

STATE OF ALABAMA
SHELBY COUNTY

**AMENDMENT
TO
MORTGAGE, ASSIGNMENT OF RENTS AND LEASES
AND SECURITY AGREEMENT**

THIS AMENDMENT amends that certain Mortgage, Assignment of Rents and Leases and Security Agreement (hereinafter "**Mortgage**") executed on August 5, 2021, by **CAPE GROUP, L.L.C.**, an Alabama limited liability company (hereinafter collectively the "**Mortgagor**") in favor of **SERVISFIRST BANK**, whose address is 2500 Woodcrest Place, Birmingham, Alabama 35209 (hereinafter, along with its successors in interest and/or assigns, collectively the "**Lender**").

WHEREAS, the Mortgage is recorded as Instrument No. 20210806000381970 in the Office of the Judge of Probate of Shelby County, Alabama, and pertains to the property described on **Exhibit "A"** attached hereto (the "**Mortgaged Property**"), and was given as security for indebtedness evidenced by that promissory note in the original principal amount of \$1,419,883.00, along with any renewals, extensions thereof.

WHEREAS, proceeds from the Note were used for the development of the Mortgaged Property and any improvements located thereon; and

WHEREAS, upon the recordation of the Mortgage a mortgage tax of \$2,187.85 was paid to the Office of the Judge of Probate of Shelby County, Alabama.

WHEREAS, Mortgagor has requested Lender to lend and/or make additional advances under the notes secured by the Mortgaged Property in the principal amount of \$221,639.00 for purposes of completing development of construction and improvements to the Mortgage Property in accordance with the provisions of the lender's commitment and paying customary closing costs associated therewith, and Lender is agreeable to making such changes, refinance and advances, provided Mortgagor, among other things enters into this Amendment, and cause this additional advance to be secured by the Mortgage.

NOTES TO CLERK: (1) THE MAXIMUM PRINCIPAL INDEBTEDNESS SECURED BY THE MORTGAGE IS HEREBY INCREASED BY AN AMOUNT EQUAL TO TWO HUNDRED TWENTY-ONE THOUSAND SIX HUNDRED THIRTY-NINE AND 00/100 DOLLARS (\$221,639.00); (2) THE MAXIMUM PRINCIPAL INDEBTEDNESS SECURED BY THE MORTGAGE, AS AMENDED HEREBY, IS ONE MILLION SIX HUNDRED FORTY-ONE THOUSAND FIVE HUNDRED TWENTY-TWO AND 00/100 DOLLARS (\$1,641,522.00); AND (3) THIS IS AN AMENDMENT TO THAT CERTAIN MORTGAGE RECORDED AS INSTRUMENT NO. 20210806000381970, IN THE OFFICE OF THE JUDGE OF PROBATE OF SHELBY COUNTY, ALABAMA.

NOW THEREFORE, in consideration of the terms and conditions contained herein, and to induce Lender to lend additional monies to Borrower, the Mortgage is hereby amended as follows:

1. **Modification of Principal Amount Secured.** Henceforth the Mortgage shall specifically secure not only the existing indebtedness of \$1,419,883.00 evidenced by that Note dated August 5, 2021, as modified, amended and renewed, but also an additional advance or loan of \$221,639.00 made in connection herewith to Borrower, and all the interest thereon. The term "Debt" as used in the Mortgage shall be defined to mean the indebtedness of \$1,641,522.00 including not only the existing indebtedness of \$1,419,883.00 evidenced by the Note dated August 5, 2021, as amended, modified and renewed, together with all interest thereon, and all extensions and renewals thereof, but also the \$221,639.00 advance or loan being made in connection herewith, along with all interest thereon, and all extensions, and renewals thereof.

2. **Amendments.** In addition hereto, Mortgagor further amends all of the documents and agreements executed in connection with the Mortgage, or pertaining to the Mortgage (the "Agreements") to the terms as herein cited:

(a) **Books and Records.** Lender and Mortgagor hereby agree to amend Section 34 of the Mortgage so that Mortgagor's obligations with respect to Books and Records shall be the same as required in the Loan Agreement delivered by Mortgagor to Lender on the same date hereof.

3. **Further Action.** Mortgagor ratifies and confirms the conveyance of the Mortgage and hereby agrees and directs Lender to take any action necessary to conform the Mortgage and the Agreements to the terms as herein cited and by these presents accepts and confirms their liability under said Mortgage and Agreements with the terms as herein modified.

4. **Continuing Validity.** All of the terms and provisions of the Mortgage not specifically amended herein, are hereby reaffirmed, ratified and restated. This Amendment amends the Mortgage and is not a novation thereof. The Mortgage shall continue in full force and effect until the Mortgagor shall have fully paid all indebtedness owed to Lender the same of which is secured hereby.


5. **Severability.** If any provision in this Amendment is determined to be unenforceable it shall not affect the validity of any other provision hereof or any provision in the Mortgage.

6. **Choice of Law.** This Amendment shall be governed in accordance with the laws of the State of Alabama.

IN WITNESS WHEREOF, we have hereunto set our hands and seals effective this 20th day of August, 2021.

MORTGAGOR:

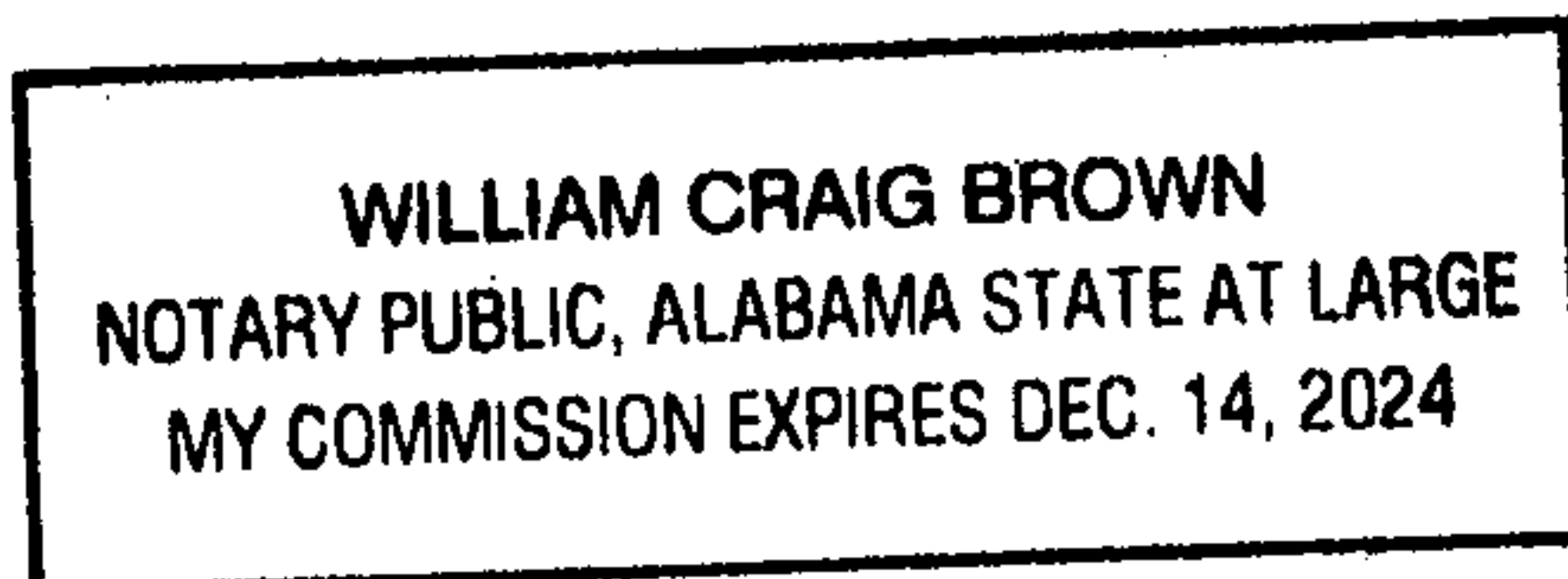
CAPE GROUP, L.L.C., an
Alabama limited liability company

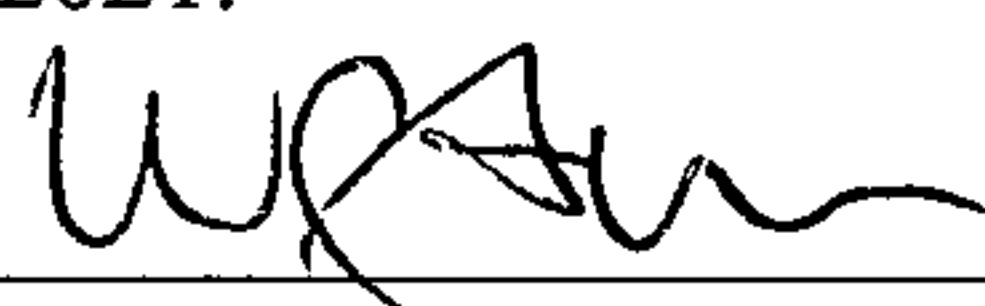
BY: 
Jeff Brewer (also known as Jeff T. Brewer and
Jeffrey T. Brewer)
Its Member

STATE OF ALABAMA
COUNTY OF JEFFERSON

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Jeff Brewer (also known as Jeff T. Brewer and Jeffrey T. Brewer), whose name as Member of CAPE GROUP, L.L.C., 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, as an act of said limited liability company, acting in his capacity as aforesaid.

Given under my hand and official seal, this the 20th day of August, 2021.




NOTARY PUBLIC
My Commission Expires: 12/14/2024

[LENDER'S SIGNATURE AND ACKNOWLEDGEMENT ON FOLLOWING PAGE]

[AMENDMENT TO MORTGAGE, ASSIGNMENT OF RENTS AND LEASES
AND SECURITY AGREEMENT.]

LENDER:

SERVISFIRST BANK

By: 

Lee McKinnon

Its Sr. Vice President

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Lee McKinnon, whose name as SVP of the SERVISFIRST BANK., an Alabama banking corporation, 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/she, as such officer, and with full authority, executed the same voluntarily, as an act of said corporation, acting in its capacity as aforesaid.

Given under my hand and official seal, this the 20th day of August, 2021.

WILLIAM CRAIG BROWN
NOTARY PUBLIC, ALABAMA STATE AT LARGE
MY COMMISSION EXPIRES DEC. 14, 2024


NOTARY PUBLIC

My Commission Expires: 12/14/2024

THIS INSTRUMENT PREPARED BY AND AFTER
RECORDATION SHOULD BE RETURNED TO:

William C. Brown
ENGEL, HAIRSTON & JOHANSON, P.C.
109 North 20th Street, Fourth Floor
P.O. Box 11405
Birmingham, Alabama 35202
(205) 328-4600

[D-9238]

Amendment to Mortgage

EXHIBIT "A"

Part of the NE 1/4 of Section 28, Township 19 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the at the NE corner of the NE 1/4 of the NE 1/4 of Section 28, Township 19 South, Range 2 West, Shelby County, Alabama; thence North 87 degrees 49 minutes 48 seconds West along the North line of said 1/4-1/4 section for a distance of 1,097.00 feet to a point; thence South 11 degrees 07 minutes 22 seconds East for a distance of 402.13 feet to a rebar capped K. B. Weygand; thence South 12 degrees 04 minutes 08 seconds East for a distance of 350.32 feet to a PK nail; thence continue Southerly along said line for a distance of 204.63 feet to a railroad spike, said point also being the POINT OF BEGINNING; thence South 68 degrees 59 minutes 04 seconds West, a distance of 303.69 feet to a rebar capped EDG; thence South 12 degrees 01 minutes 26 seconds East, a distance of 323.18 feet to a rebar capped K. B. Weygand on the Northwesternly right-of-way of Alabama Highway 119; thence North 68 degrees 59 minutes 56 seconds East, along the Northwesternly right-of-way of Alabama Highway 119 for a distance of 303.72 feet to a 1/2" rebar; thence North 12 degrees 01 minutes 54 seconds West, leaving said right-of-way, for a distance of 323.25 feet to the POINT OF BEGINNING.

SUBJECT TO:

1. Taxes and assessments for the year 2021, and subsequent years, constituting a lien but which is not yet due and payable.
2. Easements as referenced in Deed Book 190, Page 224 and in Deed Book 208, Page 622.
3. Right of Way granted to Alabama Power Company as set out in instrument(s) recorded in Deed Book 175, Page 294.
4. Right of Way as set forth in instrument recorded in Inst. #1994-6619.
5. Matters as shown on Survey prepared by Joseph Schifano, III dated May 1, 2014, including:
 - a) Encroachment by foundation along Westerly lot line;
 - b) Encroachment by well house along Westerly lot line;
 - c) Encroachment by barn along Northerly lot line;
 - d) Encroachment by and rights of others in and to that drive along Northerly lot line;
 - e) Encroachment by canopy along Southerly lot line.
6. Terms, conditions, restrictions and easements as set out in the settlement agreement recorded in Instrument # 20200306000089400.
7. Right of way granted to Alabama Power Company as set out in instrument(s) recorded in Instrument # 20200512000186350.
8. Lease agreement between Cape Group, LLC and Encore Franchises, LLC dated February 17, 2021 and recorded in Instrument # 20210528000262890.
9. Any coal, oil, gas, or other mineral and mining right not owned by Mortgagor.



Filed and Recorded
Official Public Records
Judge of Probate, Shelby County Alabama, County
Clerk
Shelby County, AL
08/24/2021 12:25:08 PM
\$366.55 CHERRY
20210824000412260

Allen S. Bayl

Amendment to Mortgage