

*This Amended Assignment of Rents and Leases amends that certain Assignment of Rents and Leases dated August 19, 2020, and recorded at Instrument No. 20200819000361190 in the Office of the Judge of Probate of Shelby County, Alabama, to increase the Loan Amount from \$2,457,750.00 to \$6,357,750.00.*

### AMENDED ASSIGNMENT OF RENTS AND LEASES

The following terms shall have the meanings set forth below, as used in this instrument:

<b>Lender:</b>	<b>Trustmark National Bank</b>
<b>Lender's Notice Address:</b>	<b>1808 29th Avenue South Homewood, Alabama 35209</b>
<b>Loan Amount:</b>	<b>\$6,357,750.00</b>
<b>Mortgage:</b>	<b>The Mortgage and Security Agreement executed by Owner in favor of Lender dated August 19, 2020, as Amended by the Amendment to Mortgage and Security this date to further secure the Notes (defined below).</b>
<b>Owner:</b>	<b>Newcastle Development, LLC, an Alabama limited liability company</b>
<b>Owner's Notice Address:</b>	<b>3978 Parkwood Road SE Bessemer, Alabama 35022-5630 Attention: Glenn Siddle</b>

1. **BY THIS ASSIGNMENT**, the Owner, for value received, hereby assigns to the Lender all of Owner's right, title, privileges and interest which Owner has and may have in the leases, operating agreements, management agreements, concession agreements, licenses, and all similar agreements, now existing or hereafter made and affecting the real property described in Exhibit A attached hereto and incorporated herein by reference and the improvements and equipment thereon (collectively referred to as the "Property"), together with all extensions, renewals, modifications or replacements of said leases and agreements, and together with any and all guarantees of the obligations of the lessees and other obligors thereunder, whether now existing or hereafter executed, and all extensions and renewals of said guarantees. All said leases and all other said agreements described in this Paragraph 1, together with any and all guarantees, modifications, extensions and renewals thereof, are hereinafter collectively and severally referred to as the "Lease".

2. **OWNER'S PURPOSE** in making this assignment is to relinquish, convey, and assign to Lender its right to collect and enjoy the rents, royalties, issues, profits, income and other benefits at any time accruing by virtue of the Lease (hereinafter called "Rents and Profits") as security for (i) payment of the outstanding indebtedness to Lender in connection with the Loan (as defined in the Mortgage) as evidenced by the Note (as defined in the Amendment to Mortgage) payable to Lender, in the aggregate original principal sum equal to the Loan Amount, (ii) payment of all Other Indebtedness (as defined in the Mortgage and amended in the Amendment to Mortgage), and (iii) performance of the Owner's obligations under the Mortgage, the other Loan Documents (as defined in the Mortgage) and the Other Indebtedness Instruments (as defined in the Mortgage).

3. **THE PARTIES INTEND** that this Assignment shall be a present, absolute and unconditional assignment and shall, immediately upon execution, give Lender the right to collect the Rents and Profits and to apply them in payment of the principal and interest and all other sums payable on the Note, as well as all other sums payable under the Loan Documents. However, Lender hereby grants to Owner a license to collect, subject to the provisions set forth below and in the Loan Documents, the Rents

and Profits as they respectively become due and to enforce the Lease, so long as there is no default by Owner in performance of the terms, covenants or provisions of the Note, the Loan Documents or this Assignment. Nothing contained herein, nor any collection of Rents and Profits by Lender or by a receiver, shall be construed to make Lender a "mortgagee-in-possession" of the Property so long as Lender has not itself entered into actual possession of the Property.

4. **UPON THE OCCURRENCE OF ANY DEFAULT** under the terms and conditions of the Note, the Mortgage, this Assignment or any of the other Loan Documents, this Assignment shall constitute a direction to and full authority to any and all obligors under the Lease and any guarantor of the Lease to pay all Rents and Profits to Lender without proof of the default relied upon. Owner hereby irrevocably authorizes any and all obligors under the Lease and any guarantor to rely upon and comply with any notice or demand by Lender for the payment to Lender of any Rents and Profits due or to become due. Any and all obligors under the Lease and any guarantor shall have no right or duty to inquire whether a default has actually occurred and Owner shall have no claim against any obligor under the Lease or any guarantor for any Rents and Profits paid by such obligor Lessee or such guarantor to Lender pursuant to Lender's demand or notice.

5. **OWNER WARRANTIES:**

- (a) that no default exists on the part of Owner under any Lease;
- (b) that no rent or other payment has been or will be collected under any Lease more than one month in advance;
- (c) that neither the Lease nor any interest therein has been previously or will be assigned or pledged by Owner;
- (d) that no concession has been or will be granted to any Lessee in the form of a waiver, release, reduction, discount or other alteration of rent or other payment due or to become due.

All of the foregoing warranties shall be deemed to be reaffirmed on and as of the time of each Lease executed by Owner on the Property.

6. Owner agrees that nothing herein shall be construed to impose any liability or obligation on Lender under or with respect to the Lease. Owner does not delegate or assign to Lender, and Lender does not accept or assume any of the duties, obligations, or liabilities of Owner as provided in the Lease. Despite the present and absolute assignment by Owner to Lender of the Lease, Lender will not be required to perform any of the agreements or conditions contained in the Lease and nothing in this Agreement will impose any obligation upon Lender (including any liability under any covenant of quiet enjoyment as provided in the Lease). Owner retains and will perform all duties, obligations, and liabilities of Owner as provided in the Lease, provided that Lender, in the sole and absolute option of Lender may cure any default as provided in the Lease on behalf of Owner, and Owner will reimburse Lender on demand for all amounts paid and expended by Lender to cure the defaults of Owner as provided in the Lease.

7. This Assignment is intended to be supplementary to and not in substitution for or in derogation of any assignment of rents contained in the Loan Documents. Failure of the Lender to avail itself of any terms, covenants or conditions of this Assignment for any period of time or for any reason shall not constitute a waiver thereof.

8. Notwithstanding any future modification of the terms of the Loan Documents, this Assignment and the rights and benefits hereby assigned and granted shall continue in favor of Lender in accordance with the terms of this Assignment.

9. This Assignment shall be binding upon and inure to the benefit of the respective heirs, legal representatives, successors and assigns of the parties hereto (including without limitation, in the case of Lender, any third parties now or hereafter acquiring any interest in the Note or any part thereof, whether by virtue of assignment, participation or otherwise). The words "Owner", "Lender", "obligor under the Lease", and "guarantor", wherever used herein, shall include the persons and entities named herein or in the Lease or any guaranty and designated as such and their respective heirs, legal representatives, successors, and assigns, provided that any action taken by the named Lender or any successor designated as such by an instrument recorded in the appropriate office of the County in which the Property is located referring to this Assignment shall be sufficient for all purposes notwithstanding that Lender may have theretofore assigned or participated any interest in the Note to a third party. All words and phrases shall be taken to include the singular or plural number, and the masculine, feminine, or neuter gender, as may fit the case.

10. Any change, amendment, modification, abridgement, cancellation, or discharge of this Assignment or any term or provision hereof shall be invalid without the written consent of Lender.

11. Upon payment to Lender of the full amount of all indebtedness and obligations secured hereby and by the Loan Documents, as evidenced by a recorded satisfaction or release of the Mortgage, Note, and guarantees, this Assignment shall be void and of no further effect.

12. All notices given hereunder shall be given in the manner set forth in the Mortgage.

13. If any provision hereof is determined to be illegal or unenforceable for any reason, the remaining provisions hereof shall not be affected thereby.

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

15. **WAIVER OF JURY TRIAL.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, OWNER HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SETOFF, DEMAND, ACTION OR CAUSE OF ACTION (A) ARISING OUT OF OR IN ANY WAY PERTAINING OR RELATING TO THIS ASSIGNMENT OR THE OTHER LOAN DOCUMENTS, OR (B) IN ANY WAY CONNECTED WITH OR PERTAINING OR RELATED TO OR INCIDENTAL TO ANY DEALINGS OF THE PARTIES HERETO WITH RESPECT TO THIS ASSIGNMENT OR THE OTHER LOAN DOCUMENTS, OR IN CONNECTION WITH THE TRANSACTIONS RELATED THERETO OR CONTEMPLATED THEREBY OR THE EXERCISE OF EITHER PARTY'S RIGHTS AND REMEDIES THEREUNDER, IN ALL OF THE FOREGOING CASES WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. OWNER AGREES THAT LENDER MAY FILE A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED AGREEMENT OF OWNER IRREVOCABLY TO WAIVE ITS RIGHT TO TRIAL BY JURY, AND THAT ANY DISPUTE OR CONTROVERSY WHATSOEVER BETWEEN OWNER AND LENDER SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

IN WITNESS WHEREOF, this document has been executed by the undersigned under seal as of the 1<sup>st</sup> day of April, 2021.

**BORROWER (Mortgagor, Debtor):**

Newcastle Development, LLC, an Alabama limited liability company

By:

Glenn Siddle  
Glenn Siddle

Its:

Sole Member/Manager

STATE OF ALABAMA )

COUNTY OF Shelby )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that **Glenn Siddle** whose name as Sole Member/Manager of **Newcastle Development, 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 the instrument, he, as such Sole Member/Manager and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand this 1<sup>st</sup> day of April, 2021.

Stephanie Bishop  
Notary Public

My Commission Expires:



**THIS INSTRUMENT PREPARED BY:**

Michael B. Odom  
McGlinchey Stafford  
505 North 20th Street, Suite 800  
Birmingham, Alabama 35203  
(205) 725-6411



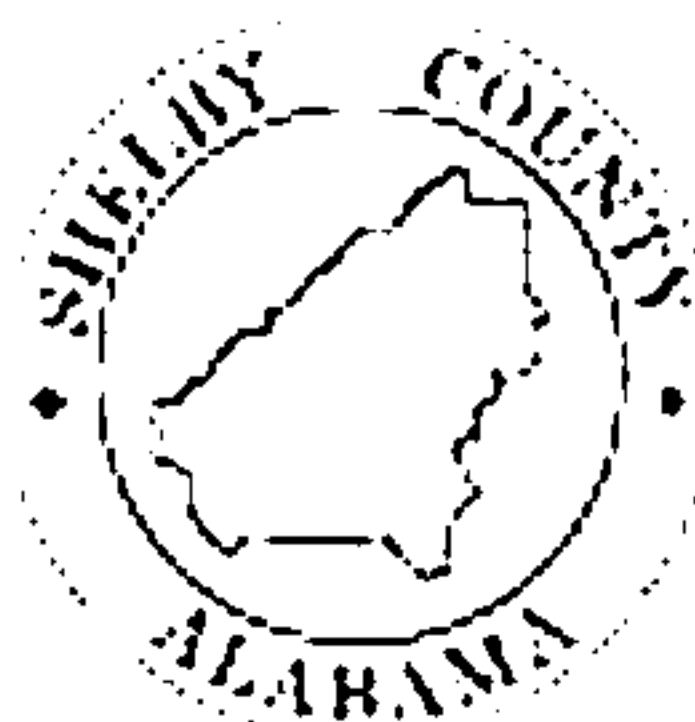
**EXHIBIT A**

**LEGAL DESCRIPTION**

**HILLSBORO SOUTH SUBDIVISION**

Tract of land situated in the East ½ of the Northwest ¼ and the East ½ of the Southwest ¼ in Section 28, Township 20 South, Range 3 West, Shelby County, Alabama, and being more particularly described as follows.

**BEGIN** at the Northeast corner of the Southwest ¼ of said Section; thence run South along the East line of said ¼ section a distance of 2652.5 feet, more or less, to the Southeast corner of said ¼ section and also a point on the South line of said Section; thence turn an angle of 91° 00' 00" to the right in a Westerly direction along the South line of said Section a distance of 1323 feet, more or less, to the Southwest corner of the Southeast ¼ of the Southwest ¼ of said Section; then turn an angle of 90° 00' 00" to the right in a Northerly direction along the West line of the Southeast ¼ of the Southwest ¼ and the West line of the Northeast ¼ of the Southwest ¼ of said Section a distance of 1627.0 feet; thence turn an angle of 17° 30' 00" to the right in a Northeasterly direction a distance of 935.5 feet; thence turn an angle of 16° 30' 00" to the right in a Northeasterly direction a distance of 213.6 feet; thence turn an angle of 40° 00' 00" to the right in a Northeasterly direction a distance of 320.0 feet; thence turn an angle of 42° 30' 00" to the left in a Northeasterly direction a distance of 100.0 feet; thence turn an angle of 38° 00' 00" to the left in a Northwesterly direction a distance of 539.0 feet; thence turn an angle of 77° 30' 00" to the left in a Westerly direction a distance 128.1 feet; thence turn an angle of 45° 15' 00" to the left in a Northwesterly direction a distance 319.3 feet; thence turn an angle of 66° 00' 00" to the right in a Northeasterly direction a distance of 417.0 feet; thence turn an angle of 58° 00' 00" to the right in a Easterly direction a distance of 372.2 feet, more or less, to the center line of a public road (Hillsboro Parkway); thence right 40° 00' 00", more or less, in a Southeasterly direction along the center line of said road a distance 223.7 feet; thence leaving said road turn an angle of 75° 00' 00" to the right in a Southwesterly direction a distance of 177.0 feet; thence turn an angle of 10° 00' 00" to the left in a Southerly direction a distance of 203.0 feet; then turn an angle of 10° 00' 00" to the left in a Southerly direction a distance of 158.6 feet; thence turn an angle of 93° 00' 00" to the left in a Easterly direction a distance of 170.0 feet; thence right in a Southeasterly direction along a straight line to the **POINT OF BEGINNING**. Said tract containing 93.1 acres, more or less.



Filed and Recorded  
Official Public Records  
Judge of Probate, Shelby County Alabama, County  
Clerk  
Shelby County, AL  
04/14/2021 12:40:50 PM  
\$34.00 CHERRY  
20210414000186160

*Allen S. Bayl*