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04/21/2020 02:57:46 PM  
ASSIGN 1/9

THIS INSTRUMENT PREPARED BY  
AND RETURN TO:

Stacy H. Krumin, Esquire  
Squire Patton Boggs (US) LLP  
201 North Franklin Street  
Suite 2100  
Tampa, Florida 33602

### ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF LEASES AND RENTS (this "**Assignment**") made as of the 20th day of April, 2020, by UAP-JAMBOREE, LLC, a California limited liability company, having its principal place of business at 4699 Jamboree Road, Newport Beach, California 92660 ("**Assignor**") to TRUIST BANK, a North Carolina banking corporation, having its principal place of business at Attn: Lisa Resnick, 400 N. Tampa Street, 25<sup>th</sup> Floor, Tampa, Florida 33602 ("**Assignee**").

### WITNESSETH:

THAT Assignor, for good and valuable consideration, the receipt of which is hereby acknowledged, hereby grants, transfers and absolutely and unconditionally assigns to Assignee the entire lessor's interest in and to all current and future leases and other agreements, at, affecting the use, enjoyment or occupancy of all or any part of that certain lot or piece of land, more particularly described in Exhibit A hereto, together with the buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter located thereon (hereinafter collectively referred to as the "**Mortgaged Property**") (including any use or occupancy arrangements created pursuant to Section 365(h) of Title 11 of the United States Code (the "**Bankruptcy Code**") or otherwise in connection with the commencement or continuance of any bankruptcy, reorganization, arrangement, insolvency, dissolution, receivership or similar proceedings, or any assignment for the benefit of creditors in respect of any tenant or occupant of any portion of the Mortgaged Property), together with any extension or renewal of the same;

The leases and other agreements described above together with all other present and future leases and present and future agreements and any extension or renewal of the same are hereinafter collectively referred to as the "**Leases**," and those persons granted rights as tenants under such Leases are collectively referred to as "**Lessees**";

TOGETHER WITH all income, rents, issues, revenues and profits arising from the Leases and renewals thereof and together with all income, rents, issues and profits, revenues and proceeds (including, but not limited to, all oil and gas or other mineral royalties and bonuses) from the use, enjoyment and occupancy of the Mortgaged Property (including any payments received pursuant to Section 502(b) of the Bankruptcy Code or otherwise in connection with the

commencement or continuance of any bankruptcy, reorganization, arrangement, insolvency, dissolution, receivership or similar proceedings, or any assignment for the benefit of creditors, in respect of any tenant or occupant of any portion of the Mortgaged Property and all claims as a creditor in connection with any of the foregoing) (hereinafter collectively referred to as the **"Rents"**) and all proceeds from the sale, cancellation, surrender or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Loan (as hereinafter defined).

THIS ASSIGNMENT is made in consideration of and to secure that certain loan (the **"Loan"**) made by Assignee to Assignor evidenced by that certain Loan Agreement by and between Assignor to Assignee, dated as of the date hereof (the **"Loan Agreement"**), the Promissory Note made by Assignor to Assignee, dated the date hereof, in the principal sum of ELEVEN MILLION TWO HUNDRED THOUSAND AND NO/100 DOLLARS (\$11,200,000.00) (the **"Note"**) and secured by that certain Mortgage and Security Agreement given by Assignor to Assignee, dated as of the date hereof, encumbering the Mortgaged Property, to be recorded in the Public Records of Shelby County, Alabama (the **"Mortgage"**) and shall also secure all Obligations (as such term is defined in the Loan Agreement).

This Assignment, the Loan Agreement, the Note, the Mortgage and other documents now or hereafter executed by Assignor and/or others and by or in favor of Assignee which evidence, secure, guarantee or are executed in connection with the Loan are collectively hereinafter referred to as the **"Loan Documents."**

ASSIGNOR WARRANTS that (i) Assignor is the sole owner of the entire lessor's interest in the Leases; (ii) there are no leases or occupancy rights in and to the Mortgaged Property that have not been previously disclosed or provided to Assignee; (iii) the Leases are valid and enforceable and have not been altered, modified or amended in any manner whatsoever except as herein set forth; (iv) none of the Rents reserved in the Leases have been assigned or otherwise pledged or hypothecated; (v) none of the Rents have been collected for more than one (1) month in advance; (vi) Assignor has full power and authority to execute and deliver this Assignment and the execution and delivery of this Assignment has been duly authorized and does not conflict with or constitute a default under any law, judicial order or other agreement affecting Assignor or the Mortgaged Property; (vii) the premises demised under the Leases have been completed pursuant to the terms and conditions of the Loan Agreement; and (viii) to Assignor's actual knowledge, there exist no offsets or defenses to the payment of any portion of the Rents.

ASSIGNOR COVENANTS with Assignee that Assignor shall not, without the prior written consent of Assignee, which shall not be unreasonably withheld, conditioned or delayed, (a) lease all or any part of the Mortgaged Property in excess of 2,500 square feet to any single tenant, (b) alter or change the terms of any Lease or cancel or terminate, abridge or otherwise modify the terms of any Lease that is in excess of 2,500 square feet, (c) consent to any assignment of or subletting under any Lease not in accordance with its terms, (d) cancel, terminate, abridge or otherwise modify any guaranty of any Lease or the terms thereof that is in excess of 2,500 square feet, (e) collect or accept prepayments of installments of Rents for a period of more than one (1) month in advance or (f) further assign the whole or any part of the Leases or the Rents.



ASSIGNOR FURTHER COVENANTS with Assignee that, with respect to each Lease, Assignor shall (a) observe and perform each and every provision thereof on the lessor's part to be fulfilled or performed under each Lease and not do or permit to be done anything to materially impair the value of the Lease as security for the Loan, (b) promptly send to Assignee copies of all notices of default which Assignor shall send or receive thereunder, (c) enforce all of the terms, covenants and conditions contained in such Lease upon the Lessee's part to be performed, short of termination thereof (provided Assignor may terminate Leases 2,500 square feet or less), (d) execute and deliver, at the request of Assignee, all such further assurances, confirmations and assignments in connection with the Mortgaged Property as Assignee shall, from time to time, require and (e) upon request, furnish Assignee with executed copies of all Leases.

THIS ASSIGNMENT is made on the following terms, covenants and conditions:

1. Present Assignment. Assignor does hereby absolutely and unconditionally assign to Assignee Assignor's right, title and interest in all current and future Leases and Rents, it being intended by Assignor that this assignment constitutes a present, absolute and unconditional assignment and not an assignment for additional security only. Such assignment to Assignee shall not be construed to bind Assignee to the performance of any of the covenants, conditions or provisions contained in any such Lease or otherwise to impose any obligation upon Assignee. Assignor agrees to execute and deliver to Assignee such additional instruments, in form and substance satisfactory to Assignee, as may hereinafter be requested by Assignee to further evidence and confirm said assignment. Nevertheless, subject to the terms of this Paragraph 1, Assignee grants to Assignor a revocable license to operate and manage the Mortgaged Property and to collect the Rents. Assignor shall hold the Rents or a portion thereof sufficient to discharge all current sums due on the Loan for use in the payment of such sums. Upon an Event of Default (as defined in the Loan Agreement), the license granted to Assignor herein shall be automatically revoked by Assignee and Assignee shall immediately be entitled to receive and apply all Rents, whether or not Assignee enters upon and takes control of the Mortgaged Property. Assignee is hereby granted and assigned by Assignor the right, at its option, upon the revocation of the license granted herein to enter upon the Mortgaged Property in person, by agent or by court-appointed receiver to collect the Rents. Any Rents collected after the revocation of the license herein granted may be applied toward payment of the Loan in such priority and proportion as Assignee, in its discretion, shall deem proper. Notwithstanding the license granted to Assignor in this Paragraph 1, if any Lease is terminated (including without limitation a voluntary termination of the Lease approved by Assignee and a termination or rejection of a Lease in a bankruptcy or other similar proceeding) and in connection with such termination or rejection there is the payment of (i) a lump sum settlement, (ii) a termination fee, premium or penalty, or (iii) any other amount or amounts paid in conjunction with such termination (collectively and singly, the "**Termination Amount**") then in such event, whether or not Assignor is in default under the Note, the Mortgage, the Loan Agreement, any other Loan Document or any Lease, the Termination Amount shall be payable directly to Assignee and, at Assignee's option, may be (x) applied to outstanding amounts due under the Loan or (y) held by Assignee as additional collateral securing the Note until a new Lease or other collateral acceptable to Assignee in its reasonable discretion is substituted for the terminated Lease.

Nothing herein shall be deemed approval by Assignee of the termination of any Lease or the payment of any Termination Amount.

2. Remedies of Assignee. Upon or at any time after an Event of Default, Assignee may, at its option, without waiving such Event of Default, without notice and without regard to the adequacy of the security for the Loan, either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, enforce its interest in the Leases and Rents and take possession of the Mortgaged Property and have, hold, manage, lease and operate the Mortgaged Property on such terms and for such period of time as Assignee may deem proper and either with or without taking possession of the Mortgaged Property in its own name, demand, sue for or otherwise collect and receive all Rents, including those past due and unpaid with full power to make from time to time all alterations, renovations, repairs or replacements thereto or thereof as may seem proper to Assignee and may apply the Rents to the payment of the following in such order and proportion as Assignee in its sole discretion may determine, any law, custom or use to the contrary notwithstanding: (a) all expenses of managing and securing the Mortgaged Property, including, without being limited thereto, the salaries, fees and wages of a managing agent and such other employees or agents as Assignee may deem necessary or desirable and all expenses of operating and maintaining the Mortgaged Property, including, without being limited thereto, all taxes, charges, claims, assessments, water charges, sewer rents and any other liens, and premiums for all insurance which Assignee may deem necessary or desirable, and the cost of all alterations, renovations, repairs or replacements, and all expenses incident to taking and retaining possession of the Mortgaged Property; and (b) the Loan, together with all costs and reasonable attorneys' fees. For purposes of Paragraphs 1 and 2, Assignor grants to Assignee its irrevocable power of attorney, coupled with an interest, to take any and all of the aforementioned actions and any or all other actions designated by Assignee for the proper management and preservation of the Mortgaged Property. The exercise by Assignee of the option granted it in this Paragraph 2 and the collection of the Rents and the application thereof as herein provided shall not be considered a waiver of any default by Assignor under the Note, the Mortgage, the Loan Agreement, the Leases, this Assignment or the Loan Documents.

3. No Liability of Assignee. Assignee shall not be liable for any loss sustained by Assignor resulting from Assignee's failure to let the Mortgaged Property after an Event of Default or from any other act or omission of Assignee in managing the Mortgaged Property after default unless such loss is caused by the gross negligence, willful misconduct and bad faith of Assignee. Until such time as Assignee takes possession or control of the Mortgaged Property, Assignee shall not be obligated to perform or discharge any obligation, duty or liability under the Leases or under or by reason of this Assignment and Assignor shall, and hereby agrees to, indemnify Assignee for and hold Assignee harmless from, any and all liability, loss or damage which may or might be incurred under the Leases or under or by reason of this Assignment and from any and all claims and demands whatsoever, including the defense of any such claims or demands which may be asserted against Assignee by reason of any alleged obligations and undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Leases. Should Assignee incur any such liability prior to the date Assignee takes possession or control of the Mortgaged Property, the amount thereof, including costs, expenses and reasonable attorneys' fees shall be secured hereby and by the Mortgage and the Loan Documents and Assignor shall reimburse Assignee therefor immediately upon demand and upon



the failure of Assignor so to do Assignee may, at its option, declare all sums secured hereby, the Note, and the Mortgage and the Loan Documents immediately due and payable. Until such time as Assignee takes possession or control of the Mortgaged Property, this Assignment shall not operate to place any obligation or liability for the control, care, management or repair of the Mortgaged Property upon Assignee, nor for the carrying out of any of the terms and conditions of the Leases; nor shall it operate to make Assignee responsible or liable for any waste committed on the Mortgaged Property by the tenants or any other parties, or for any dangerous or defective condition of the Mortgaged Property, including, without limitation, the presence of any Hazardous Materials (as defined in the Mortgage), or for any negligence in the management, upkeep, repair or control of the Mortgaged Property resulting in loss or injury or death to any tenant, licensee, employee or stranger.

4. Notice to Lessees. Assignor hereby authorizes and directs the Lessees named in the Leases or any other or future Lessees or occupants of the Mortgaged Property upon receipt from Assignee of written notice to the effect that Assignee is then the holder of the Mortgage and that an Event of Default (as that term is defined in the Loan Agreement) exists thereunder or under this Assignment, the Note or the other Loan Documents to pay over to Assignee all Rents and to continue to do so until otherwise notified by Assignee.

5. Other Security. Assignee may take or release other security for the payment of the Loan, release any party primarily or secondarily liable therefor and apply any other security held by it to the reduction or satisfaction of the Loan without prejudice to any of its rights under this Assignment.

6. Other Remedies. Nothing contained in this Assignment and no act done or omitted by Assignee pursuant to the power and rights granted to Assignee hereunder shall be deemed to be a waiver by Assignee of its rights and remedies under the Note, the Mortgage or the Loan Documents and this Assignment is made and accepted without prejudice to any of the rights and remedies possessed by Assignee under the terms thereof. The right of Assignee to collect the Loan and to enforce any other security therefor held by it may be exercised by Assignee either prior to, simultaneously with, or subsequent to any action taken by it hereunder.

7. No Mortgagee in Possession. Nothing herein contained shall be construed as constituting Assignee a "mortgagee in possession" in the absence of the taking of actual possession of the Mortgaged Property by Assignee. In the exercise of the powers herein granted Assignee, no liability shall be asserted or enforced against Assignee, all such liability being expressly waived and released by Assignor.

8. Conflict of Terms. In case of any conflict between the terms of this Assignment and the terms of the Mortgage or Loan Agreement, the terms of the Mortgage or Loan Agreement shall prevail.

9. No Oral Change. This Assignment and any provisions hereof may not be modified, amended, waived, extended, changed, discharged or terminated orally, or by any act or failure to act on the part of Assignor or Assignee, but only by an agreement in writing signed by

the party against whom the enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

10. Certain Definitions. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Assignment may be used interchangeable in singular or plural form and the word “**Assignor**” shall mean “each Assignor and any subsequent owner or owners of the Mortgaged Property or any part thereof or any interest therein,” the word “**Assignee**” shall mean “Assignee and any subsequent holder of the Note,” the word “**Note**” shall mean “the Note and any other evidence of indebtedness secured by the Mortgage,” the word “**person**” shall include an individual, corporation, partnership, trust, unincorporated association, government, governmental authority, and any other entity, the words “**Mortgaged Property**” shall include any portion of the Mortgaged Property and any interest therein, and the word “**Loan**” shall mean the principal balance of the Note with interest thereon as provided in the Note and the Mortgage and all other sums due pursuant to the Note, the Mortgage, this Assignment and the other Loan Documents; whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

11. No Waiver. Assignee, pursuant to the powers and rights granted hereunder, shall not be deemed to have waived any of its rights and remedies under the Note, the Mortgage or any of the other Loan Documents. This Assignment is made and accepted without prejudice to any of such rights and remedies possessed by the Assignee to collect the indebtedness secured hereby or by the Mortgage or by any of the other Loan Documents and to enforce any other security therefor held by it, and to enforce any other rights or remedies that Assignee may have under applicable law, including, without limitation, those rights under the Alabama Statutes, and said rights and remedies may be exercised by the Assignee either prior to, simultaneously with, or subsequent to any action taken by it hereunder. Assignor acknowledges this Assignment is primary in nature to the obligation evidenced and secured by the Note, the Mortgage and the other Loan Documents, and Assignor further agrees that Assignee may enforce this Assignment without first resorting to or exhausting any other security or collateral or guaranty. However, nothing herein contained shall prevent Assignee from successively or concurrently, foreclosing on or selling the Property, or exercising any other right under any of the other Loan Documents. In no event shall reference to the Alabama Statutes diminish, alter, impair, or affect any other rights and remedies of Assignee, including but not limited to, the appointment of a receiver as provided herein, nor shall any provision in this Section 11 diminish, alter, impair or affect any rights or powers of the receiver in law or equity or as set forth herein. In addition, this Assignment shall be fully operative without regard to value of the Property or without regard to the adequacy of the Property to serve as security for the obligations owed by Assignor to Assignee, and shall be in addition to any rights arising under the Alabama Statutes. Further, except for the notices required hereunder, if any, Assignor waives any notice of default or demand for turnover of rents by Assignee, together with any rights under the Alabama Statutes to apply to a court to deposit the Rents into the registry of the court or such other depository as the court may designate. The failure of Assignee to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Assignment.

12. Inapplicable Provisions. If any term, covenant or condition of this Assignment is held to be invalid, illegal or unenforceable in any respect, this Assignment shall be construed without such provision.



13. Duplicate Originals. This Assignment may be executed in any number of duplicate originals and each such duplicate original shall be deemed to be an original.

14. Governing Law. This Assignment shall be governed and construed in accordance with the laws of the State Alabama.

15. Termination of Assignment. Upon payment in full of the Loan and all Obligations and the delivery and recording of a satisfaction or discharge of Mortgage duly executed by Assignee, this Assignment shall become null and be void and of no effect.


THIS ASSIGNMENT, together with the covenants and warranties therein contained, shall inure to the benefit of Assignee and any subsequent holder of the Mortgage and shall be binding upon Assignor, his heirs, executors, administrators, successors and assigns and any subsequent owner of the Mortgaged Property.

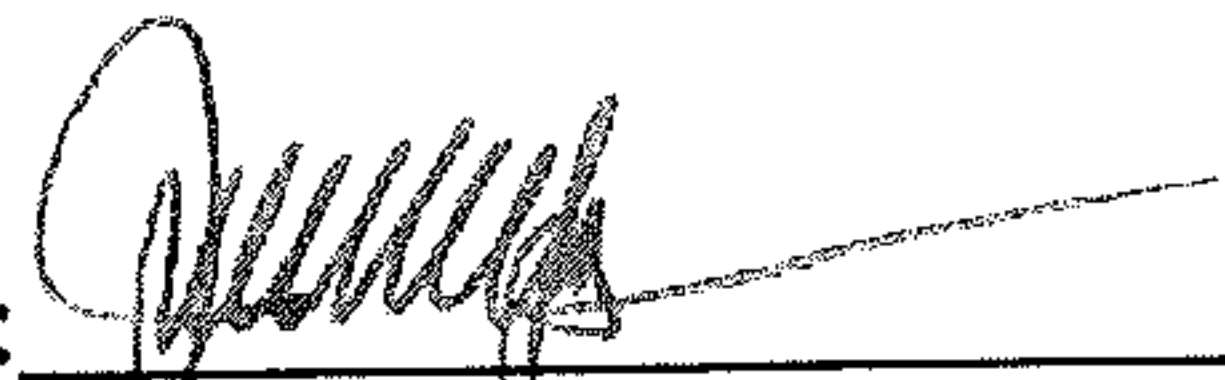
*[Signature page to follow]*

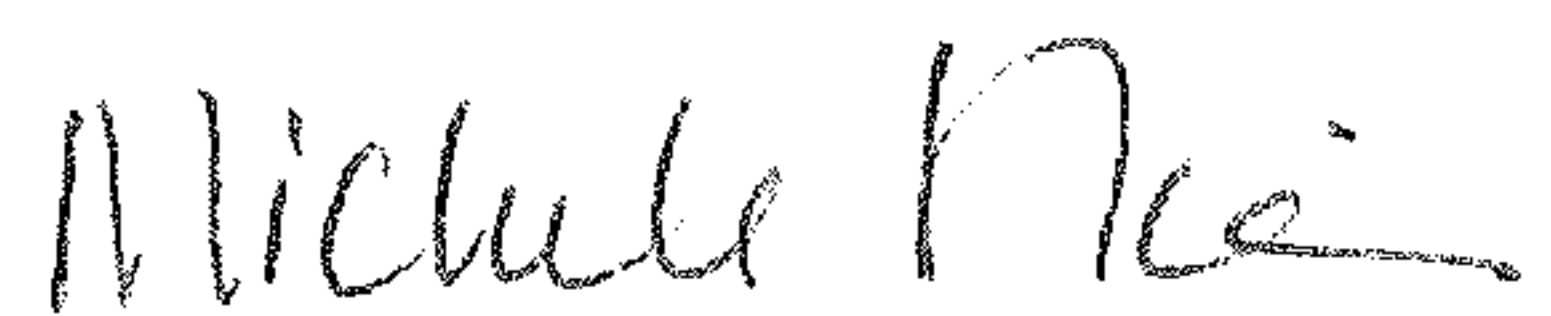
IN WITNESS WHEREOF, Assignor has executed this Assignment as of the day and year first above written.

ASSIGNOR:

UAP-JAMBOREE, LLC,  
a California limited liability company

  
Name: PAUL ROMAN

Signed:   
By: John E. Young  
Its: Sole Member

  
Name: MICHELE NIELSON

**Acknowledgement**

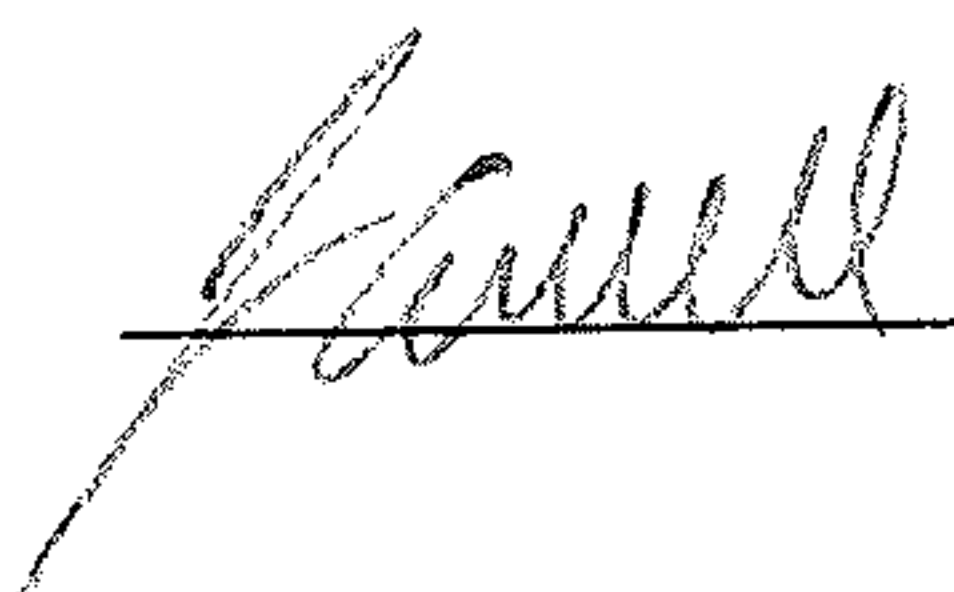
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

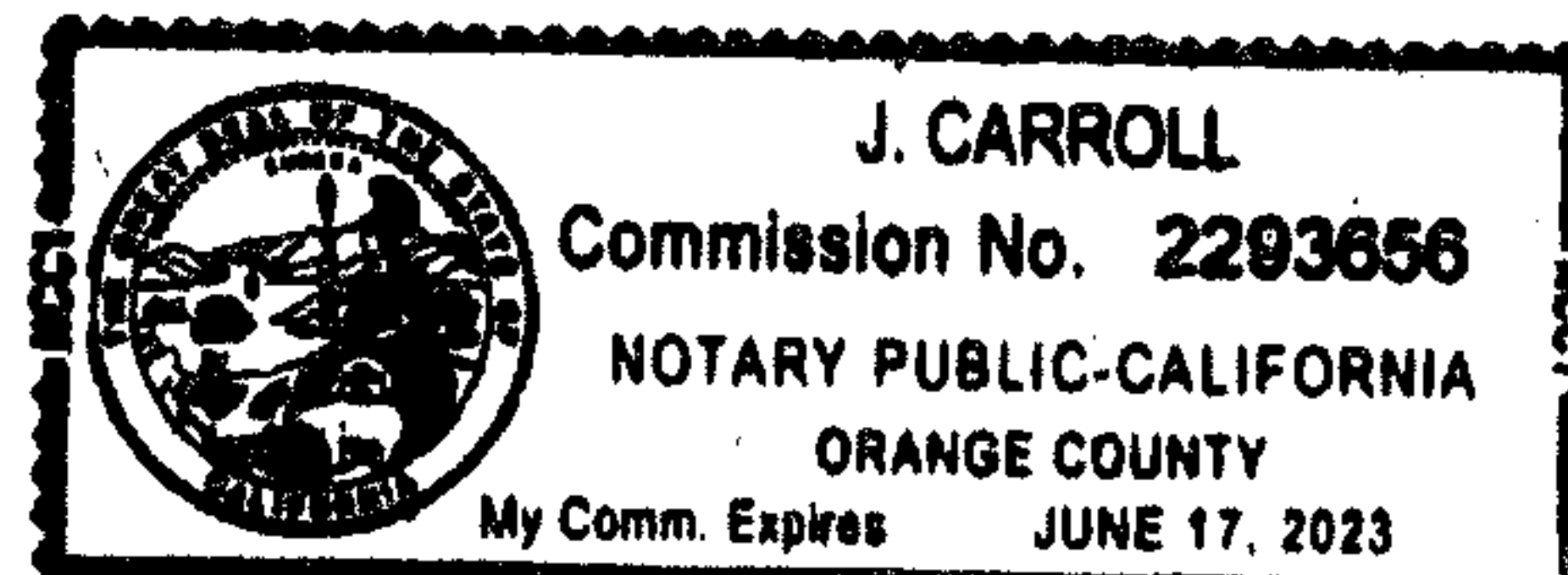
State of CALIFORNIA )  
County of ORANGE )

On 13<sup>th</sup> day of April, 2020, before me, J. CARROLL, a Notary Public, personally appeared John E. Young, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is subscribed to the within instrument and acknowledged to me that he executed the same in his/her/their authorized capacity(ies), and that by his signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature 





**EXHIBIT A**  
**LEGAL DESCRIPTION OF MORTGAGED PROPERTY**

**FEE SIMPLE PARCEL:**

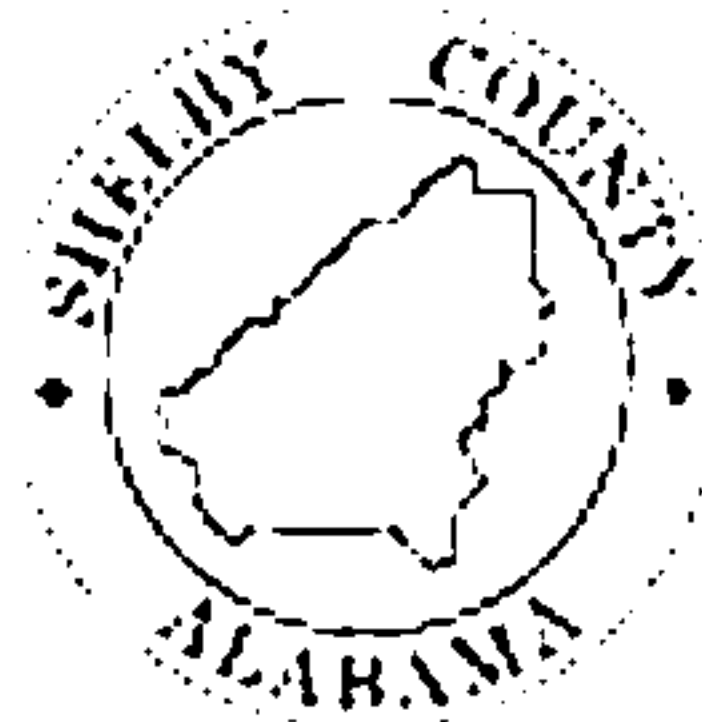
Lot 8, according to the Survey of Tattersall Park Resurvey No. 3, as recorded in Map Book 49, pages 81A and 81B, in the Probate Office of Shelby County, Alabama.

**EASEMENT PARCEL #1:**

TOGETHER WITH Easement for access, drainage and utilities under that certain Restrictive Use and Reciprocal Easement Agreement between EBSCO Industries, Inc., and Greystone Way, LLC, recorded in Instrument 20181102000389880, as amended by First Amendment to Restrictive Use and Reciprocal Easement Agreement recorded in Instrument 20200224000072060, in the Probate Office of Shelby County, Alabama.

**EASEMENT PARCEL #2:**

TOGETHER WITH drive easement as set out in Access Agreement by and between EBSCO Industries, Inc. and Greystone Way, LLC recorded in Instrument 20181102000389890, in the Probate Office of Shelby County, Alabama.



Filed and Recorded  
Official Public Records  
Judge of Probate, Shelby County Alabama, County  
Clerk  
Shelby County, AL  
04/21/2020 02:57:46 PM  
\$46.00 CHARITY  
20200421000156130

*Allen S. Bayl*