

STATE OF ALABAMA

SHELBY COUNTY

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Shelby Cnty Judge of Probate, AL
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LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Lease") is effective as of January 1, 2021, by and between ELI'S, INC., an Alabama corporation (the "Lessor"), and ELI'S HAMBURGER HEAVEN, INC., an Alabama corporation (the "Lessee").

WITNESSETH:

That the Lessor does hereby demise, let and lease unto the Lessee, and the Lessee does hereby lease from Lessor, certain real property in ~~Jefferson~~ ^{Shelby} County, Alabama more particularly described on Exhibit A attached hereto and incorporated herein by reference, together with all improvements, rights-of- ways, licenses and other rights appurtenant thereto (the "Premises"), where thereupon Lessee may own, conduct, operate, maintain and carry on the business of a fast food restaurant, and prepare and sell foods and beverages of all kinds, and do all things incidental and necessary to the operations of a fast food restaurant, for and during the Term (as hereinafter defined) unless sooner terminated as hereinafter provided. The Lessor does hereby covenant to keep the Lessee in quiet possession of the Premises during the Term, provided that the Lessee shall comply with the stipulations of this Lease.

NOW, THEREFORE, for and in consideration of the premises, the mutual promises and covenants herein contained, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Lessor and the Lessee do hereby further agree as follows:

1. Rent. The Lessee does hereby agree to pay the Lessor as rent for use and occupancy of the Premises during the Term (as hereinafter defined) the sum of Five Hundred Dollars (\$500) per month in advance on the first day of each month, being at the rate of Six Thousand Dollars

(\$6,000) per annum (the "Base Annual Rent"). In the event that the Term of this Lease begins or terminates on a day other than the first or last day of a month, the monthly rental shall be prorated so that the Lessee will pay rent only for those days during which the Lease is in effect for said months.

The monthly rent for the first renewal period beginning January 1, 2026 will be \$525 (\$6,300 per annum)

The monthly rent for the renewal period beginning January 1, 2031 will be \$550 (\$6,600 per annum)

The monthly rent for the renewal period beginning January 1, 2036 will be \$575 (\$6,900 per annum)

The monthly rent for the renewal period beginning January 31, 2041 will be \$600 (\$7,200 per annum)

2. Term. The term of this Lease shall commence on the date hereof and shall be for an initial term of four (4) years ending December 31, 2025 (the "Term"). Provided Lessee is not in default under this Lease, Lessee shall have the option to renew this Lease for four (4) additional terms of five (5) years upon the same terms and conditions, as specified herein, except that the Base Annual Rental shall be increased as specified in Section 1 herein. The exercise of any option to extend the term of this Lease shall be automatic and shall not require notice of any kind whatsoever. If Tenant desires to terminate this Lease at the end of the Term or any option term, Tenant shall give Landlord written notice of such termination at least ninety (90) days prior to the expiration of the then current term.

3. Use of Premises. The Premises shall be used and occupied solely for the purposes hereinabove set out. The Lessee at all times shall fully and promptly comply with all laws, ordinances, orders and regulations of any lawful governmental authority having jurisdiction over the Premises.


20210308000113880 2/12 \$80.50
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4. Maintenance and Repairs. The Lessee shall be obligated and required to make any repairs and do all work on or about the Premises or any part thereof that from time to time may be required to maintain the Premises in good order and proper repair; however, the Lessor reserves the right to enter upon the Premises and to make such repairs and to do such work on or about the Premises as the Lessor may deem necessary or proper or that the Lessor may be lawfully required to make. The Lessee shall not commit any waste of property or permit the same to be done and shall otherwise keep the Premises in good order and proper repair, reasonable wear and tear excepted.

5. Alterations and Improvements. The Lessee, upon receipt of written approval from the Lessor, may, at the Lessee's expense, (i) make additions, improvements, modifications and (ii) install on the Premises all equipment and fixtures necessary for the Lessee's use of the Premises as set out hereinabove. All furnishings, fixtures, equipment and machinery used on or about the Premises shall at all times be and remain the property of the Lessee and the Lessee shall have the right to remove the same from the Premises at any time during the Term hereof, provided that the Lessee shall not be in default hereunder and provided further that the Lessee, at the Lessee's sole cost and expense, shall repair or reimburse the Lessor for the cost of repairing any and all damage to the Premises resulting from the removal of such furnishings, fixtures, equipment and office machinery.

6. Care of Premises. The Lessee shall not permit or cause any act or deed to be performed or any practice to be adopted or followed in or about the Premises which shall cause or be likely to cause injury or damage to any person or to the Premises or the improvements, thereon. The Lessee shall not permit, allow or cause any noxious, disturbing or offensive odors, or any smoke, dust, steam or vapors, or any loud or disturbing noise, sound or vibration to originate in or to be emitted from the Premises. The Lessee at all times shall keep the Premises in neat and orderly condition and shall keep the entry ways, sidewalks and delivery areas adjoining the Premises clean and free from rubbish, dirt, snow and ice. The Lessee shall store all trash, rubbish and garbage


20210308000113880 3/12 \$80.50
Shelby Cnty Judge of Probate, AL
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within the Premises and shall provide for the prompt and regular removal thereof for disposal. The Lessee shall not burn or otherwise dispose of any trash, waste, rubbish or garbage in or about the Premises. The Lessee does hereby agree to permit no waste of the Premises, but on the contrary to take good care of same, and upon termination of this Lease to surrender possession of same without notice.

7. Entry by Lessor. The Lessor at all reasonable times may enter the Premises for the purpose of (i) inspection thereof; (ii) making repairs or replacements to the Premises, if any; and (iii) exhibiting the Premises to prospective lessees, purchasers or other persons.

8. Payment of Utilities and Services. The Lessee shall pay all utility charges used on or arising from the operation of the Premises, including all charges for gas, electricity, water, garbage and trash collection, and sewerage during the Term.

9. Real Estate Taxes. The Lessee shall promptly pay when due all ad valorem real estate taxes or assessments on real estate levied upon or assessed against the Premises or the owner or owners thereof during the Term.

10. Condemnation. In the event that the whole of the Premises or such portion thereof as will make the Premises unsuitable for the purposes herein leased shall be taken by any public authority under the power of eminent domain or like power, then the Term shall terminate effective as of the date possession shall be required to be delivered pursuant to the final order, judgement or decree entered in the proceedings in exercise of such power. All damages awarded for the taking of such Premises, or any part thereof shall be payable in the full amount thereof to and the same shall be the property of the Lessor, including any sum paid or payable as compensation for loss of value of the leasehold or loss of the fee or the fee of any part of the Premises, and the Lessee shall be entitled only to that portion of any award expressly stated to have been made to the Lessee for the loss of value and cost of removal of stock, furniture and fixtures owned by the Lessee. In the event of a partial taking of the Premises, as the result of which the reduction of the premises area does not


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materially or substantially interfere with the use by the Lessee of the Premises for the purpose herein leased, the Term shall continue and there shall be a pro rata reduction in the rent payable each month and the Lessee shall have no right to any of the proceeds of such taking.

11. Assignment or Subletting. The Lessee may not assign or transfer this Lease or sublease any part thereof unless the written consent of the Lessor be first obtained. This Lease may be transferred or assigned by the Lessor.

12. Default. The happening of any one or more of the following events (individually, an "Event of Default", and collectively, "Events of Default") shall constitute a breach of this Lease on the part of the Lessee:

(i) The failure of the Lessee to pay any rent payable under this Lease and the continued failure to pay the same for 15 days after the Lessor puts the Lessee on notice in writing that the rent has not been paid.

(ii) The failure of the Lessee to fully and promptly perform any act required of the Lessee in the performance of this Lease (other than the payment of rent) or to otherwise comply with any term or provision thereof after 15 days notice in writing from the Lessor or the Lessee's failure to perform.

(iii) The filing by or on behalf of Lessee of any petition or pleading to declare the Lessee a bankrupt, or the adjudication in bankruptcy of the Lessee, under any bankruptcy law or act.

(iv) The appointment by any court or under any law of a receiver, trustee or other custodian of the Premises, assets or business of the Lessee.

(v) The assignment by the Lessee of all or any part of the Lessee's property or assets for the benefit of the Lessee's creditors.

(vi) The levy of execution, attachment or other taking of property, assets or the leasehold interest of the Lessee by process of law or otherwise in satisfaction of any judgment, debt or claim.

Upon the occurrence of any Event of Default, the Lessor may at its option, without notice to the Lessee, terminate this Lease, or in the alternative, the Lessor may reenter and take possession of the Premises and remove all persons and property therefrom, without being deemed guilty of any manner of trespass, and relet the premises or any part thereof, for all or any part of the remainder of the Term, to a party satisfactory to the Lessor, and at such monthly rental as the

Lessor may with reasonable diligence be able to secure: Should the Lessor be unable to relet after reasonable effort to do so or should such monthly rental be less than the renewal thereof, plus the expense of reletting, then the Lessee shall pay the amount of such deficiency to the Lessor.

It is expressly agreed that upon the occurrence of any Event of Default, the Lessor shall have a lien upon all goods, chattels, or personal property of any description belonging to the Lessee which are placed in, or become a part of, the Premises, as security for rent due and to become due for the remainder of the Term, which lien shall not be in lieu of or in any way affect any statutory lessor's lien given by law, but shall be cumulative thereto; and the Lessee does hereby grant to the Lessor a security interest in all such personal property placed in the Premises for such purposes. This shall not prevent the sale by the Lessee of any merchandise in the ordinary course of business free of such lien to the Lessor. In the event the Lessor exercised the option to terminate this Lease and to reenter and relet the Premises as provided in the preceding paragraph, then the Lessor may take possession of all of the Lessee's property on the Premises and sell the same at public or private sale after giving the Lessee reasonable notice of the time and place of any public sale or of the time after which any private sale is to be made, for cash or on credit, or for such prices and terms as the Lessor deems best, with or without having the property present at such sale. The proceeds of such sale shall be applied first to the necessary and proper expense of removing, storing and selling such property, then to the payment of any rent due or to become due under this Lease, with the balance, if any, to be paid to the Lessee.

All rights and remedies of the Lessor under this Lease shall be cumulative, and none shall exclude any other right or remedy at law. Such rights and remedies may be exercised and enforced concurrently and whenever and as often as occasion therefore arises.

13. Insurance. The Lessee shall, during the Initial Term and all renewal periods, procure and keep in force public liability insurance for the benefit of the Lessor and the Lessee, with minimum liability limits of \$ 1,000,000 for injuries to one person and \$ 1,000,000 for injuries occurring to more than one person arising out of any one occurrence, and \$1,000,000 for property damage.


20210308000113880 6/12 \$80.50
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The Lessor shall be named as an additional insured in respect of each of the aforementioned policies.

14. Hazardous Substances. The Lessee does hereby covenant and agree that no Hazardous Substances (as hereinafter defined) shall be generated, used, treated, stored, released or disposed of in, on, at, or under the Premises without the Lessor's prior written consent. The Lessee does hereby indemnify and hold harmless the Lessor from any loss, cost, damage, liability or expense of any nature (including attorneys' fees and disbursements through appeal), including, without limitation, any environmental impairment damages arising at any time during the term of this Lease or thereafter as a result of any violation by the Lessee of this Section 16. The Lessee shall defend any and all actions or proceedings that may be brought against the Lessor arising out of the matters covered in this Section 16. The Lessee may settle the claim only with the Lessor's prior written consent. Such defense shall be conducted by a reputable attorney retained by the Lessee reasonably satisfactory to the Lessor, at the Lessee's costs and expense. The Lessor shall have the right to participate in such proceedings and be represented by attorneys of the Lessor's own choice, at the Lessor's own expense. The Lessee shall provide to the Lessor copies of any notices, letters or requests for information concerning Hazardous Substances in connection with the Premises which the Lessee receives from any governmental unit or agency overseeing environmental matters. This Section 16 shall survive the termination of this Lease. For purposes of this Lease, "Hazardous Substances" shall mean (i) all substances classified as hazardous or restricted under (A) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, the regulations promulgated thereunder and any similar state and federal statutes and regulations, (B) the Resource Conservation and Recovery Act of 1976, as amended from time to time, the regulations promulgated thereunder and similar state and federal statutes and regulations, and (C) the Toxic Substances Control Act, as amended from time to time, and the regulations promulgated thereunder and any similar state and federal statutes and regulations; (ii) petroleum products, including waste oils; (iii) "asbestos", as defined in 29 C.F.R. Sec. 1910.1001 *et seq.* (or analogous regulations promulgated under the Occupational Safety and Health Act of 1970, as amended from time to time); (iv) "PCB's", as defined in 40 C.F.R. Sec. 775 *et seq.* (or in either case

analogous regulations promulgated under the Toxic Substances Control Act, as amended from time to time); and (v) any other substance, element, material or compound defined or restricted as a hazardous, toxic, radioactive or dangerous substance, material or waste by the Environmental Protection Agency or by any other ordinance, statute, law, code or regulation of any federal, state or local governmental entity or any agency, department or other subdivision thereof, whether now or later enacted, issued or promulgated.

15. **Waiver of Subrogation.** The Lessor and the Lessee do hereby waive such causes of action either may have or acquired against the other of them which are occasioned by the negligence of either of them or their employees, servants, guests, invitees or agents resulting in the destruction of or damage to real or personal property belonging to the other and located on or about the Premises, provided that the insurance carried by the Lessor and/or the Lessee shall contain a waiver of subrogation against any party to this Lease, its employees, agents, servants, guests, invitees or representatives in case of destruction of or damage to the aforementioned real or personal property of each such party.

16. **Notices and Rent Payments.** All rent payments due hereunder and all notices required to be given to the Lessor hereunder shall be sent to the Lessor at 5301 Highway 280 South, Birmingham, Alabama 35242-5317 and to such other address as the Lessor may direct from time to time by written notice forwarded to the Lessee by the Lessor. All notices required to be given by the Lessor to the Lessee hereunder shall be sent to the Lessee at 5303 Highway 280 South, Birmingham, Alabama 35242-5317 or to such address as the Lessee may direct the Lessor by written notice.

17. **Waiver.** The failure of the Lessor or the Lessee to insist upon strict performance of any of the covenants or conditions of this Lease or to exercise any option herein conferred in any one or more instances shall not be construed as a waiver or relinquishment of any such covenants, conditions or options, but the same shall be and remain in full force and effect. The receipt by the Lessor of rent, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver

of such breach, and no waiver by the Lessor or the Lessee of any provisions hereof shall be deemed to have been made unless expressed in writing and signed by the Lessor or the Lessee.

18. **Indemnity of Lessor by Lessee.** The Lessee does hereby indemnify and save harmless the Lessor from and against any and all fines, suits, claims, demands and actions of any kind or nature, by reason of any breach, violation of non-performance of any agreement, covenant, condition or term hereof on the part of the Lessee. The Lessee shall indemnify, protect and save harmless the Lessor from and against any and all loss, cost, damage or expense caused by injuries to persons or their property, while in, on or about the Premises, and any and all property of the Lessee which may be located or stored on the Premises.

19. **Binding Effect.** The agreements, covenants, conditions and terms contained in this Lease shall bind and inure to the benefit of the Lessor and the Lessee and their respective heirs, personal or legal representatives, successors or assigns.

20. **Entire Agreement.** This Lease contains the entire agreement between the parties hereto, and neither party is bound by any representation or agreements of any kind except as herein contained, and no amendments hereto shall be considered as effective unless and until the same shall be reduced to writing and executed by all the parties hereto.

21. **Construction.** The captions or headings in this Lease are provided for convenience only and shall not affect its construction or interpretation. All words used in this Lease shall be construed to be of such gender or number as the circumstances require. Unless otherwise expressly provided, the word "including" does not limit the preceding words or terms. The terms "herein", "hereof", "hereto" or "hereunder" or similar terms shall be deemed to refer to this Lease as a whole and not to a particular paragraph.

22. **Severability.** If any provision of this Lease is held invalid or unenforceable by any court of competent jurisdiction the other provisions of this lease shall remain in full force and

effect. Any provision of this Lease held invalid or unenforceable only in part or degree shall remain in full force and effect to the extent not held invalid or unenforceable.

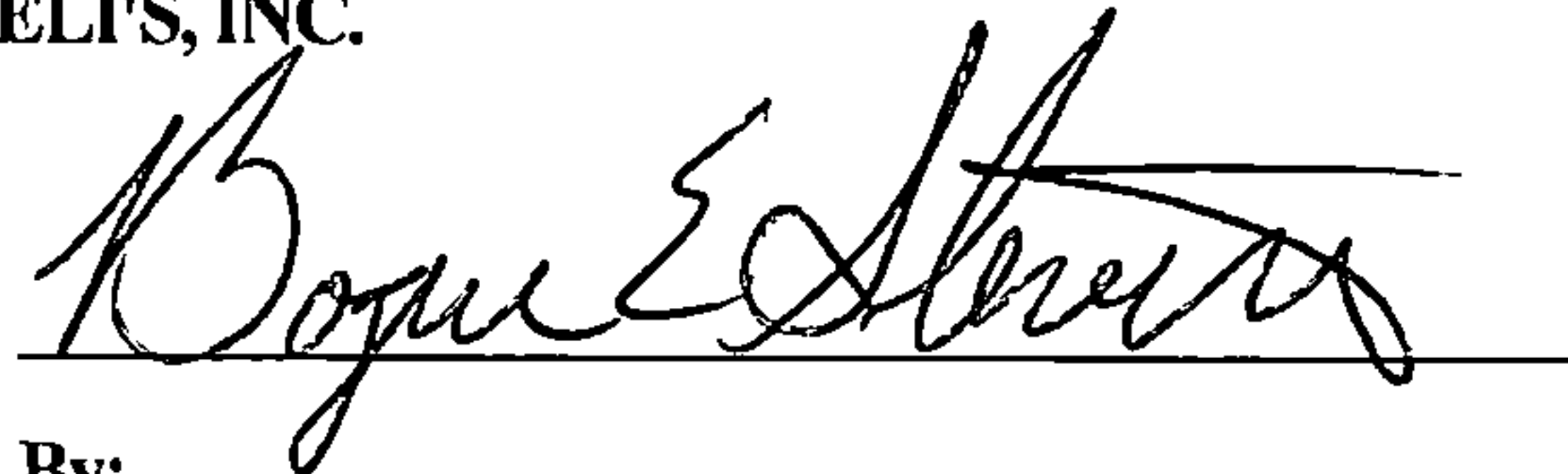
23. **Counterparts.** This Lease may be executed in one or more counterparts, each of which shall be deemed to be an original copy of this Lease and all of which, when taken together, shall be deemed to constitute one and the same instrument.

24. **Choice of Law.** This Lease shall be governed by, construed and enforced in accordance with the laws of the State of Alabama.

IN WITNESS WHEREOF, the Lessor and the Lessee have executed and delivered this Lease on the 15th day of February 2021 to be effective as of the date first above written.

LESSOR

ELI'S, INC.

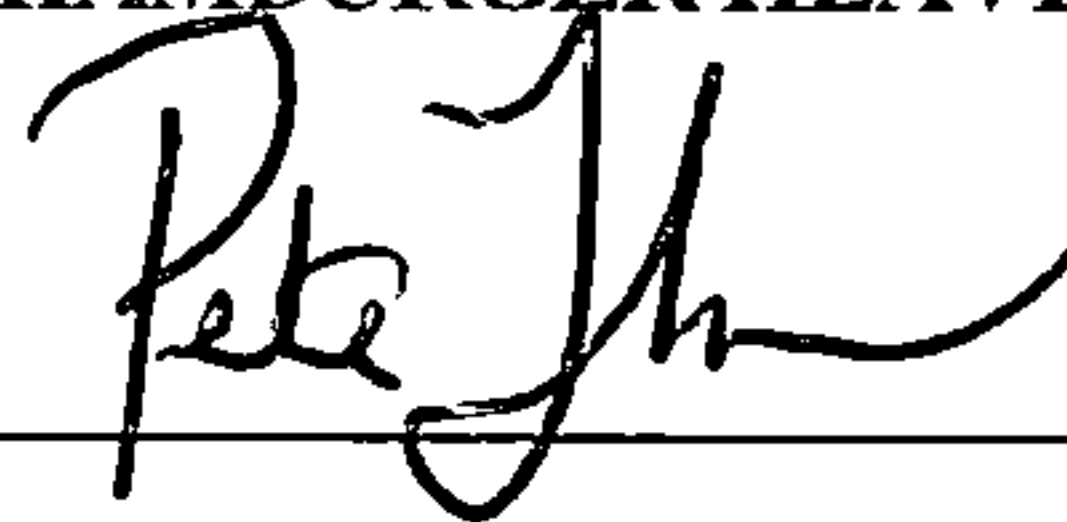


By:

Bogue E Stevens
Its President

LESSEE

ELI'S HAMBURGER HEAVEN, INC.



By:

Peter T. Flach
Its President

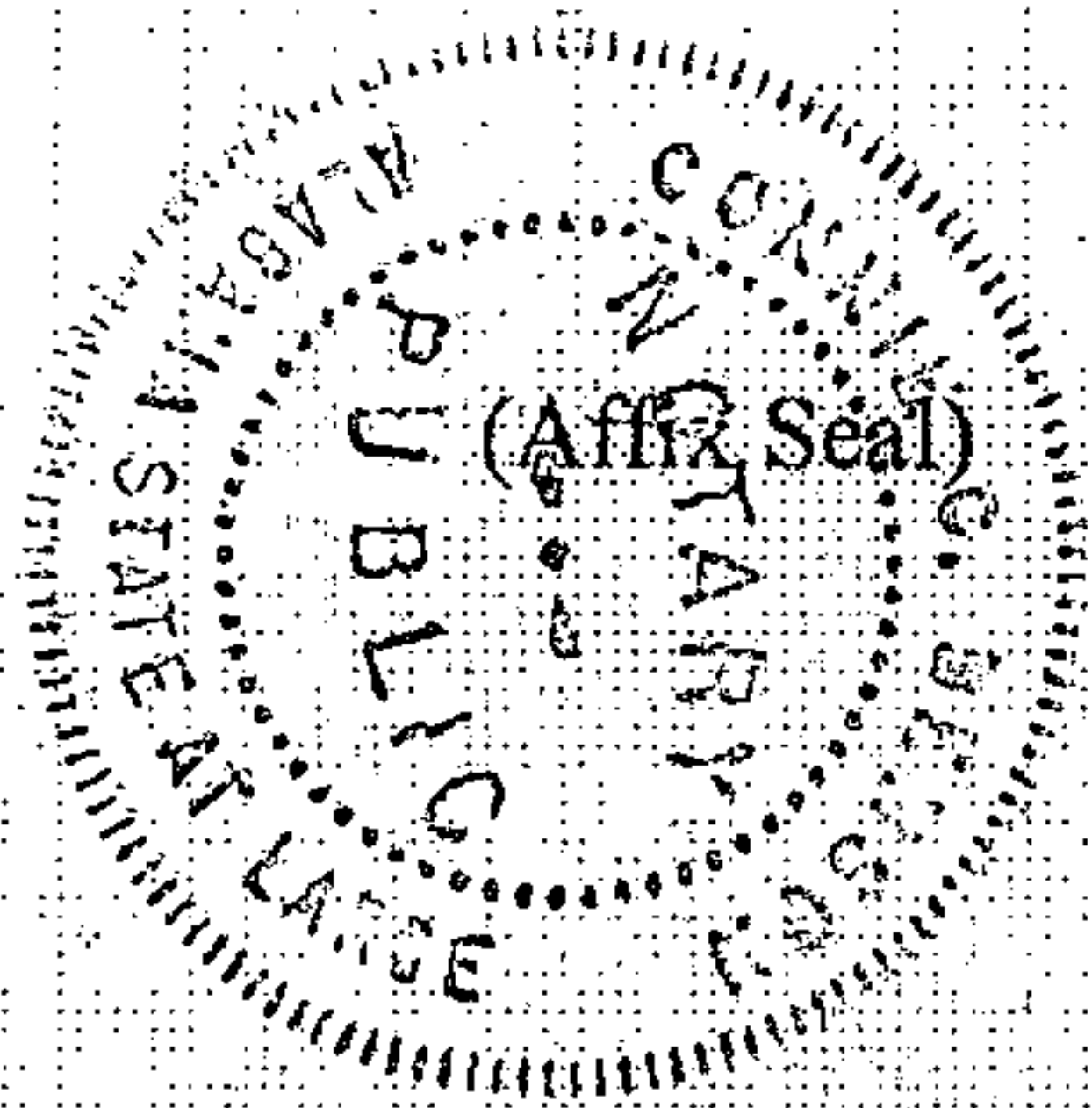


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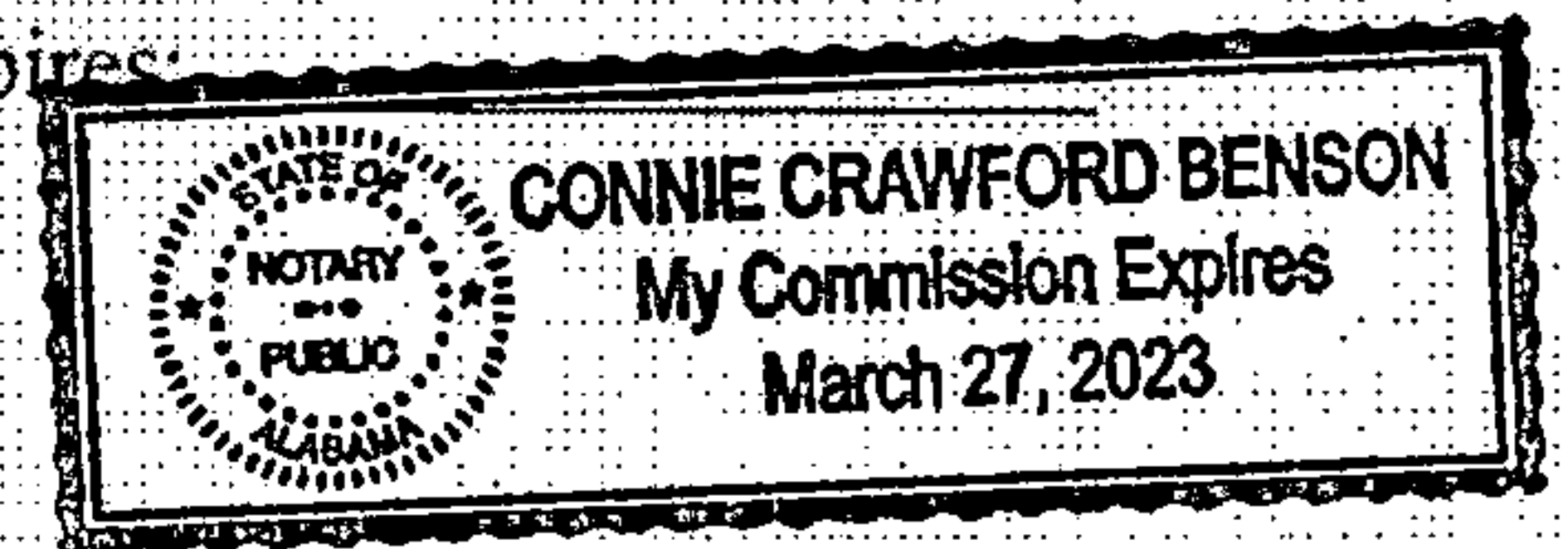
STATE OF ALABAMA)
COUNTY OF SHELBY)

I, the undersigned, a notary public in and for said County in said State, hereby certify that Bogue E. Stevens, whose name as President of ELI'S, INC., an Alabama corporation, is signed to the foregoing lease agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of said lease agreement, he, as such officer with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this the 23 day of February, 2020.



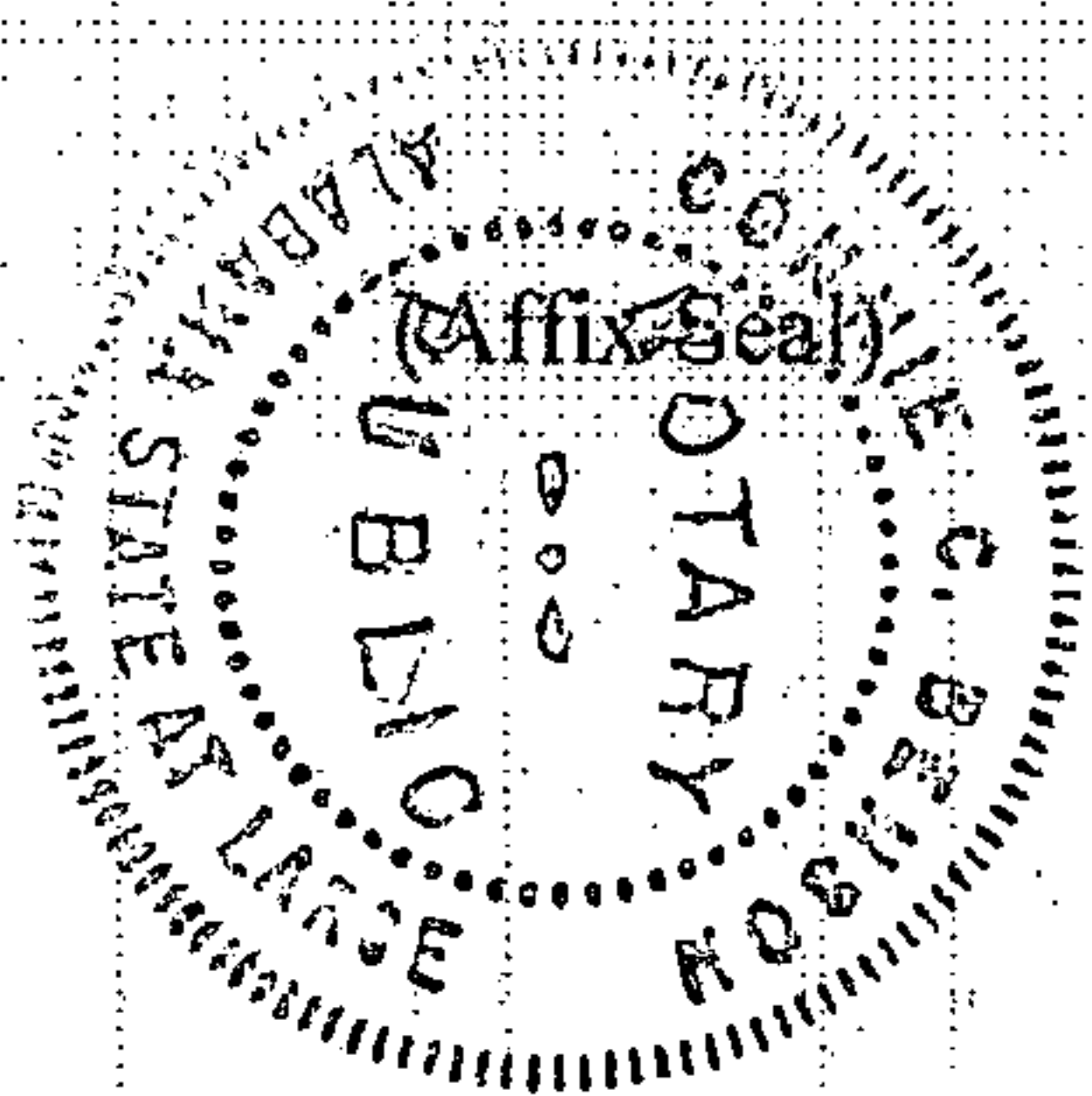
Connie C Benson
Notary Public
My Commission Expires:



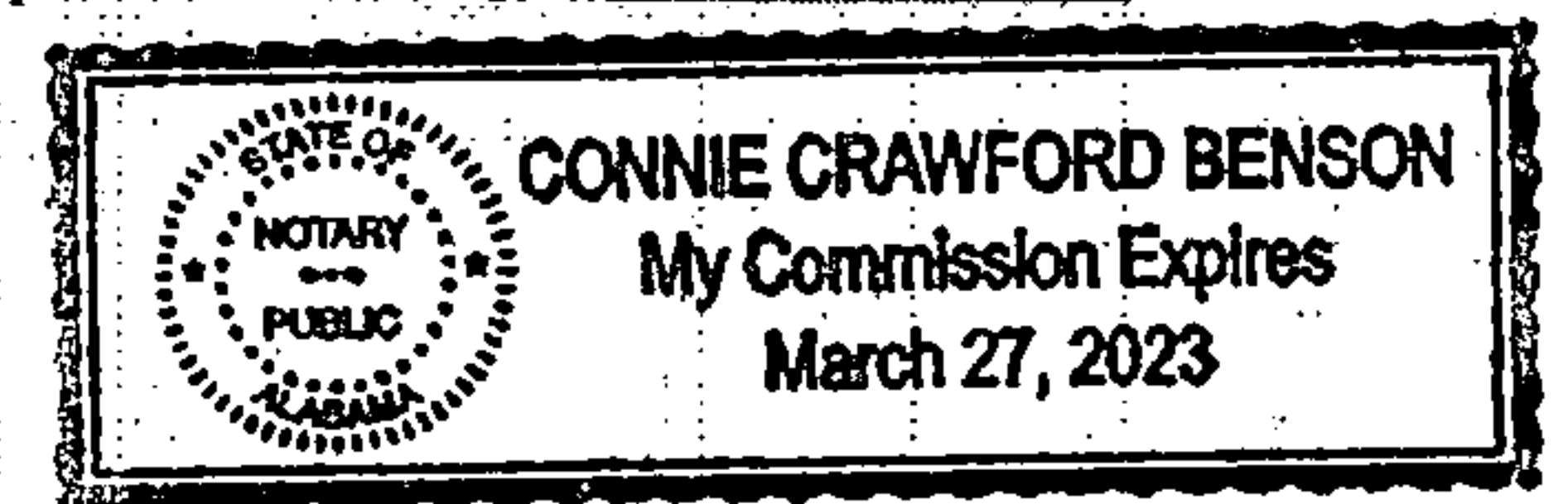
STATE OF ALABAMA)
COUNTY OF SHELBY)

I, the undersigned, a notary public in and for said County in said State, hereby certify that Peter T. Flach, whose name as President of ELI'S HAMBURGER HEAVEN, INC., an Alabama corporation, is signed to the foregoing lease agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of said lease agreement, he, as such officer with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this the 23 day of February, 2020.



Connie C Benson
Notary Public
My Commission Expires:



This instrument prepared by:
Bogue E. Stephens
Eli's, Inc.
5301 Hwy 280 South
Birmingham, AL 35242-5317


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EXHIBIT "A"

Parcel I

15 foot strip of property lying East of property conveyed from Eli's Inc. to Wal-Mart Real Estate Business Trust, a Delaware Business Trust by Exchanged Statutory Warranty Deed recorded 2001-14727 in the Probate Office of Shelby County, Alabama being particularly described as follows:

A parcel of land located in the Northern Quarter of the Southeast Quarter of Section 31, Township 18 South, Range 1 West in Shelby County, Alabama and being more particularly described as follows;

As a starting point, start at the Northeast Quarter of the Southeast Quarter of said section 31; thence run in a Westerly direction and along the North boundary of said Northeast Quarter of the Southeast Quarter for a distance of 803.22 feet to the POINT OF BEGINNING of the property herein described; thence with a deflection angle $90^{\circ} 23' 39''$ to the left run in a Southerly direction for a distance of 970.15 to the Northwest corner of James F. Donovan property, as recorded in Deed Book 1996, Page 21512; thence with an Interior angle of $90^{\circ} 01' 41''$ run in a Westerly direction for a distance of 21.31 feet to a point, thence with an Interior angle of $269^{\circ} 14' 24''$ run in a Southerly direction for a distance of 274.52 feet to a point on the North boundary of U.S. Highway No. 280; thence with an interior angle of $97^{\circ} 35' 55''$ run in a Westerly direction and along the North boundary of U.S. Highway No. 280 for a distance of 75.76 feet to a point; thence with an Interior angle of $83^{\circ} 10' 53''$ run in a Northerly direction for a distance of 373.60 feet to a point; thence with an Interior angle of $239^{\circ} 29' 20''$ run in a North Westerly direction for a distance of 178.70 feet to a point; thence with an interior angle of $210^{\circ} 05' 46''$ run in Westerly direction for distance of 11.43 feet to a point; thence with an Interior angle $90^{\circ} 04' 36''$ run in a Northerly direction for a distance 512.55 feet to a point, said also being the Southeast corner of Jimmie K. and Samuel J. Turner property as recorded in Deed Book 210, Page 176; thence with an Interior angle of $180^{\circ} 20' 29''$ continue in a Northerly direction and along the East boundary of said Jimmie K. and Samuel J. Turner property for a distance of 278.84 feet to a point on the North boundary of the Northeast corner of the Southeast Quarter of Section 31; thence with an Interior angle of $83^{\circ} 33' 17''$ run in an Easterly direction and along the North boundary of said Northeast Quarter of the Southeast Quarter for a distance of 284.47 feet to the POINT OF BEGINNING.

Said 15 foot strip being a portion of property conveyed from Eli T. Stevens and wife, Patricia M. Stevens to Eli's Inc. recorded SR344-434 in the Probate Office of Shelby County, Alabama being more particularity described as follows:

A tract of land located in Section 31, Township 18 South, Range 1 West described as follows:

Commence at the Southeast corner of Section 31, Township 18 South, Range 1 West, thence run North along the East line of said Section a distance of 1663.70 feet; thence turn an angle of $90^{\circ} 18' 08''$ to the left and run a distance of 799.08 feet to the point of beginning; thence turn an angle of $90^{\circ} 00'$ to the left and run a distance of 271.62 feet to the North right of way of U.S. Highway No. 280; thence turn an angle of $83^{\circ} 08'$ to the right and run along said right of way a distance of 267.18 feet; thence turn an angle of $96^{\circ} 47'$ to the right and run a distance of 1274.60 feet, thence turn an angle of $90^{\circ} 42'$ to the right and run a distance of 266.00 feet; thence turn an angle of $89^{\circ} 16' 31''$ to the right and run a distance of 968.27 feet to the point of beginning. Situated in the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 31, Township 18 South, Range 1 West, Huntsville Meridian, Shelby County, Alabama.

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