to the Contracts or the Licenses is in default thereunder; (iv) the Assignors have performed all of the Assignors' obligations under the Additional Collateral required on its part to be performed as of the date hereof; (v) As of the date hereof, there exists no event, condition, or occurrence which constitutes, or which, with notice and/or the passage of time, would constitute a breach of, or default under any terms and conditions of, any of the Additional Collateral; and (vi) the Assignors shall not do any act which would destroy or impair the security to the Assignee of this Assignment.
6. **The Assignors' Rights Prior to Default.** So long as there is no default in the payment of any indebtedness secured hereby or in the performance of any obligation, covenant or agreement herein or in the Note or the Security Instrument or any other Loan Documents, the Assignors shall have the right to exercise or enforce, or seek to exercise or enforce, all rights, powers, privileges, authorizations and benefits under or pursuant to the Additional Collateral.
7. **Release or Satisfaction of Security Instrument.** Upon the payment in full of all indebtedness secured hereby, as evidenced by the recording or filing of a full release of the lien of the Security Instrument by the then current holder, this Assignment shall become null and be void and of no effect.
8. **Miscellaneous.** The Assignee may take or release other security, may release any party primarily or secondarily liable for any indebtedness secured hereby, may grant extensions, renewals or indulgences with respect to such indebtedness, and may apply any other security therefore held by it to the satisfaction of such indebtedness without prejudice to any of its rights hereunder. Nothing herein contained and no act done or omitted by the Assignee, pursuant to the powers and rights granted it herein, shall be deemed to be a waiver by the Assignee of its rights and remedies hereunder or under the Note and the Security Instrument, but this Assignment is made and accepted without prejudice to any of the rights and remedies possessed by the Assignee under the terms thereof. The right of the Assignee to collect said indebtedness and to enforce any other security therefore held by it may be exercised by the Assignee either prior to, simultaneously with, or subsequent to, any action taken by it hereunder. Any failure by the Assignee to insist upon the strict performance by the Assignors of any of the terms and provisions hereof shall not be deemed a waiver of any of the terms and provisions hereof, and the Assignee may thereafter insist upon strict performance. This Assignment shall be binding on the Assignors and their successors and assigns and shall inure to the benefit of the Assignee and its successors and assigns. This Assignment may not be changed orally, but only by an agreement in writing

and signed by the party or parties against whom enforcement or any waiver, change, modification or discharge is sought.

9. **Headings.** The descriptive headings of the several sections of this Assignment are inserted for convenience only and shall not be deemed to affect the meaning or construction of any of the provisions hereof.
10. **CHOICE OF LAW; VENUE.** THIS ASSIGNMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AS THOSE LAWS ARE APPLIED TO CONTRACTS BETWEEN RESIDENTS OF SAID STATE TO BE PERFORMED WITHIN SAID STATE, WITHOUT GIVING EFFECT TO THE STATE'S CONFLICT AND CHOICE OF LAW PRINCIPLES. THE PARTIES HERETO AGREE THAT ANY APPROPRIATE STATE OR FEDERAL DISTRICT COURT LOCATED IN THE STATE OF TEXAS SHALL HAVE EXCLUSIVE JURISDICTION OVER ANY CASE OR CONTROVERSY ARISING UNDER OR IN CONNECTION WITH THIS ASSIGNMENT AND SHALL BE A PROPER FORUM IN WHICH TO ADJUDICATE SUCH CASE OR CONTROVERSY.

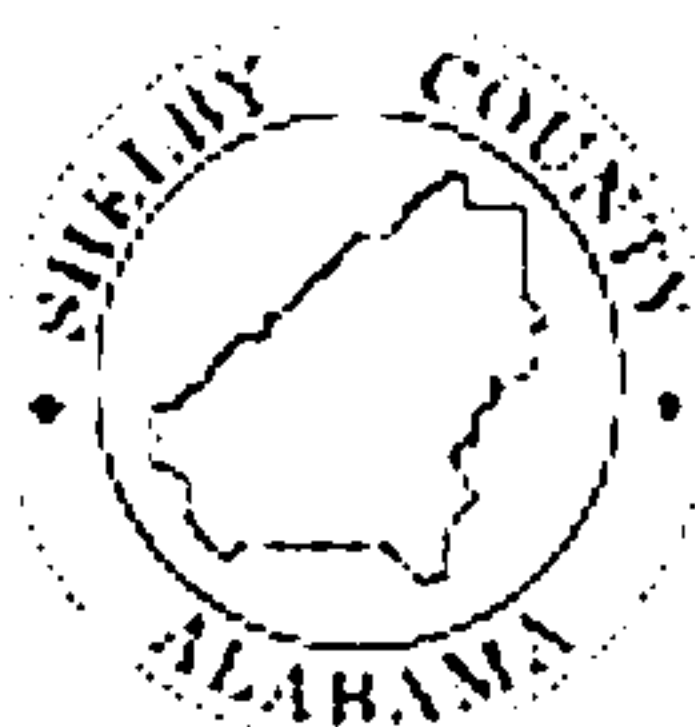
[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the undersigned have executed this Collateral Assignment of Contracts, Plans, Permits, and Approvals as of January 17, 2018

PFM Holdings, LLC

By: Patrick Miranda
Name: Patrick Miranda
Title: Member

20180306000072800 03/06/2018 11:57:19 AM ASSIGN 5/5



Filed and Recorded
Official Public Records
Judge James W. Fuhrmeister, Probate Judge,
County Clerk
Shelby County, AL
03/06/2018 11:57:19 AM
\$27.00 CHERRY
20180306000072800

James W. Fuhrmeister