


STATE OF ALABAMA

COUNTIES OF SHELBY AND ETOWAH

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Shelby Cnty Judge of Probate, AL
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CROSS-COLLATERALIZATION AND CROSS-DEFAULT AGREEMENT

This Cross-Collateralization and Cross-Default Agreement (the "Agreement"), dated effective for all purposes as of July 10, 2019 ("Effective Date"), is made and entered into by and among **E&L PROPERTIES, LLC**, an Alabama limited liability company ("Borrower 1") **SHELBY ORAL FACIAL SURGERY, P.C.**, an Alabama professional corporation ("Borrower 2"), and **COMMERCEONE BANK**, an Alabama banking corporation (the "Lender"). Borrower 1 and Borrower 2 may be collectively referred to herein as the "Borrowers".

RECITALS:

A. Borrower 1 entered into that certain Promissory Note in favor of Lender dated April 26, 2019 in the original principal amount of One Hundred Seventy-Five Thousand and No/100 Dollars (\$175,000.00) ("Note 1"), which is secured by, among other things, (i) that certain Mortgage and Security Agreement from Borrower 1 in favor of Lender dated April 26, 2019, secured by, among other things, the property set forth on Exhibit "A" attached hereto ("Etowah County Property"), and recorded in the Office of the Judge of Probate of Etowah County, Alabama as Instrument No. 3483188 ("Mortgage #1"), (ii) that certain Assignment of Rents and Leases from Borrower 1, as Debtor, in favor of Lender, as Secured Party, recorded in said Probate Office as Instrument No. 3483189 ("Assignment #1"), (iii) that certain UCC-1 Financing Statement from Borrower 1, as Debtor, in favor of Lender, as Secured Party, recorded in said Probate Office as Instrument No. 3483190 ("Financing Statement #1"), and (iv) that certain related UCC-1 Financing Statement from Borrower 1, as Debtor, in favor of Lender, as Secured Party, recorded in the Office of the Secretary of State of Alabama as Instrument No. 19-0212305 ("Financing Statement #2").

B. Borrower 1 entered into that certain Promissory Note in favor of Lender dated April 26, 2019 in the original principal amount of Three Hundred Seventy-Six Thousand and No/100 Dollars (\$376,000.00) ("Note 2"), which is secured by, among other things, (i) that certain Mortgage and Security Agreement from Borrower 1 in favor of Lender dated April 26, 2019, secured by, among other things, the Etowah County Property, and recorded in the Office of the Judge of Probate of Etowah County, Alabama as Instrument No. 3483185 ("Mortgage #2"), (ii) that certain Assignment of Rents and Leases from Borrower 1, as Debtor, in favor of Lender, as Secured Party, recorded in said Probate Office as Instrument No. 3483186 ("Assignment #2"), (iii) that certain UCC-1 Financing Statement from Borrower 1, as Debtor, in favor of Lender, as Secured Party, recorded in said Probate Office as Instrument No. 3483187 ("Financing Statement #3"), and (iv) that certain related UCC-1 Financing Statement from Borrower 1, as Debtor, in favor of Lender, as Secured Party, recorded in the Office of the Secretary of State of Alabama as Instrument No. 19-0212295 ("Financing Statement #4").

C. Borrower 1 is entering into that certain Promissory Note in favor of Lender of even date herewith in the original principal amount of One Million One Hundred Sixty-Seven Thousand and No/100 Dollars (\$1,167,000.00) ("Note 3"), which is secured by, among other things, (i) that certain Mortgage and Security Agreement from Borrower 1 in favor of Lender of even date herewith secured by, among other things, the property set forth on Exhibit "B" attached hereto ("Shelby County Property"), recorded in the Office of the Judge of Probate of Shelby County, Alabama ("Mortgage #3"), (ii) that certain Assignment of Rents and Leases from Borrower 1, as Debtor, in favor of Lender, as Secured Party, recorded in said Probate Office simultaneously with the Mortgage ("Assignment #3"), (iii) that certain UCC-1 Financing Statement from Borrower 1, as Debtor, in favor of Lender, as Secured Party, recorded in said Probate Office simultaneously with the Mortgage #3 ("Financing Statement #5"), and (iv) that certain related UCC-1 Financing Statement from Borrower 1, as Debtor, in favor of Lender, as Secured Party, recorded in the Office of the Secretary of State of Alabama ("Financing Statement #6").

D. Borrower 2 is entering into that certain Promissory Note in favor of Lender of even date herewith in the original principal amount of Eight Hundred Seventy-Five Thousand and No/100 Dollars (\$875,000.00) ("Note #4"), which is secured by, among other things, (i) that certain Security Agreement from Borrower 2 in favor of Lender of even date herewith ("Security Agreement"), (ii) that certain UCC-1 Financing Statement from Borrower 2, as Debtor, in favor of Lender, as Secured Party, regarding all business assets, recorded in the Office of the Secretary of State of Alabama ("Financing Statement #7"), and (iii) that certain related UCC-1 Financing Statement from Borrower 2, as Debtor, in favor of Lender, as Secured Party, regarding life insurance policies, recorded in the Office of the Secretary of State of Alabama ("Financing Statement #8").

E. Note 1, Note 2, Note 3 and Note 4, as the same have been or may be amended, restated, modified or renewed from time to time, are hereinafter sometimes referred to collectively herein as the "Notes". Mortgage #1, Mortgage #2 and Mortgage #3, as the same have been or may be amended, restated, modified or renewed from time to time, are hereinafter sometimes referred to collectively as the "Mortgages". Assignment #1, Assignment #2 and Assignment #3, as the same have been or may be amended, restated, modified or renewed from time to time, are hereinafter sometimes referred to collectively as the "Assignments". Financing Statement #1, Financing Statement #2, Financing Statement #3, Financing Statement #4, Financing Statement #5, Financing Statement #6, Financing Statement #7 and Financing Statement #8, as the same have been or may be amended or continued from time to time, are hereinafter sometimes referred to collectively as the "Financing Statements". The Mortgages, the Assignments, the Financing Statements, the Security Agreement and any and all other liens, titles, assignments, security interests or other encumbrances executed and/or delivered by either Borrower in connection with the loans evidenced by the Notes, as the same have been or may be amended, restated, modified, continued or renewed from time to time, are hereinafter sometimes referred to collectively as the "Collateral Documents". The Notes, the Collateral Documents and any and all other documents, instruments, security agreements, assignments, certificates and agreements executed and/or delivered by the Borrowers in connection with the loans evidenced



by the Notes, as the same may be amended, restated, modified or renewed from time to time, are hereinafter sometimes referred to collectively herein as the "Loan Documents".

F. As an inducement to Lender to extend the loans evidenced by Note #3 and Note #4, the undersigned have agreed that the Loan Documents should be cross-collateralized, such that the real and personal property and other collateral described in each of the Collateral Documents shall serve as collateral for each Borrower's obligations under the Loan Documents and that either Borrower's failure to perform their respective obligations under any one (1) or more of the Loan Documents or other documents related thereto shall constitute a default with respect to all of the Loan Documents.

AGREEMENT:

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the undersigned hereby agree as follows:

1. The Recitals set forth above are true and correct, are made a part hereof and incorporated herein by reference.

2. As an inducement to Lender to extend the loans evidenced by Note #3 and Note #4, the undersigned hereby acknowledge and agree that, notwithstanding any provision of the Loan Documents to the contrary, all of the real and personal property and other collateral described in any or all of the Collateral Documents shall secure any and all obligations of each Borrower to Lender as evidenced by the Loan Documents and that any proceeds of any such collateral may be applied to any such obligations as Lender may determine in its sole and absolute discretion.

3. As an additional inducement to Lender to extend the loans evidenced by Note #3 and Note #4, the undersigned hereby further acknowledges and agrees that, notwithstanding any provision of the Loan Documents to the contrary, any default or other breach by either Borrower under any or all of the Loan Documents shall constitute a default under each of the Loan Documents and shall entitle Lender to pursue any and all remedies set forth therein.

4. This Agreement does not constitute an accord and satisfaction, the creation of a new debt or the extinguishment of the debt evidenced by the Notes, nor will it in any way affect or impair the lien and security interest created and evidenced by the Collateral Documents. The undersigned hereby agree that the liens and security interests created by virtue of the Collateral Documents shall continue to be in full force and effect, unaffected and unimpaired by this Agreement and that such liens and security interests shall so continue in their respective priorities until all obligations of each Borrower to Lender are fully satisfied. Nothing contained herein shall be construed to be a novation of any of the Loan Documents or to alter or affect the priority of the title, lien, security interest or encumbrance created by the Collateral Documents, it




being the expressly declared intention of the parties that no novation of the Loan Documents be created hereby.

5. Nothing herein contained shall be construed to satisfy or impair any of the obligations, liabilities or indebtedness of either Borrower arising under or by virtue of the Loan Documents; to the contrary, Borrowers hereby covenant and agree that the Loan Documents, as modified and amended hereby, shall be and remain in full force and effect. As an inducement for Lender to enter into this Agreement, Borrowers hereby further covenant, warrant and represent unto Lender that the Loan Documents, as modified and amended hereby, are and shall be and remain the legal, valid and binding obligations of each Borrower, enforceable in accordance with their respective terms, and that the Collateral Documents are and shall be and remain legal, valid, binding and enforceable liens and security interests in their respective priorities upon the collateral described therein, free and clear of any and all liens, security interests and encumbrances whatsoever except for ad valorem taxes for the current year which are not yet due and payable. Borrowers further covenant, warrant and represent unto Lender that, so far as each Borrower knows, neither Borrower has committed or suffered to exist any default under the terms and provisions of the Loan Documents.

6. Except as expressly set forth herein, all other terms of the loans evidenced by the Loan Documents shall remain in full force and effect and unmodified and the Loan Documents, as amended hereby, are hereby ratified, confirmed and approved in all respects and shall continue to be secured by, among other things, the Collateral Documents.

7. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall be taken to be one and the same instrument, for the same effect as if all parties hereto had signed the same signature page. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereof and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more additional signature pages. A fax, email or other electronic copy of a signature may be relied upon as an original.

[EXECUTION ON FOLLOWING PAGES]



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IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed effective as of the Effective Date.

**E&L Properties, LLC, an Alabama
limited liability company**

By: _____

Name: Joshua Edward Everts

Title: Member

By: _____

Name: Nicholas Ryan Livingston

Title: Member

STATE OF ALABAMA)

COUNTY OF SHELBY)

I, a notary public in and for said county in said state, hereby certify that Joshua Edward Everts, whose name as Member of **E&L PROPERTIES, 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 Member, and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this 2nd day of July, 2019.

[NOTARIAL SEAL]

NOTARY PUBLIC

My Commission Expires: 11/1/2021

STATE OF ALABAMA)

COUNTY OF SHELBY)

I, a notary public in and for said county in said state, hereby certify that Nicholas Ryan Livingston, whose name as Member of **E&L PROPERTIES, 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 Member, and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this 1st day of July, 2019.

[NOTARIAL SEAL]

NOTARY PUBLIC

My Commission Expires: 11/1/2021



Shelby Oral Facial Surgery, P.C.,
an Alabama professional corporation

By: _____
Name: Joshua Edward Everts
Title: Director

By: _____
Name: Nicholas Ryan Livingston
Title: Director

STATE OF ALABAMA)

COUNTY OF SHELBY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Joshua Edward Everts, whose name as Director of **Shelby Oral Facial Surgery, P.C.**, an Alabama professional corporation, 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 Director and with full authority, executed the same voluntarily for and as the act of said professional corporation.

Given under my hand and official seal this 2nd day of July, 2019.

[NOTARIAL SEAL]

NOTARY PUBLIC
My Commission Expires: 11/1/2021

STATE OF ALABAMA)

COUNTY OF SHELBY)


I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Nicholas Ryan Livingston, whose name as Director of **Shelby Oral Facial Surgery, P.C.**, an Alabama professional corporation, 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 Director and with full authority, executed the same voluntarily for and as the act of said professional corporation.

Given under my hand and official seal this 1st day of July, 2019.

[NOTARIAL SEAL]

NOTARY PUBLIC
My Commission Expires: 11/1/2021

COMMERCEONE BANK, an Alabama banking corporation

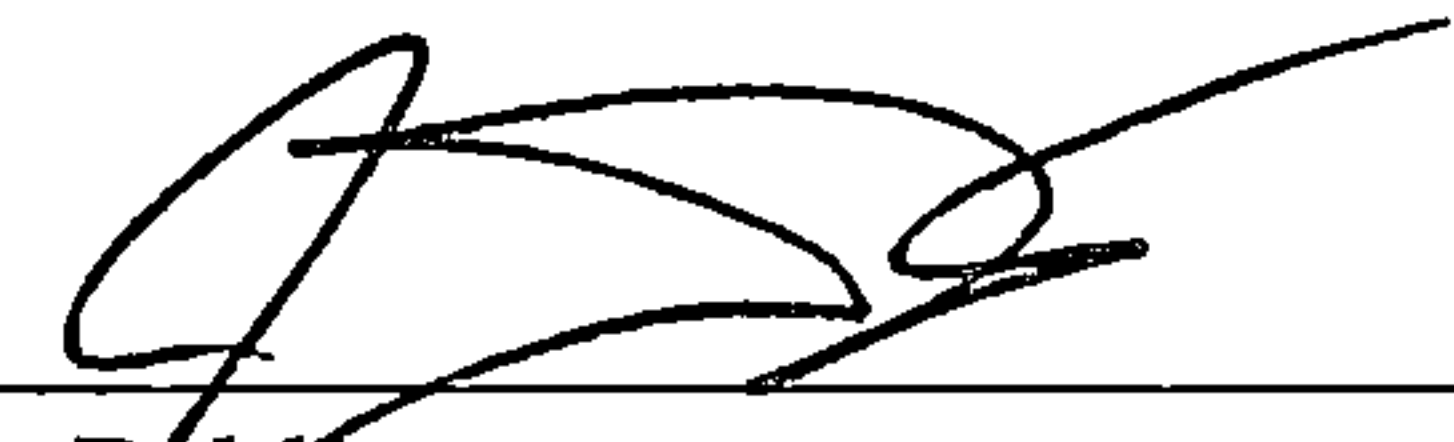
By: 
Name: Tom Chelewski
Title: Senior Vice President

STATE OF ALABAMA)
 :
COUNTY OF Jefferson)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Tom Chelewski, whose name as Senior Vice President of COMMERCEONE BANK, an Alabama banking corporation, 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, in such capacity and with full authority, executed the same voluntarily for and as the act of said banking corporation on the date of this notary acknowledgement.

Given under my hand and official seal this 16th day of July, 2019.

(SEAL)



Notary Public
My commission expires: 11/1/2021

This instrument was prepared by:
J. Ladd Davis, Esq.
Rushton, Stakely, Johnston & Garrett, P.A.
2100B Southbridge Parkway, Suite 249
Birmingham, Alabama 35209
(205) 484-0841
RSJG No. 10170-20

NOTE: THE PREPARER OF THIS INSTRUMENT HAS SERVED AS A SCRIVENER ONLY AND HAS NOT EXAMINED TITLE WITH RESPECT TO THE PROPERTY DESCRIBED IN THE COLLATERAL DOCUMENTS AND DOES NOT HEREBY GIVE AN OPINION WITH RESPECT THERETO.



EXHIBIT A

[Legal Description – Etowah County Property]

Commence at the Northwest corner of the Gadsden Water Treatment Plant Property as recorded in Deed Book 438, Page 237 in the Judge of Probate Office, Etowah County, Alabama, and run in a Northwesterly direction along the projection of the North line of said Gadsden Water Treatment Plant property a distance of 35.9 feet to a point on the original centerline of the Rome-Decatur Branch of the Southern Railway Company; thence deflect 87 degrees 18 minutes right and run in a Northeasterly direction along the centerline of said railroad a distance of 670.0 feet; thence deflect 90 degrees 00 minutes right and run a distance of 167.63 feet to a pinched-top pipe on the Easterly right-of-way line of River Bend Drive; thence deflect 100 degrees 52 minutes 13 seconds to the left and run a distance of 122.30 feet to a pinched-top pipe; thence deflect 100 degrees 51 minutes 03 seconds to the right and run a distance of 133.90 feet to a nail found in a concrete curb; thence deflect 89 degrees 59 minutes 21 seconds to the right and run a distance of 124.26 feet to an iron rod set, said iron being a 1/2" rebar with a plastic cap stamped "B MEANS LS 27727," said iron marking that certain point referred to as Point "A" in Instrument Number 3326356, and also referred to in Deed Book 1373, Page 419, Office of Probate, Etowah County, Alabama, said iron marking the Point of Beginning of the following described parcel: thence deflect 89 degrees 59 minutes 32 seconds to the left and run a distance of 244.05 feet to a pinched-top pipe on the 511 foot contour line of the H. Neely Henry Reservoir; thence deflect 98 degrees 33 minutes 10 seconds to the right and run along said 511 foot contour line a distance of 93.32 feet to a point; thence deflect 5 degrees 26 minutes 03 seconds to the right and continue along said 511 foot contour line a distance of 33.68 feet to a pinched-top pipe marking the Southeast corner of that certain tract described in Record Book 1301, Page 931; thence deflect 76 degrees 03 minutes 16 seconds to the right and run along the Southerly line of said 1301-931 tract a distance of 310.62 feet to a point in the top of a concrete curb, said point being on the Easterly right-of-way line of River Bend Drive; thence deflect 83 degrees 32 minutes 08 seconds to the right and run along said right-of-way line of River Bend Drive along a curve turning to the left, said curve having a radius of 453.03 feet, an arc length of 42.67 feet with a chord distance of 42.65 feet, said deflection being from previous course to said chord; thence leaving said curve deflect 3 degrees 12 minutes 06 seconds to the left from said chord and continue along said right-of-way line a distance of 84.16 feet to a point in the top of a concrete curb; thence leaving said Easterly right-of-way line deflect 100 degrees 50 minutes 53 seconds to the right and run a distance of 110.11 feet to the Point of Beginning (which is also Point "A"). Said parcel being a portion of the Northeast 1/4 of Section 3, Township 12 South, Range 6 East and lying North and West of the Coosa River, and lying and being in Gadsden, Etowah County, Alabama.



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EXHIBIT B
[Legal Description – Shelby County Property]

A parcel of land situated in the Southeast Quarter of Section 35, Township 20 South, Range 3 West, Shelby County, Alabama, being part of Lots 27 and 28, Block 2, according to the Survey of Nickerson Scott Subdivision as recorded in Map Book 3, page 34, in the Office of the Judge of Probate of Shelby County, Alabama, said parcel being more particularly described as follows:

Commence at the Northwest corner of Lot 28, Block 2, according to the Survey of Nickerson Scott Subdivision as recorded in Map Book 3, page 34, in the Office of the Judge of Probate of Shelby County, Alabama; thence run N89°57'53"E along the Northerly line of said lot and along the Southerly right of way of 5th Avenue Northeast for 67.82 feet to a concrete right of way monument on the Easterly right of way of U.S. Highway 31, being the Point of Beginning of the herein described parcel; thence continue N89°57'53"E along said right of way for 178.18 feet to an iron spindle; thence run S02°20'47"W for 126.07 feet to a crimped iron pipe; thence run N87°26'08"W for 179.07 feet to a crimped iron pipe on the Easterly right of way of U.S. Highway 31; thence run N02°51'03"E along said Easterly right of way for 117.99 feet to the Point of Beginning.



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