

Intangible recording tax was originally paid in the amount of \$_____ with recordation of the original Mortgage, Assignment or Rents and Leases, Security Agreement and Fixture Filing, dated October 27, 2015, and recorded on October 27, 2015 at Instrument 20151027000375120. An additional \$500,000.00 of loan is being collateralized with this instrument. Accordingly, intangible recording tax in the amount of \$_____ is due upon recordation of this instrument.

PREPARED BY: Linda J. Peacock
RETURN TO:
Linda J. Peacock
420 20th Street North
Shipt Tower, Suite 1400
Birmingham, AL 35203

Note to Clerk, please cross-reference to:
20151027000375120
Shelby County, Alabama Records

THIS MODIFICATION INCREASES THE PRINCIPAL AMOUNT OF INDEBTEDNESS SECURED BY THE MORTGAGE REFERENCED HEREIN FROM \$10,700,000.00 TO \$11,200,000.00, WHICH REPRESENTS AN INCREASE OF \$500,000.00.

**SECOND MODIFICATION OF MORTGAGE, ASSIGNMENT OF RENTS AND LEASES,
SECURITY AGREEMENT AND FIXTURE FILING**

THIS SECOND MODIFICATION OF MORTGAGE, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FILING (the "Modification") is made June 17, 2020, by **2700 CORPORATE DRIVE, LLC**, an Alabama limited liability company, whose address is 5395 Emery Way, Suite 200, Hoover, Alabama 35244, the Mortgagor under the Mortgage described below ("Mortgagor"), and **WELLS FARGO BANK, NATIONAL ASSOCIATION**, a national banking association (together with its successors and assigns, the "Lender"), whose address is 420 North 20th Street, 6th Floor, Birmingham, Alabama 35203. Lender is the mortgagee hereunder for indexing purposes by the judge of probate.

RECITALS

Mortgagor is the owner of that certain real property, situated in Shelby County, Alabama, as more particularly described on in Exhibit A attached hereto and incorporated herein by reference (the "Property").

Lender is owner and holder of a certain Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing, dated October 27, 2015, recorded as Instrument Number 20151027000375120, of the public land records of Judge of Probate for Shelby County, State of Alabama, as amended by that certain Modification Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing, dated May 22, 2018, recorded as Instrument Number 20180522000177930, and on May 24, 2018, Instrument Number 20180524000182070, of the public land records of Judge of Probate for Shelby County, State of Alabama, together with this Modification and all extensions and modifications thereof whenever made, (the "Mortgage") which Mortgage encumbers the Property.

Lender is owner and holder of a certain Promissory Note, dated October 27, 2015 in the original amount of \$10,080,000.00, as amended by that certain Amendment to Promissory Note, dated May 22, 2018 in the original amount of \$10,700,000.00, both together with interest thereon (collectively, the "Original Note"), made by Mortgagor, payment of which, among other things, is secured by the Mortgage.

Lender and Mortgagor have agreed to modify and increase the Original Note and accordingly have agreed to modify the Mortgage.

WITNESSETH:

In consideration of the foregoing premises Mortgagor and Lender hereby modify the Mortgage and any prior modifications thereof as follows:

1. Defined Terms. All capitalized terms used herein, unless otherwise defined herein, have the meaning as set forth in the Mortgage.

2. Loan Amount Increased. Mortgagor and Lender have agreed to increase the amount of the Loan to Eleven million two hundred thousand and no/100s dollars (\$11,200,000.00), or so much as may from time to time be disbursed under the Loan Agreement or the Modified Note (both as defined below). Accordingly, the terms of the Mortgage are hereby modified to reflect that the original principal amount of the Loan is now Eleven million two hundred thousand and no/100s dollars (\$11,200,000.00).

3. Original Note Modified. Mortgagor has modified the Original Note (as modified, the "Modified Note") by executing a Second Amended Promissory Note of even date herewith in the stated principal amount of Eleven million two hundred thousand and no/100s dollars (\$11,200,000.00), payable to Lender with interest thereon according to the terms thereof. All references in the Mortgage to the "Note" and/or to a promissory note are hereby amended to mean the Modified Note, and all renewals, extensions, amendments, modifications, replacements, and consolidations thereof or thereto.

4. Modified Note Secured. Mortgagor acknowledges and agrees (a) that the Modified Note is a modification, renewal and/or extension of the Original Note, (b) that the payment of the indebtedness evidenced by the Modified Note and the performance of Assignor's other obligations under the Modified Note (collectively, the "Obligations") is secured by the Mortgage, (c) that there are no defenses or impediments to enforcement of the lien of the Mortgage, and (d) that the Modified Note evidences the same indebtedness as the Original Note and is not a novation.

5. References to Maturities Deleted. All references to maturity dates, if any, in the Mortgage and any modifications thereto are deleted, and are independently set forth in the instruments defining the Obligations secured by the Mortgage, as amended, renewed and extended from time to time.

6. Mortgage Supplemental Provisions. The Mortgage is hereby amended and modified by adding the following Supplemental Provisions:

(a) The definition of "Indebtedness" in each of the Mortgage additionally includes, without limitation, all liability and obligations of Borrower, or any of them, arising under or in connection with any "swap agreement" (as defined in 11 U.S.C. Section 101) at any time entered into with Lender in connection with the Note.

(b) Notwithstanding anything to the contrary in the Mortgage, any cross-collateralization provision and any other provisions contained therein expanding the scope of the secured obligations beyond the above-referenced Note, any related "swap agreements" (as defined above), and obligations to protect and preserve collateral, shall have no force or effect.

(c) Additionally, notwithstanding anything to the contrary in the Mortgage, if at any time the Mortgage grants liens or security interests upon collateral consisting of a building or mobile home

as defined in the National Flood Insurance Act (as amended) and its implementing regulations (collectively, the "Act") located in an area designated by the Administrator of the Federal Emergency Management Agency as a special flood hazard area which requires flood insurance pursuant to the terms of the Act (a "Covered Structure"), then while it is subject to such designation, the term "Personal Property" as used in the Mortgage shall not include any items of personal property located in such Covered Structure unless all applicable requirements of the Act, if any, have been satisfied with respect to such items of personal property.

7. No Oral Agreements. The Loan Documents, this Modification, and the documents executed in connection with this Modification, represent the final agreement between the parties and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties.

8. Reaffirmation of Loan Documents. Except as modified by this Modification, Grantor hereby ratifies and reaffirms all of the terms and conditions of the Loan Documents to which it is a party, any prior agreements and all other documents executed in connection therewith, and such terms and conditions shall continue in full force and effect. Grantor acknowledges the validity and enforceability of the security interests granted in favor of the Lender, and Grantor acknowledges that the security interests are properly perfected. Grantor agrees, at the request of Lender, to execute and consent to the recording or filing of any new or additional mortgages or UCC-1 financing statements or any other documentation required to perfect or continue the perfection of such security interests, consistent with Article 9 of the Uniform Commercial Code, or any other applicable law. Grantor acknowledges and agrees that Borrower is indebted to Lender for repayment of all of the Obligations, including all accrued interest, costs, fees (including attorneys' fees), and expenses. The Note, as modified, shall continue to be secured by the Mortgage and the Assignment of Rents, as modified herein. The parties agree that it is their intention that nothing herein shall be construed to extinguish, release or discharge or constitute, create or effect a novation of, or an agreement to extinguish, any of the obligations, indebtedness and liabilities of Borrower, Grantor, or any other party under the provisions of the Loan Documents.

9. Document Taxes and Other Charges. Mortgagor shall pay the full amount of any documentary stamp tax, intangible tax, interest, filing fees and penalties, if any, charged incident to the loan transaction and modification(s) described in or created by this Modification and the filing of this Modification. If Mortgagor fails to pay the obligations under this paragraph, Lender may pay such obligations. Any amounts so paid by Lender shall bear interest at the default rate stated in the Modified Note and shall be secured by the Mortgage.

10. Facsimile and Counterpart. This document may be signed in any number of separate copies, each of which shall be effective as an original, but all of which taken together shall constitute a single document. An electronic transmission or other facsimile of this document or any related document shall be deemed an original and shall be admissible as evidence of the document and the signer's execution.

11. Execution of Documents, Consultation with Counsel. Each party hereto acknowledges and agrees that he/she/it has had an opportunity to review and consider the terms and provisions of this Modification and each related Loan Document, to consult with counsel of his/her/its choice, if desired, and to suggest changes to the structure and terms of the agreements. Each party hereto warrants and agrees that his/her/its execution of this Modification and any related Loan Documents is made voluntarily and with full knowledge of the significance and effect of such agreements.

12. Miscellaneous.

(a) This Modification is being given as additional collateral to secure the Obligations of Mortgagor under the Loan Documents.

(b) This Modification shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

(c) Mortgagor agrees to execute any and all documents reasonably necessary to effect the terms and conditions of this Modification.

(d) No determination by any court, governmental body or otherwise that any provision of this Modification or any amendment hereof is invalid or unenforceable in any instance shall affect the validity or enforceability of (a) any other such provision or (b) such provision in any circumstance not controlled by such determination. Each such provision shall be valid and enforceable to the fullest extent allowed by, and shall be construed wherever possible as being consistent with, applicable law.

13. Arbitration - Binding Arbitration. Mortgagor and each party to this Modification hereby agree, upon demand by any party, to submit any Dispute to binding arbitration in accordance with the terms of this Arbitration Program. Arbitration may be demanded before the institution of a judicial proceeding, or during a judicial proceeding, but not more than 60 days after service of a complaint, third party complaint, cross-claim, or any answer thereto, or any amendment to any of such pleadings. A "Dispute" shall include any dispute, claim or controversy of any kind, whether in contract or in tort, legal or equitable, now existing or hereafter arising, relating in any way to any aspect of this Modification, and any related note, instrument or agreement incorporating this Arbitration Program (the "Documents"), and any renewal, extension, modification or refinancing of any indebtedness or obligation relating thereto, including without limitation, their negotiation, execution, collateralization, administration, repayment, modification, extension, substitution, formation, inducement, enforcement, default or termination, and any request for additional credit; provided, however, that "Dispute" shall not include any dispute, claim, or controversy with respect to a "consumer financial product or service" (as defined in 12 U.S. Code Section 5841 (5)) within the coverage of 12 CFR Part 1040.3. This provision is a material inducement for the parties entering into the transactions relating to this Modification. In the event of a court ordered arbitration, the party requesting arbitration shall be responsible for timely filing the demand for arbitration and paying the appropriate filing fee within 30 days of the abatement order or the time specified by the court; the party's failure to do so shall result in that party's right to demand arbitration being automatically terminated with respect to such Dispute. DISPUTES SUBMITTED TO ARBITRATION ARE NOT RESOLVED IN COURT BY A JUDGE OR JURY. TO THE EXTENT ALLOWED BY APPLICABLE LAW, the parties irrevocably and voluntarily waive any right they may have to a trial by jury with respect to any dispute arbitrated pursuant to this arbitration program.

(a) Governing Rules. Any arbitration proceeding will (i) be governed by the Federal Arbitration Act (Title 9 of the United States Code), notwithstanding any conflicting choice of law provision in any of the documents between the parties; and (ii) be conducted by the American Arbitration Association ("AAA"), or such other administrator as the parties shall mutually agree upon, in accordance with the AAA's commercial dispute resolution procedures, unless the claim or counterclaim is at least \$1,000,000.00 exclusive of claimed interest, arbitration fees and costs, in which case the arbitration shall be conducted in accordance with the AAA's optional procedures for large, complex commercial disputes (the commercial dispute resolution procedures or the optional procedures for large, complex commercial disputes are referred to herein, as applicable, as the "Rules"). If there is any inconsistency between the terms hereof and the Rules, the terms and procedures set forth herein shall control. Arbitration proceedings hereunder shall be conducted at a location mutually agreeable to the parties, or if they cannot agree, then at a location selected by the AAA in the state of the applicable substantive law primarily governing the Note. Any party who fails or refuses to submit to arbitration following a demand by any other party shall bear all costs and expenses incurred by such other party in compelling arbitration of any Dispute. The arbitrator shall award all costs and expenses of the arbitration proceeding.

(b) No Waiver of Provisional Remedies, Self-Help and Foreclosure. The arbitration requirement does not limit the right of any party to (i) foreclose against real or personal property collateral; (ii) exercise self-help remedies relating to collateral or proceeds of collateral such as setoff or repossession; or (iii) obtain provisional or ancillary remedies such as replevin, injunctive relief, attachment or the appointment of a receiver, before during or after the pendency of any arbitration proceeding. This exclusion does not constitute a waiver of the right or obligation of any party to submit any Dispute to

arbitration or reference hereunder, including those arising from the exercise of the actions detailed in sections (i), (ii) and (iii) of this paragraph.

(c) Arbitrator Qualifications and Powers. Any arbitration proceeding in which the amount in controversy is \$5,000,000.00 or less will be decided by a single arbitrator selected according to the Rules, and who shall not render an award of greater than \$5,000,000.00. Any Dispute in which the amount in controversy exceeds \$5,000,000.00 shall be decided by majority vote of a panel of three arbitrators; provided however, that all three arbitrators must actively participate in all hearings and deliberations. Every arbitrator shall be a neutral practicing attorney or a retired member of the state or federal judiciary, in either case with a minimum of ten years' experience in the substantive law applicable to the subject matter of the Dispute. The arbitrator will determine whether or not an issue is arbitrable and will give effect to the statutes of limitation in determining any claim. In any arbitration proceeding the arbitrator will decide (by documents only or with a hearing at the arbitrator's discretion) any pre-hearing motions which are similar to motions to dismiss for failure to state a claim or motions for summary adjudication. The arbitrator shall resolve all Disputes in accordance with the applicable substantive law and may grant any remedy or relief that a court of such state could order or grant within the scope hereof and such ancillary relief as is necessary to make effective any award. The arbitrator shall also have the power to award recovery of all costs and fees, to impose sanctions and to take such other action as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the applicable state rules of civil procedure, or other applicable law. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The institution and maintenance of an action for judicial relief or pursuit of a provisional or ancillary remedy shall not constitute a waiver of the right of any party, including the plaintiff, to submit the controversy or claim to arbitration if any other party contests such action for judicial relief.

(d) Discovery. In any arbitration proceeding discovery will be permitted in accordance with the Rules. All discovery shall be expressly limited to matters directly relevant to the Dispute being arbitrated and must be completed no later than 20 days before the hearing date. Any requests for an extension of the discovery periods, or any discovery disputes, will be subject to final determination by the arbitrator upon a showing that the request for discovery is essential for the party's presentation and that no alternative means for obtaining information is available.

(e) Class Proceedings and Consolidations. No party hereto shall be entitled to join or consolidate disputes by or against others in any arbitration, or to include in any arbitration any dispute as a representative or member of a class, or to act in any arbitration in the interest of the general public or in a private attorney general capacity.

(f) Small Claims Court. Any party may require that a Dispute be resolved in Small Claims Court if the Dispute and related claims are fully within that court's jurisdiction.

(g) This Modification shall be construed in accordance with the laws of the state where the Property is situated.

IN WITNESS WHEREOF, Mortgagor and Lender have duly signed and sealed this Modification as of the day and year first above written.

MORTGAGOR:

2700 CORPORATE DRIVE, LLC


CORPORATE
SEAL

By: _____
Printed Name: William F. Fleagle
Its: Manager

LENDER:

Wells Fargo Bank, National Association

CORPORATE
SEAL

By: 
Printed Name: Ben Martin
Its: Sr Vice President

State of _____
County of _____

Lender Acknowledgment

I certify that before me appeared this day, Ben Martin, a person known to me, who after being sworn said he is Sr. Vice President of Wells Fargo Bank, a national banking association, and is duly authorized to act on behalf of said Lender, that the seal affixed to the foregoing instrument is the seal of said Lender and that said instrument was signed and sealed by him/her on behalf of said Lender, and being informed of the contents thereof, acknowledged execution of the foregoing instrument on behalf of said Lender, voluntarily and with full authority.

Witness my hand and official seal, this 17th day of June, 2020.

Paul Charlton, Notary Public

Paul Charlton
(Printed Name of Notary)

My Commission Expires: 8-3-2021

Notary Seal

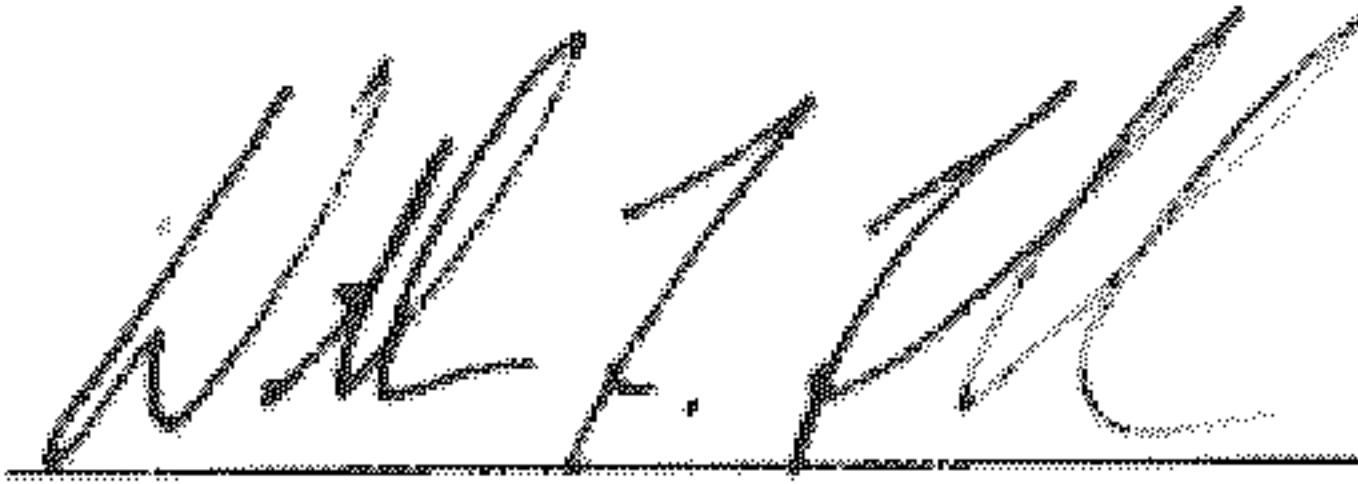


IN WITNESS WHEREOF, Mortgagor and Lender have duly signed and sealed this Modification as of the day and year first above written.

MORTGAGOR:

2700 CORPORATE DRIVE, LLC

CORPORATE
SEAL

By: 
Printed Name: William F. Fleagle
Its: Manager

LENDER:

Wells Fargo Bank, National Association

CORPORATE
SEAL

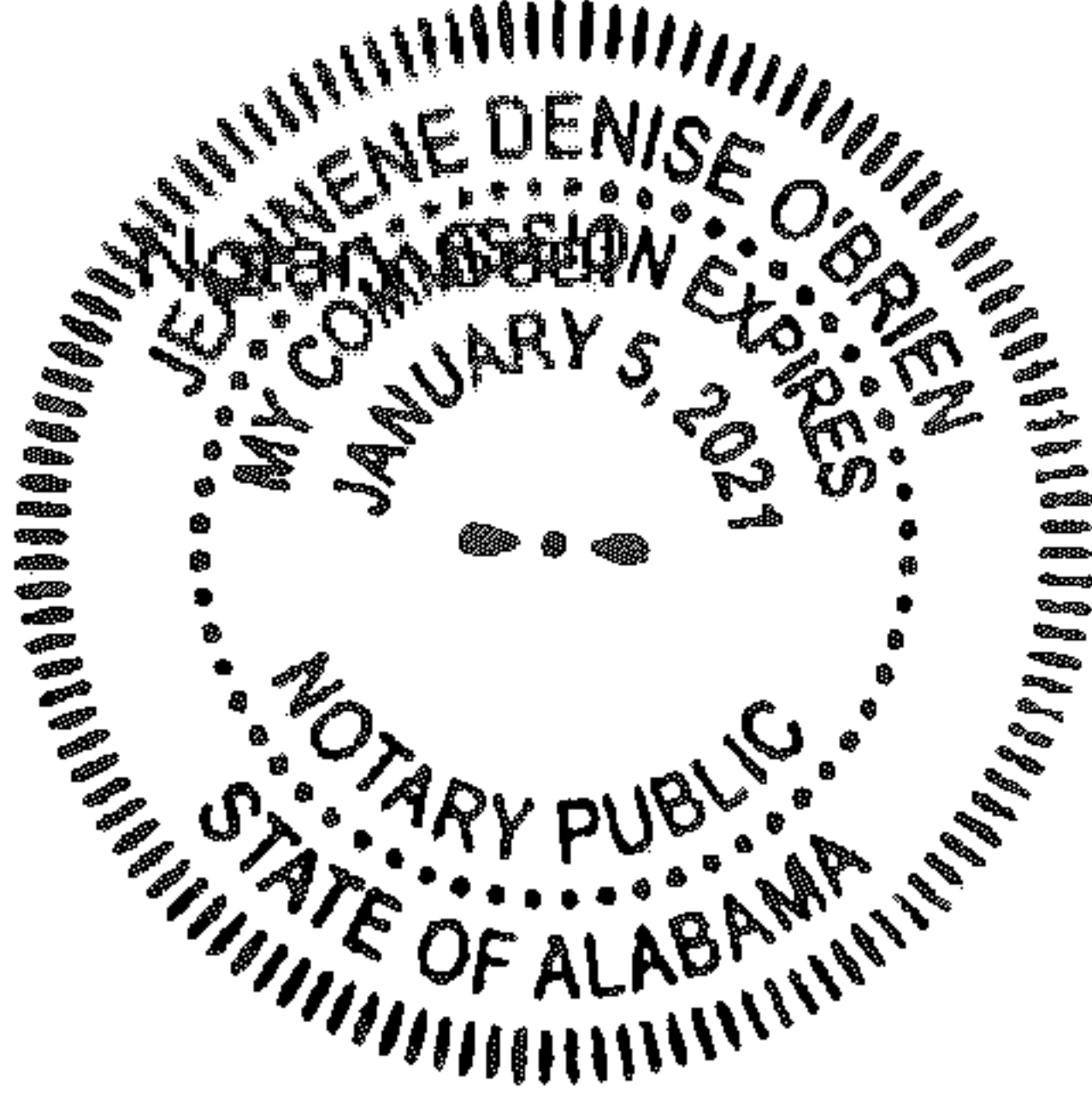
By: _____
Printed Name: _____
Its: _____

State of Alabama
County of Jefferson

Grantor Acknowledgment

I certify that before me appeared this day, William F. Fleagle, a person known to me, who after being sworn said he is a Manager of 2700 Corporate Drive, LLC, a Alabama limited liability company and is duly authorized to act on behalf of said Company acting as a Manager of 2700 Corporate Drive, LLC, that said instrument was signed by him, and being informed of the contents thereof, acknowledged execution of the forgoing instrument on behalf of said Limited Liability Company, voluntarily and with full authority.

Witness my hand and official seal, this 16th day of June, 2020.



Jeannene Denise O'Brien, Notary Public

Jeannene Denise O'Brien
(Printed Name of Notary)

My Commission Expires: 1/5/2021

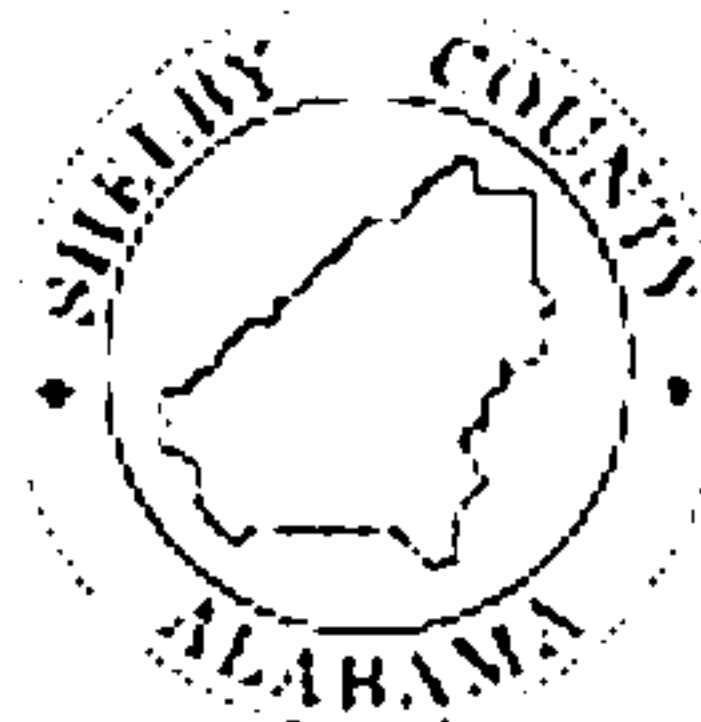
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10/10

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

The following described real property situated in Shelby County, Alabama:

Lot 11-H, according to the Meadow Brook Corporate Park South, Phase II Resurvey No. 4, as the same is recorded in Map Book 24, at Page 42 in the Office of the Judge of Probate of Shelby County, Alabama.



Filed and Recorded
Official Public Records
Judge of Probate, Shelby County Alabama, County
Clerk
Shelby County, AL
12/17/2020 02:28:26 PM
\$799.00 JESSICA
20201217000580390

Alli S. Beal