This instrument prepared by and after recordation should be returned to:

Michael J. Brandt Wallace, Jordan, Ratliff & Brandt, LLC 800 Shades Creek Parkway, Suite 400 Birmingham, Alabama 35209

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SHELBY COUNTY

AGREEMENT NOT TO ENCUMBER

THIS AGREEMENT NOT TO ENCUMBER (the "Agreement") is made and entered into as of the QM day of April, 2021, by and between GAMBLE HOLDINGS, LLC, an Alabama limited liability company (the "Borrower") and SYNOVUS BANK, a Georgia state banking corporation (the "Bank")

WHEREAS, the Borrower has requested that the Bank make a loan to the Borrower in the maximum principal amount of Two Million Five Hundred Thousand and No/100 Dollars (\$2,500,000.00) (the "Loan"), and the Bank has agreed to make the Loan on the condition that the Borrower execute and deliver this Agreement;

NOW, THEREFORE, in consideration of the Loan and for other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, Borrower agrees as follows:

Transfer or Encumbrance of the Property. Borrower is the owner in fee simple of the real estate described on Exhibit "A" and all improvements thereon (the "Property"). Borrower acknowledges that the Bank has examined and relied on the creditworthiness of Borrower and experience of Borrower in owning and operating the Property in agreeing to make the Loan to Borrower, and that the Bank will continue to rely on Borrower's ownership of the Property as a means of maintaining the value of the Property and Borrower's ability to repay the Loan. Borrower acknowledges that the Bank has a valid interest in maintaining the value of the Property. Borrower shall not, without the prior written consent of the Bank, sell, convey, alien, mortgage, encumber, pledge or otherwise transfer the Property or any part thereof, or permit the Property or any part thereof to be sold, conveyed, aliened, mortgaged, encumbered, pledged or

otherwise transferred.

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Insurance. Borrower shall keep or cause to be kept the Property insured against loss or damage by fire, extended coverage perils, vandalism, malicious mischief, and any such other hazards, casualties, or other contingencies as from time to time may be required by the Bank in such manner and in such companies and amounts as the Bank may approve. All such insurance shall be replacement cost coverage rather than actual cash value coverage. Borrower shall cause duplicate originals of any and all such insurance policies to be deposited with the Bank. At least fifteen (15) business days prior to the date the premiums on each such policy or policies shall become due and payable, Borrower shall furnish to the Bank evidence of the payment of such premiums. Borrower agrees that Borrower will not take any action or fail to take any action, which action or inaction would result in the invalidation of any insurance policy required hereunder. Borrower shall give immediate notice in writing to the Bank of any loss or damage to the Property caused by any casualty. If Borrower fails to keep the Property insured as above specified, the Bank may at its option and sole discretion, and at Borrower's expense, insure the Property for its insurable value against loss by fire, wind and other hazards as specified above for the sole benefit of the Bank.

3. **Taxes and Assessments.** Borrower will pay all taxes and assessments against or affecting the Property as the same shall become due and payable, and, if Borrower fails to do so, the Bank may pay them, together with all costs and penalties thereon, at Borrower's expense. Notwithstanding the foregoing, Borrower may in good faith by appropriate proceedings contest the validity of such taxes and assessments and, pending such contest, Borrower shall not be deemed in default hereunder due to such nonpayment if (i) prior to delinquency of the asserted tax or assessment, Borrower furnishes the Bank an indemnity bond, conditioned that such tax or assessment with interest, cost and penalties be paid as herein stipulated secured by a deposit in cash, or security acceptable to the Bank, or with surety acceptable to the Bank, in the amount of the tax or assessment being contested by Borrower, and a reasonable additional sum to pay all possible costs, interest and penalties imposed or incurred in connection therewith, and (ii) Borrower promptly pays any amount adjudged by a court of competent jurisdiction to be due, with all costs, penalties and interest thereon, before such judgment becomes final.

Waste, Demolition, Alteration, Replacement or Repair of Property. Borrower 4. shall cause the Property and every part thereof to be maintained, preserved, kept safe and in good repair, and in good working condition. Borrower shall not commit or permit waste thereon. Borrower shall not remove, demolish or alter the design or structural character of the Project or the Property now or hereafter erected on the Real Estate without the express prior written consent of the Bank. Borrower shall comply with all laws and regulations of any governmental authority with reference to the Property and the manner and use of the same, and shall from time to time make all necessary and proper repairs, renewals, additions and restorations thereto so that the value and efficient use thereof shall be fully preserved and maintained. Borrower will discharge all claims for labor performed and material furnished therefor, and will not suffer any lien of mechanics or materialmen to attach to any part of the Property. Borrower agrees not to remove

any of the fixtures included in the Property without the express prior written consent of the Bank and unless the same is immediately replaced with like property of at least equal value and utility.

The Bank and other persons authorized by the Bank shall have access to and the right to enter and inspect the Property at all reasonable times, and upon reasonable notice to Borrower, including monthly inspections if deemed necessary by the Bank. In the event the Bank finds that Borrower is not maintaining the Property as referenced herein, the Bank shall notify Borrower in writing of the needed repairs and Borrower shall have ten (10) business days to make satisfactory arrangements to bring the Property back to good condition. If after such time, satisfactory arrangements have not been made to bring the Property back to good condition as determined by the sole discretion of the Bank, the Bank shall have the right to make the repairs required at the expense of Borrower as previously enunciated in this Agreement, or shall have the right to declare the Loan to be at once due and payable.

5. **Financial Statements.** Borrower shall deliver to the Bank such financial statements as the Bank reasonably may request.

6. **Notice of Litigation.** Borrower consents and agrees that it will give notice to the Bank of any litigation in which Borrower becomes involved and will continue to thereafter provide to the Bank periodic statements of the status and progress of such litigation as may be requested by the Bank.

7. **Hold Harmless.** Borrower will defend, at its own cost and expense, and hold the Bank harmless from, any proceeding or claim affecting the Property. All costs and expenses incurred by Borrower in protecting its interests hereunder, including all court costs and reasonable attorneys' fees, shall be borne by Borrower.

8. Notices by Governmental Authority, Fire and Casualty Losses, Etc. Borrower shall timely comply with and promptly furnish to the Bank true and complete copies of any official notice or claim by any governmental authority pertaining to the Property. Borrower shall promptly notify the Bank of any fire or other casualty or any notice or taking of eminent domain action or proceeding affecting the Property.

9. **Recording and Filing.** This Agreement and all applicable Loan Documents and all amendments, supplements and extensions thereto and substitutions therefor shall be recorded, filed, rerecorded and refiled in such manner and in such places as the Bank shall reasonably request, and Borrower will pay all such recording, filing, rerecording and refiling fees, title insurance premiums, and other charges.

10. **Termination.** If Borrower shall: (A) pay in full (i) the Loan including but not limited to all sums (principal, interest and charges) payable under the Note and any and all extensions and renewals of the same (including future advances); and (ii) all sums becoming due

and payable by Borrower under the terms of this Agreement and the Loan Documents, including

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20210416000189870 04/16/2021 09:24:43 AM AGREEMNT 4/8 but not limited to advancements made by the Bank pursuant to the terms and conditions of this Agreement; and (B) have kept and performed each and every obligation, covenant, duty, condition and agreement herein imposed on or agreed to by Borrower; then this Agreement shall become null and void and the Bank in such case shall, upon the request of Borrower and at Borrower's cost and expense, deliver to Borrower proper instruments acknowledging termination of this Agreement; otherwise, this Agreement shall remain in full force and effect.

11. Notice and Addresses for Notices. All notices, requests, demands and other communications provided for hereunder shall be in writing and mailed or hand delivered to the applicable party at the following address:

If to Borrower:

If to the Bank:

With a copy to:

Gamble Holdings, LLC 2411 Pelham Parkway Pelham, Alabama 35124 Attention: Bryan Lee Gamble

Synovus Bank 800 Shades Creek Parkway Birmingham, Alabama 35209 Attention: Michael W. Crane

Michael J. Brandt Wallace, Jordan, Ratliff & Brandt, LLC 800 Shades Creek Parkway, Suite 400 Birmingham, Alabama 35209

or at such other address as shall be designated by such party in a written notice to the other party thereto. Any such notice shall be deemed received three (3) days after properly posting and addressing and depositing said letter in the United States Postal Service, certified mail return receipt requested.



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seal, this $\underline{9}^{\text{IN}}$ MITNESS WHEREOF, the undersigned has hereunto set its signature and day of April, 2021.

GAMBLE HOLDINGS, LLC, an Alabama limited liability company

By: <u>Bryan Lee Gamble</u> Its Member

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STATE OF ALABAMA) 20210416000189870 04/16/2021 09:24:43 AM AGREEMNT 6/8)) Shelb_1 county)

I, the undersigned, a Notary Public in and for said County and State, hereby certify that Bryan Lee Gamble, whose name as Member of Gamble Holdings, 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 company.



My commission expires: <u>SS 202</u>2



JEREMY MICHAEL PRESSLEY Notary Public Alabama State at Large My Commission Expires Mar 30, 2022

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LEGAL DESCRIPTION

Parcel I:

A parcel of land being part of Lot 20, 21 and 22, Block A Nickerson's Addition to Alabaster, as recorded in Map Book 3, Page 61 and 69, in the Probate of Office of Shelby County, Alabama, located in the municipality of Alabaster, lying in Section 1, Township 21 South, Range 3 West, and heing many particularly described on fellows.

and being more particularly described as follows:

Commence at the NW 1/4 of the SW 1/4 of Section 1, Township 21 South, Range 3 West; thence run West along the South line of said 1/4 -1/4 section for a distance of 421.56 feet (Deed 421.56'); thence to the right with a deflection angle of 15 deg. 51 min. (Deed 15 deg. 51 min.) and run Northwesterly for 62.80 feet to the Point of Beginning; thence to the left with a deflection angle of 15 deg. 37min. (Deed 15 deg. 37min.) and run West along the North right of way line of an unopened, unnamed street for 137.03 feet (Deed 137.03'); thence right with a deflection angle of 42 deg. 53 min. 21 sec. (Deed 42 deg. 00 min. 07 sec.) and leaving said northerly right --of way run Northeasterly for a distance of136.54 feet (Deed 138.80') to a point; thence right with a deflection of 89 deg. 09'20 sec. and run in a northeasterly direction a distance of 128.74 feet (Deed 131.43') to a point on the Southwesterly right of way line of U.S. Highway No. 31; thence right with a deflection of 91 deg. 22 min. 42 sec. and run Southeasterly along said right of way line of U.S. Highway No. 31 for a distance of 273.94 feet to a point of intersection with the Southwesterly right of way line of U.S. Highway No. 31 and the north right of way line of said unopened, unnamed street; thence right with a deflection to angle of 136 deg. 17 min. 52 sec. and leaving said U.S, Highway No. 31 and run in a westerly direction a distance of 48.11 feet to the point of Beginning.

Said parcel of land is the same property as described in Instrument # 20180409000118320 and Instrument # 20180409000118310

Parcel II:

Commence at the SE corner of the SE ¼ of the SW ¼ of Section 12, Township 20 South, Range 3 West, Shelby County, Alabama, and run thence northerly along the east line of said ¼ ¼ section 405.62 feet to the point of beginning of the property being described; thence continue along last described course 478.93 feet to a point; thence turn $2^{\circ}53'26''$ right and continue northerly along an existing chain link fence line a distance of 176.19 feet to a point; thence turn $68^{\circ}19'08''$ left and run northwesterly 351.43 feet to a point on the easterly right of way line of US Highway No. 31; thence turn $86^{\circ}58'04''$ left and run Southwesterly along said right of way line 129.95 feet to a point; thence turn $90^{\circ}00'08''$ left and run 149.97 feet to a point; thence turn $90^{\circ}04'34''$ right and run 199.83 feet to a point; thence turn $89^{\circ}15'31''$ right and run 149.71 feet to a point on the same said right of way line of Highway No. 31; thence turn $89^{\circ}55'57''$ left and run along said

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right of way line 70.00 feet to a point; thence turn 87°20'14" left and run Southeasterly 510.61 feet to a point; thence turn 67°55'17" left and run 37.21 feet to a point; thence turn 65°12'24" right and run southeasterly 123.92 feet to the point of beginning.

Parcel III:

That certain lot of land described as beginning at the NE corner of the SE ¼ of the SW ¼ of Section 12, Township 20 South, Range 3 West, and run thence West along the North line of said SE ¼ of the SW ¼ of said Section 12, for a distance of 266.87 feet to the East right of way line of United States Highway No. 31, as now surveyed and constructed; thence turn an angle of 63°44'5" to the left and run in a Southerly direction along the East right of way line of said United States Highway No. 31, as now located for a distance of 142.5 feet; thence turn an angle of 94° to the left and run for a distance of 351.4 feet; thence turn an angle of 111°40' to the left, and run for a distance of 261.98 feet, more or less, to the point of beginning of the land herein described and conveyed. Said parcel of land being a part of the SE ¼ of the SW ¼ of Section 12, Township 20 South, Range 3 West, and situated in Shelby County, Alabama.



Filed and Recorded Official Public Records Judge of Probate, Shelby County Alabama, County Clerk Shelby County, AL 04/16/2021 09:24:43 AM \$43.00 CHERRY 20210416000189870

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