

THIS INSTRUMENT PREPARED BY
AND UPON RECORDATION RETURN TO:

Jason Kaplan, Esq.
Polsinelli PC
150 N. Riverside
Suite 3000
Chicago, IL 60606

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05/11/2018 01:07:03 PM
AGREEMNT 1/10

SUPPLEMENTAL AGREEMENT

THIS SUPPLEMENTAL AGREEMENT (the “**Agreement**”) is made by and between **BW OFFICE BUILDINGS, LLC**, a Delaware limited liability company, as successor-in-interest to Brookwood Center Development Corporation (the “**Landlord**”), **CMK2 PELHAM, LLC**, a Delaware limited liability company, as successor-in-interest to NSC 31, L.L.C. (“**Tenant**”), and **CAPITAL ONE, NATIONAL ASSOCIATION**, a national banking association acting in its capacity as Administrative Agent (“**Administrative Agent**”) for certain financial institutions (collectively, “**Lender**”), as of this 3rd day of May, 2018.

RECITALS:

1. Reference is hereby made to that certain Ground Lease Agreement dated as of October 16, 1998, by and between Brookwood Center Development Corporation, as landlord, and NSC 1, L.L.C., as tenant, a memorandum of which is recorded as Instrument No. 199840834 in the Office of the Judge of Probate of Shelby County, Alabama, the lessee’s interest thereunder having been assigned to HCP Family Medicine South MOB, LLC, by Assignment and Assumption of Tenant’s Interest in Ground Lease and Special Warranty Deed dated January 4, 2006, and recorded as Instrument No. 20060110000017000 and as Instrument 20060110000017010 in said Probate Office (collectively, the “**Ground Lease**”), pursuant to which the Landlord demised and let to Tenant certain premises more particularly described in the Ground Lease (referred to herein and in the Ground Lease as the “**Premises**”), including the parcel of land described in Exhibit A attached hereto.

2. In that certain Leasehold Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated as of May 3, 2018 (as the same may be amended or modified from time to time, together with any other leasehold mortgage, deed of trust or comparable document now or at any time hereafter entered into by Tenant in favor of Administrative Agent for the benefit of Lender, the “**Mortgage**”), Tenant has granted to Administrative Agent for the benefit of Lender a mortgage with respect all of its right, title and interest arising under the Ground Lease in an to the Premises, for the purpose of securing a loan in an aggregate principal amount, allocated to the Premises, not exceeding the sum of \$498,558,042 (the “**Loan**”) made by Lender to Tenant contemporaneously with the execution and delivery of the Mortgage.

3. Landlord recognizes and acknowledges that the Mortgage constitutes a “Leasehold Mortgage” with respect to the Premises, within the meaning of Article 6 and the other provisions of the Ground Lease, and (ii) that Administrative Agent for the benefit of

Lender is and shall be deemed to be the "Leasehold Mortgagee" (as that term is effectively defined and used in the Ground Lease) with respect to the Mortgage and the Premises.

NOW, THEREFORE, in consideration of the premises, the mutual promises and covenants of the parties hereunder, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

a. The recitals are hereby incorporated by reference into this Agreement as if set forth herein.

b. In no event shall Lender, solely in its capacity as the Leasehold Mortgagee with respect to the Ground Lease prior to any foreclosure or other succession to the interest of Tenant, be deemed a sublessee, assignee or transferee of Tenant's right, title or interest in and to the Premises so as to require Administrative Agent or any Lender to assume the performance of any of the covenants or agreements on the part of Tenant to be performed with respect thereto.

c. With respect to Administrative Agent, in its capacity as the Leasehold Mortgagee under the Ground Lease with respect to the Premises, the provisions of Subsections (d) through (g), inclusive, hereof shall apply, notwithstanding anything in the Ground Lease to the contrary.

d. No voluntary termination of the Ground Lease shall be effective unless consented to in writing by Administrative Agent and any Lender; and any amendment or modification of the Ground Lease with respect to the Premises that is not a Permitted Modification (as defined below) shall not be made without the written consent of Administrative Agent, and absent such consent shall, at the option of Administrative Agent, be voidable as against it. A "**Permitted Modification**" means an amendment or modification that is entered into in the ordinary course of business and which does not change any of the economic terms of the Ground Lease, the term of the Ground Lease, does not create new assignment or subletting rights or otherwise take an action that is likely to materially impair Administrative Agent's security for the Loan. If, within thirty (30) days after receipt thereof, Administrative Agent shall fail to respond to any written request from Tenant for such written consent, which such request shall make specific reference to this paragraph, then Administrative Agent shall be deemed to have granted its consent to such request. This Section 4 shall not be deemed to amend or modify the terms of the Mortgage or any other loan documents with respect to the Loan.

e. Landlord agrees to delivery to Administrative Agent a copy of any notice of default delivered to Tenant under the Ground Lease.

f. Landlord agrees that, in the event of the termination of the Ground Lease by reason of any default thereunder by Tenant, including without limitation a default under the Ground Lease or rejection of the Ground Lease by Tenant or Tenant's bankruptcy estate, it will enter into a new lease with respect to the Premises with Administrative Agent or Transferee (the "**Transferee**") for the remainder of the term of the Ground Lease, effective as of the date of such termination, at the rent and upon the terms, options, provisions, covenants and agreements then contained in the Ground Lease applicable to the Premises; provided, that

i. Administrative Agent shall make written request upon Landlord for such new lease prior to or within thirty (30) days after the date of such termination of the Ground Lease, and such written request is accompanied by payment to Landlord of all sums then due to it under the Ground Lease, including the payment of all rent to the date of such new lease with respect to the Premises;

ii. Administrative Agent or Transferee shall pay to Landlord, at the time of the execution and delivery of such new lease, any and all sums that would then be due under the Ground Lease but for such termination, together with any reasonable expenses, including reasonable attorneys' fees, incurred by Landlord as a result of such termination, as well as in the preparation, execution and delivery of such new lease;

iii. Administrative Agent shall not become liable under the agreements, terms, covenants or conditions of the Ground Lease unless and until it becomes the owner of the leasehold estate and the interests of Tenant in and to the Premises;

iv. all provisions contained in either the Ground Lease or this Agreement with respect to the Mortgage and the rights of Administrative Agent shall survive the termination of both the Ground Lease and this Agreement for such period of time as shall reasonably be necessary to effectuate any and all rights effectively granted to Administrative Agent by the provisions of the Ground Lease; and

v. nothing contained herein or in the Ground Lease shall be construed to require Administrative Agent or Transferee to cure any default by Tenant under the Ground Lease, unless Administrative Agent exercises its right to obtain a replacement lease as herein set forth.

Notwithstanding the foregoing, Landlord shall be under no obligation to enter into a new lease with Administrative Agent or Transferee in any circumstance where (i) the Ground Lease has been terminated due to a failure by Tenant to satisfy its restoration obligations after a casualty or condemnation loss, and (ii) Administrative Agent has failed to make available to Tenant any casualty insurance proceeds or condemnation awards actually received by Administrative Agent, to the extent necessary to cover the cost of Tenant's restoration obligations.

g. Landlord agrees that (i) Landlord shall not have the right to remedy or cure any default of Tenant under the Mortgage or any related loan documents and Administrative Agent shall not be obligated to accept any performance by Landlord of any obligation, covenant, condition or agreement to be performed or observed by Tenant pursuant to the Mortgage or any related Loan documents; (ii) Landlord shall not have any right to consent or approve (a) the Mortgage or any related Loan documents or any amendments to any of the terms of the Mortgage or any related Loan documents, or (b) any future advances or other increases in the principal amount of the Loan which is secured by the Mortgage; (iii) Tenant will be obligated to deliver a copy of the Leasehold Mortgage to Landlord but shall not be required to deliver copies of the related Loan documents to Landlord; (iv) Landlord shall not have any right purchase the Mortgage or to assume Tenant's obligations with respect to the Loan or to prepay or pay to Administrative Agent on Tenant's behalf any principal or other amounts owed by Tenant in connection with the Loan or to terminate the Ground Lease as a result of any acceleration of the

Loan (without the existence of any other default under the Ground Lease); (v) any provisions in the Ground Lease limiting the principal amount of the Loan shall not be applicable with respect to the Loan or the Mortgage and Tenant shall be free to obtain the Loan in any amount as determined by Tenant in its sole and absolute discretion without any limitation under the Ground Lease; provided that this clause (v) shall be applicable only with respect to the initial principal indebtedness comprising the Loan and not with respect to any future additions thereto or increases thereof (other than protective advances); and (vi) any provisions of the Ground Lease prohibiting or limiting Tenant's right to cross-collateralize the Premises with any other property shall not be applicable with respect to the Mortgage or the Loan; provided that this clause (vi) shall be applicable only with respect to the cross-collateralized group of properties originally securing the Loan. Nothing herein shall be deemed to subordinate the Ground Lease or the interest of Landlord in and to the Premises to the lien, operation and effect of the Mortgage or any related loan documents.

h. In addition to any notices required under the Ground Lease, Tenant will give prompt written notice to Administrative Agent of every breach or default on the part of Landlord in respect of any obligation or covenant of Landlord under the Ground Lease with respect to the Premises, if such breach or default may be of such a nature as to give Tenant a right to terminate the Ground Lease with respect to the Premises, to reduce rent, or to credit or offset any amounts against future rents, prior to the exercise of such right by Tenant. However, the failure of Tenant so to give any such notice to Administrative Agent shall not invalidate any action taken by Tenant in furtherance of any such right under and pursuant to the Ground Lease with respect to the Premises.

i. Landlord acknowledges that certain defaults by Tenant under the Ground Lease, such as bankruptcy, insolvency, receivership, prohibited change of control, fraud, misrepresentation and an indemnification claim by Landlord against Tenant that cannot be cured by the payment of money, are particular to Tenant and in all likelihood, not susceptible to cure by Administrative Agent, Lender or any Transferee. Landlord agrees that because such defaults are not susceptible to cure by Administrative Agent, Landlord shall not seek to assert such defaults against any person (including Administrative Agent or Lender) who succeeds to the interest of Tenant under the Ground Lease through foreclosure of the Mortgage or transfer in lieu thereof, or against any Transferee under a new lease pursuant to Section h above. Nothing herein shall be deemed a waiver by Landlord of any right, remedy or claim against Tenant arising out of such defaults, all of which shall remain in full force and effect.

j. Tenant hereby represents and warrants that it has not encumbered its interests in and to the Premises to any person other than Administrative Agent for the benefit of Lender.

k. This Agreement may not be altered, modified, or amended except by writing signed by all of the parties hereto.

l. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, successors and assigns.

m. The validity, enforcement, and interpretation of this Agreement shall be governed by and construed in accordance with the laws of the State of Alabama and applicable United

States federal law, and is intended to be performed in accordance with, and only to the extent permitted by, such laws. If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement 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.

n. All notices, requests, consents, demands and other communications required or which any party desires to give hereunder shall be in writing and, unless otherwise specifically provided, shall be deemed sufficiently given or furnished if delivered by personal delivery, by nationally recognized overnight courier, or by registered or certified United States mail, postage prepaid, addressed to the party to whom directed at the addresses specified near the signature blocks of this Agreement (unless changed by similar notice in writing given by the particular party whose address is to be changed). Any such notice or communication shall be deemed to have been given either at the time of personal delivery or, one day after deposit with an overnight courier, or three days after deposit in U.S. Mail. Notwithstanding the foregoing, no notice of change of address shall be effective except upon actual receipt.

o. This Agreement may be executed in multiple counterparts, each of which, for all purposes, shall be deemed an original, and all of which together shall constitute one and the same agreement.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed under seal by their respective duly authorized-representatives as of the date first above written.

LANDLORD

BW OFFICE BUILDINGS, LLC, a Delaware
limited liability company

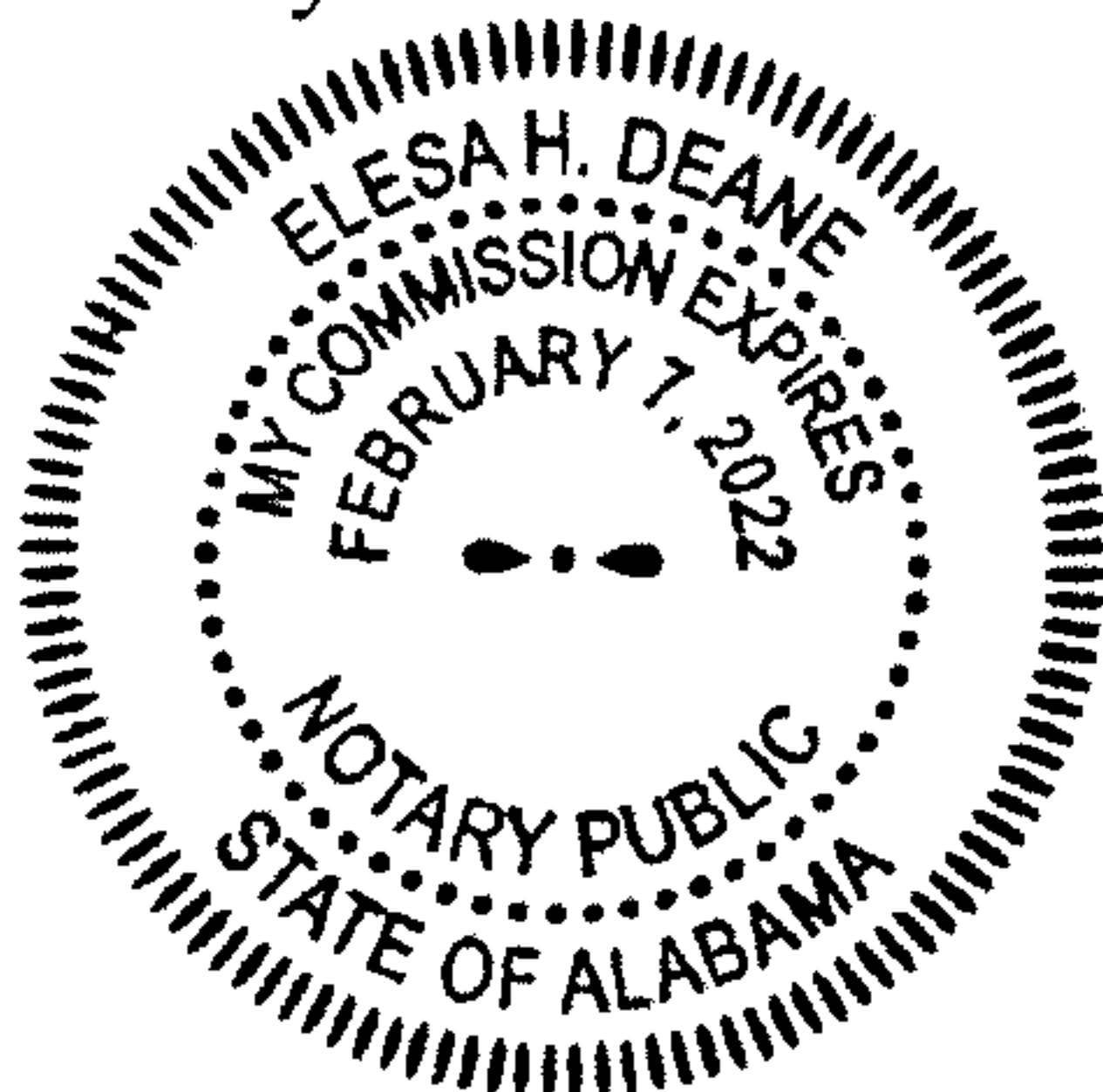
By: [Signature]
Print Name: Keith Parrott
Its: CEO

Address:
BW Office Buildings, LLC
c/o Tenet Healthcare
1445 Ross Avenue, Suite 1400
Dallas, Texas 75202
Attn: Tim Blakely

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, undersigned Notary Public in and for said County in said State, hereby certify that Keith Parrott, whose name as CEO of BW OFFICE BUILDINGS, LLC, a Delaware 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 such instrument, he/she, as such officer, and with full authority, executed the same voluntarily for and as the act of said public corporation.

Given, under my hand and official seal, this the 2 day of May, 2018.



Elesa H Deane
Notary Public
My Commission Expires: Feb. 7, 2022

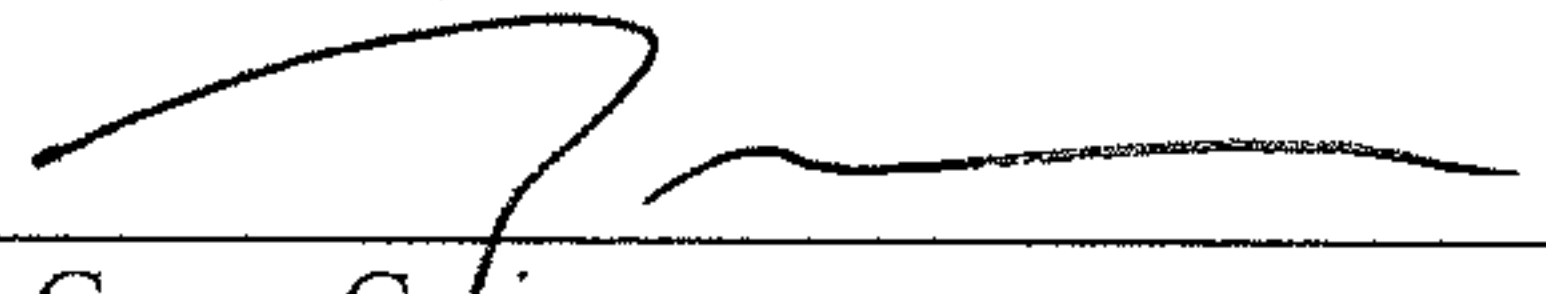
[SEAL]

[SIGNATURES CONTINUE ON FOLLOWING PAGES]

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TENANT:

CMK2 PELHAM, LLC, a Delaware limited
liability company

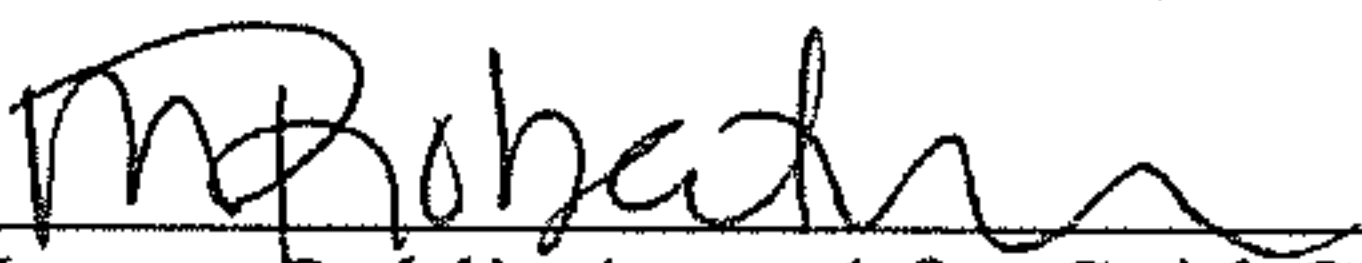
By: 
Name: Gregg Graines
Title: Authorized Signatory

Address:
CMK2 Pelham, LLC
c/o MBRE Global Investment Partners
181 W Madison, Suite 4700
Chicago, IL 60602

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

This instrument was acknowledged before me on May 1, 2018, by Gregg Graines as Authorized Signatory of CMK2 Pelham, LLC, a Delaware limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

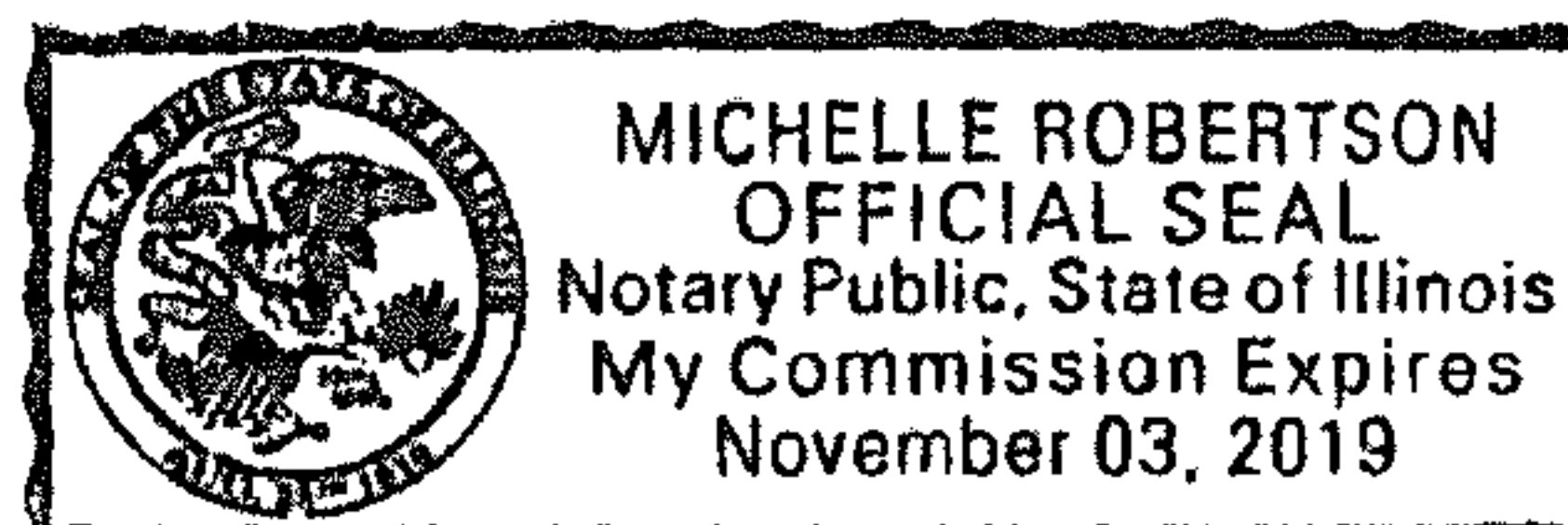

Notary Public in and for Said County and State

Michelle Robertson

(Type, print or stamp the Notary's name below
his or her signature)

My Commission Expires:

11/3/19



[SIGNATURES CONTINUE ON FOLLOWING PAGES]

[SIGNATURES CONTINUED FROM PRECEDING PAGES]

ADMINISTRATIVE AGENT:

CAPITAL ONE, NATIONAL ASSOCIATION,
a national banking association

By: 

Print Name: Daniel Eppley

Its: Duly Authorized Signatory

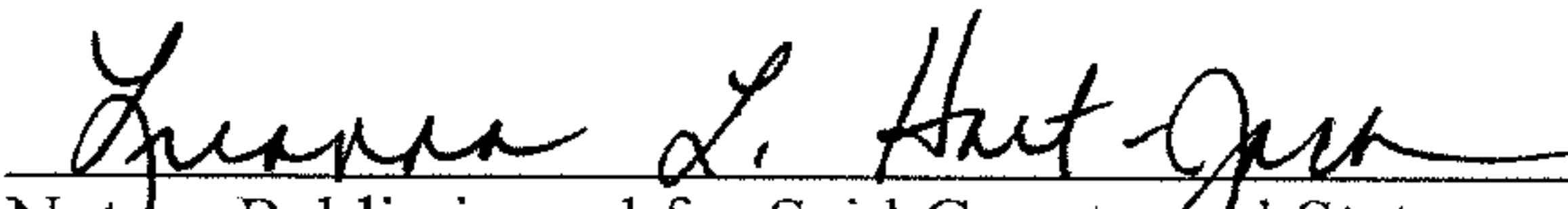
Address:

Capital One, National Association
77 West Wacker Drive, 10th Floor
Chicago, IL 60601
Attn: Daniel Eppley, Senior Director
Reference: MB CBRE II

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

This instrument was acknowledged before me on May 1, 2018, by Daniel Eppley as Duly Authorized Signatory of Capital One, National Association, a national banking association.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.


Notary Public in and for Said County and State

(Type, print or stamp the Notary's name below
his or her signature)

My Commission Expires:

09/04/2018

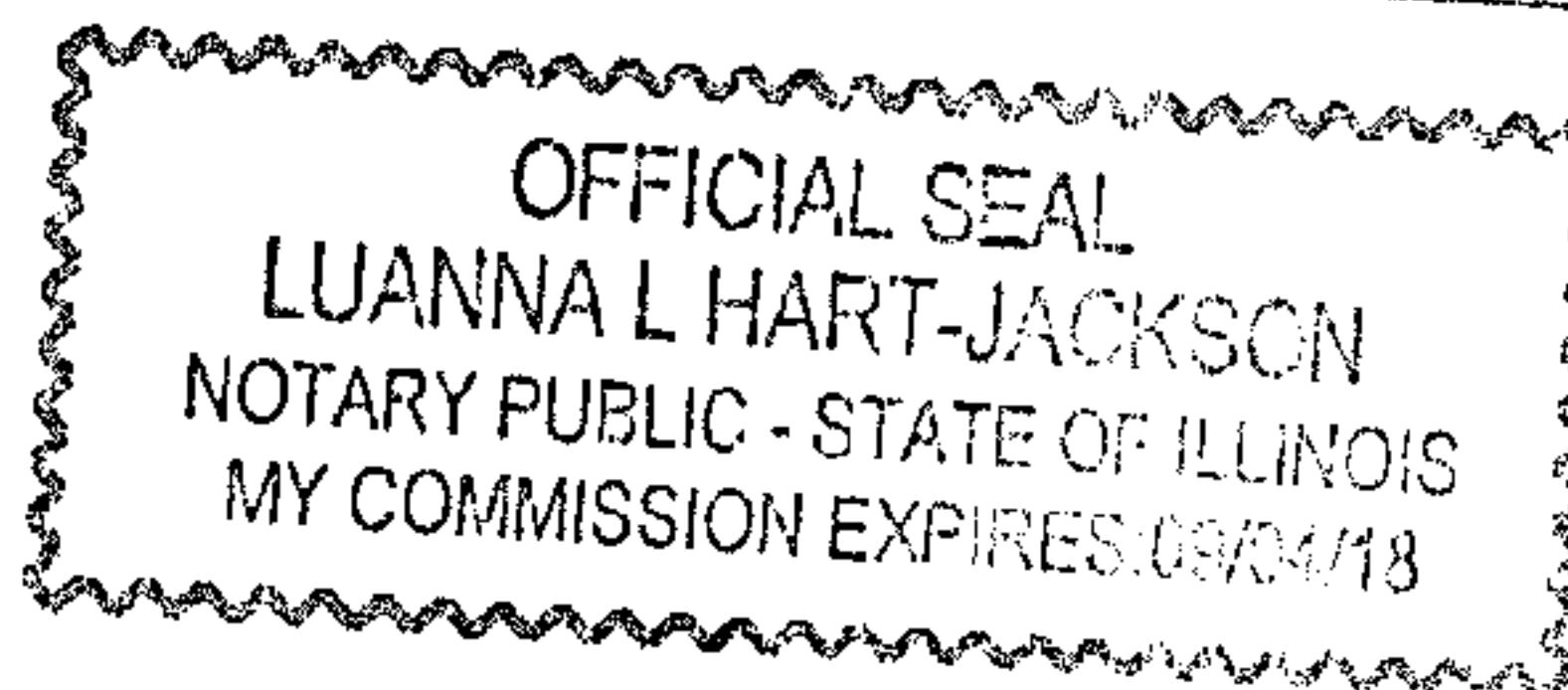


EXHIBIT A

PREMISES

PARCEL A: (LEASEHOLD)

A PART OF LOT 1, ACCORDING TO THE MAP OF PELHAM PROFESSIONAL PARK AS RECORDED IN MAP BOOK 31, PAGE 86 IN THE OFFICE OF THE JUDGE OF PROBATE OF SHELBY COUNTY, ALABAMA LOCATED IN THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 20 SOUTH, RANGE 3 WEST, SHELBY COUNTY, ALABAMA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER; THENCE SOUTH 89°53'33" EAST ALONG THE SECTION LINE, 969.65 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 31; THENCE NORTH 12°00'06" WEST ALONG SAID RIGHT OF WAY LINE, 428.12 FEET; THENCE LEAVING SAID RIGHT OF WAY RUN NORTH 89°58'10" EAST, 62.48 FEET; THENCE NORTH 00°01'50" WEST, 9.86 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°58'10" EAST, 190.50 FEET; THENCE NORTH 00°01'50" WEST, 95.50 FEET; THENCE SOUTH 89°58'10" WEST, 116.04 FEET; THENCE NORTH 37°16'22" WEST, 17.85 FEET; THENCE SOUTH 67°52'18" WEST, 89.88 FEET; THENCE SOUTH 49°25'47" EAST, 25.85 FEET; THENCE SOUTH 00°01'50" EAST, 59.07 FEET TO THE POINT OF BEGINNING; BEING SITUATED IN SHELBY COUNTY, ALABAMA.

THE LEASEHOLD ESTATE INSURED HEREIN IS CREATED BY THAT CERTAIN LEASE AGREEMENT, INCLUDING RIGHTS OF FIRST REFUSAL AS SET OUT THEREIN, BY AND BETWEEN BROOKWOOD CENTER DEVELOPMENT CORPORATION, AND NSC 31, L.L.C. DATED 10/16/1998 AS EVIDENCED BY MEMORANDUM OF GROUND LEASE FILED FOR RECORD 10/20/1998, RECORDED IN INSTRUMENT 1998-40834; TRANSFERRED AND ASSIGNED TO PELHAM MEDICAL PROPERTIES, LLC, A DELAWARE LIMITED LIABILITY COMPANY FORMERLY KNOWN AS HCP FAMILY MEDICINE SOUTH MOB, LLC, BY INSTRUMENT RECORDED IN INSTRUMENT 2006011000017000 AND SAID ASSIGNMENT BEING RE-RECORDED IN INSTRUMENT 2006011000017010, AND ASSIGNMENT AND ASSUMPTION OF GROUND LEASE FROM BROOKWOOD CENTER DEVELOPMENT CORPORATION TO BW OFFICE BUILDING, LLC AS RECORDED IN INSTRUMENT 20151002000346440 IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA.

PARCEL B: (APPURTENANT EASEMENT)

TOGETHER WITH THOSE NON-EXCLUSIVE EASEMENTS GRANTED BY VIRTUE OF THE DECLARATION OF EASEMENT AGREEMENT DATED OCTOBER 16, 1998 BY AND BETWEEN BROOKWOOD CENTER DEVELOPMENT CORPORATION AND NSC 31, L.L.C., RECORDED AS INSTRUMENT 1998-40833 IN THE OFFICE OF THE JUDGE OF PROBATE OF SHELBY COUNTY, ALABAMA, OVER AND ACROSS THE FOLLOWING DESCRIBED PROPERTY:

A PART OF LOT 1, ACCORDING TO THE MAP OF PELHAM PROFESSIONAL PARK AS RECORDED IN MAP BOOK 31, PAGE 86 IN THE OFFICE OF THE JUDGE OF PROBATE OF SHELBY COUNTY, ALABAMA LOCATED IN THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 20 SOUTH, RANGE 3 WEST, SHELBY COUNTY, ALABAMA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER; THENCE SOUTH 89°53'33" EAST ALONG THE SECTION LINE, 969.65 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 31; THENCE NORTH 12°00'06" WEST ALONG SAID RIGHT OF WAY LINE, 428.12 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°58'10" EAST, 308.75 FEET; THENCE NORTH 01°39'20" EAST, 127.59 FEET; THENCE NORTH 25°57'47" WEST, 220.98 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY OF YEAGER PARKWAY; THENCE SOUTHWESTERLY ALONG SAID RIGHT OF WAY LINE ON THE ARC OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 396.93 FEET, AN ARC DISTANCE OF 101.89 FEET; THENCE LEAVING SAID RIGHT OF WAY LINE, RUN SOUTH 12°13'36" EAST, 66.22 FEET; THENCE SOUTH 77°48'48" WEST, 180.06 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 31; THENCE SOUTH 12°06'33" EAST, ALONG SAID RIGHT OF WAY LINE, 186.47 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT PARCEL "A" BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PART OF LOT 1, ACCORDING TO THE MAP OF PELHAM PROFESSIONAL PARK AS RECORDED IN MAP BOOK 31, PAGE 86 IN THE OFFICE OF THE JUDGE OF PROBATE OF SHELBY COUNTY, ALABAMA LOCATED IN THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 20 SOUTH, RANGE 3 WEST, SHELBY COUNTY, ALABAMA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER; THENCE SOUTH 89°53'33" EAST ALONG THE SECTION LINE, 969.65 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 31; THENCE NORTH 12°00'06" WEST ALONG SAID RIGHT OF WAY LINE, 428.12 FEET; THENCE LEAVING SAID RIGHT OF WAY RUN NORTH 89°58'10" EAST, 62.48 FEET; THENCE NORTH 00°01'50" WEST, 9.86 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°58'10" EAST, 190.50 FEET; THENCE NORTH 00°01'50" WEST, 95.50 FEET; THENCE SOUTH 89°58'10" WEST, 116.04 FEET; THENCE NORTH 37°16'22" WEST, 17.85 FEET; THENCE SOUTH 67°52'18" WEST, 89.88 FEET; THENCE SOUTH 49°25'47" EAST, 25.85 FEET; THENCE SOUTH 00°01'50" EAST, 59.07 FEET TO THE POINT OF BEGINNING; BEING SITUATED IN SHELBY COUNTY, ALABAMA.

FOR INFORMATIONAL PURPOSES ONLY:
PARCEL ID NUMBER 13-6-13-3-001-027.027.



Filed and Recorded
Official Public Records
Judge James W. Fuhrmeister, Probate Judge,
County Clerk
Shelby County, AL
05/11/2018 01:07:03 PM
\$42.00 DEBBIE
20180511000163370

A handwritten signature in black ink, appearing to be "J. W. Fuhrmeister", is written over the official text.