

## MORTGAGEE NONDISTURBANCE AGREEMENT

THIS MORTGAGEE NONDISTURBANCE AGREEMENT (this “**Agreement**”), is made and entered into as of the 7<sup>th</sup> day of July, 2022, by and among FS CREIT ORIGINATOR LLC, a Delaware limited liability company (together with its successors and assigns, “**Lender**”), BROOK HIGHLAND SC LLC, BROOK HIGHLAND SC TIC 1 LLC, BROOK HIGHLAND SC TIC 2 LLC, BROOK HIGHLAND SC TIC 3 LLC, BROOK HIGHLAND SC TIC 4 LLC, BROOK HIGHLAND SC TIC 5 LLC, BROOK HIGHLAND SC TIC 8 LLC, BROOK HIGHLAND SC TIC 9 LLC, BROOK HIGHLAND SC TIC 10 LLC, each a Delaware limited liability company (jointly and severally “**Landlord**”), and LOWE’S HOME CENTERS, LLC, a North Carolina limited liability company formerly Lowe’s Home Centers, Inc. (“**Tenant**”) (collectively, Lender, Landlord and Tenant are the “**Parties**” and individually, a “**Party**”).

### WITNESSETH:

WHEREAS, Lender is the holder of a Promissory Note dated July 7, 2022 in the original principal amount of \$ 57,250,000.00, which is secured, inter alia, by a Mortgage and Security Agreement or Deed of Trust (the “**Indenture**”) and a Assignment of Leases and Rents (the “**Assignment**”) covering premises more particularly described in the Indenture;

WHEREAS, Landlord has demised to Tenant that certain real property, as more particularly set forth in **Exhibit A**, attached hereto and made a part hereof (the “**Demised Premises**”) by that certain Ground Lease dated August 9, 2002 (the “**Lease**”). A Memorandum of Ground Lease is recorded in the of Shelby County Judge of Probate, State of Alabama, as document number 20020809000378380; and

WHEREAS, pursuant to the Lease, Landlord and Tenant contemplated entering into this Agreement and Landlord acknowledges that the terms of the Lease constitute a material inducement to Lender’s approving, entering into and performing under this Agreement.

NOW, THEREFORE, in consideration of the foregoing, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Subordination of the Lease. Lender hereby consents to the Lease. The Lease shall be and is hereby made subject to and subordinate to the Indenture, and to all renewals, extensions and modifications of same provided, however, the terms and conditions of the Lease that provide for the application of Tenant’s proceeds of insurance from any casualty loss or award in any condemnation proceeding (or deed or agreement in lieu thereof) to the repair and restoration of the Demised Premises shall control as among all Parties to this Agreement and their successors. This subordination shall automatically terminate upon the termination of the Lease as a result of a rejection of the Lease in the Landlord’s bankruptcy. If, in the event of Landlord’s bankruptcy, the trustee or debtor-in-possession rejects the unexpired Lease, Lender shall recognize the proper exercise by Tenant of its rights under §365(h)(1) of the United States Bankruptcy Code, 11 U.S.C. §365(h)(1), and any successor or substitute statute. If Tenant elects to terminate the Lease under §365(h)(1)(A)(i), this Agreement shall automatically terminate. In the event Tenant elects to retain its rights under the Lease pursuant to §365(h)(1)(A)(ii), then this Agreement shall continue in full force and effect and the term “Lease” as used herein shall be deemed to include the legal rights



and obligations of Tenant under §365(h)(1)(A)(ii). Notwithstanding anything to the contrary in the foregoing, the offset of rent and exercise of its other rights by the Tenant pursuant to §365(h)(1)(B) shall not be deemed a default under the Lease.

2. Non-Disturbance. As long as the Lease shall be in full force and effect:

(a) Lender shall not, in the exercise of any right, remedy or privilege granted by the Indenture, or otherwise available to Lender at law or in equity, disturb Tenant's possession under the Lease and the Lease will not be affected or cut off thereby; nor shall any deed given in lieu of foreclosure or sale under the Indenture disturb Tenant's possession under the Lease and the Lease will not be affected or cut off thereby;

(b) Tenant shall not be named or joined as a party defendant in any foreclosure action or proceeding which may be instituted or taken by the Lender, unless Tenant is deemed under state law to be a necessary party to such action or proceeding, and then, in such event, Tenant shall be named or joined only to the extent so provided by such law to perfect the action and no default judgment or other judgment shall be taken or sought against Tenant in any nature whatsoever; and

(c) any sale or transfer of title to the Demised Premises or any part thereof pursuant to the exercise of any rights or remedies under the Indenture or otherwise, shall be made subject to the Lease and the rights of Tenant thereunder.

3. Attornment. Tenant shall attorn to any person or entity that acquires the Demised Premises pursuant to foreclosure of the Indenture or execution upon a judgment on the Promissory Note, or to any grantee or transferee designated in any deed given by Landlord in lieu of such foreclosure. Upon any attornment under this Section 3 successor landlord and Tenant shall have the same rights on a prospective basis that can be enforced against each other as Landlord and Tenant have under the Lease, but successor landlord shall not (a) be liable for the performance of any cure for prior Landlord defaults, except if such defaults are non-monetary and accrue or continue to accrue after attornment, in which event, the successor landlord shall be bound to cure same within the time provided in the Lease, which time shall be calculated from the date of the attornment, (b) be bound by any prior material modification of the Lease not consented to by Lender or by any prior prepayment of rent for a period greater than thirty (30) days (except for such payments of additional rent which have been paid in advance as required by the Lease such as real estate taxes), (c) have any obligation with respect to any security deposited under the Lease unless such security has been physically delivered to Lender or (d) in any way liable for any consequential damages accruing to Tenant as a result of any default by Landlord in the performance and observance of any of the terms, covenants and conditions of the Lease on Landlord's part to be performed or observed prior to attornment. Notwithstanding any other provision in this Agreement to the contrary, Tenant shall have (i) the right to set off against the rental due Landlord under the Lease, in accordance with the Lease and (ii) the right to set off against the rental due a successor landlord subject to and in accordance with the Lease and subject to the provisions of this Agreement.

As of May 24, 2022, Tenant, to its knowledge, does not have any claim against Landlord or its predecessor in interest, if any, under the Lease.



4. Completion of Construction. Any provision of this Agreement to the contrary notwithstanding, the Lender shall have no obligation, or incur any liability, with respect to the construction of any building on or improvements to the Demised Premises or any improvements for Tenant's use and occupancy, which are required to be performed by Landlord pursuant to the Lease; provided that, in such event, Tenant shall have all rights and remedies available to Tenant, pursuant to the Lease, at law, in equity, or otherwise with respect to such failure to complete construction, including, without limitation the right to terminate the Lease or to itself complete (or cause the completion of) such construction and to offset all of its costs of so doing against the rent payable under the Lease as provided in the Lease.

5. Damage or Destruction; Taxes. Lender agrees that if the Demised Premises or any part thereof is (a) damaged or destroyed by fire or other casualty, then all insurance proceeds shall be payable to Tenant to be used as provided in, and in accordance with the Lease, or (b) taken by the exercise of any right of eminent domain or any condemnation or action in lieu thereof, then (1) the condemnation award shall be made available for the purposes of repair or restoration as provided in, and in accordance with, the Lease, and (2) all amounts paid to Lender, if any, in escrow, or otherwise, on account of real estate taxes upon the Demised Premises shall be received and held by the Lender in trust and shall be applied to the payment of real estate taxes, notwithstanding any default by Landlord under the terms of the Indenture, or otherwise.

6. Rents. Landlord and Tenant jointly and severally acknowledge that the Indenture or the Assignment provide for the direct payment to Lender of all rents and other monies due and to become due to Landlord under the Lease upon the occurrence of certain conditions as set forth in the Indenture or the Assignment without Lender's taking possession of the Demised Premises or otherwise assuming Landlord's interest or any of Landlord's obligations under the Lease. Upon Tenant's receipt from Lender of written notice to pay all such rents and other monies to or at the direction of Lender, Landlord authorizes and directs Tenant thereafter to make all such payments to or at the direction of Lender, releases Tenant of any and all liability to Landlord for any and all payments so made, and shall defend, indemnify and hold Tenant harmless from and against any and all claims, demands, losses, or liabilities asserted by, through or under Landlord for any and all payments so made. Upon receipt of such notice and subject to any and all rights of Tenant under the Lease or at law or in equity, including, but not limited to the right to offset or withhold rent under the Lease, Tenant thereafter shall pay all monies then due and becoming due from Tenant under the Lease to or at the direction of Lender. Tenant agrees that neither Lender's demanding or receiving any such payments, nor Lender's exercising any other right, remedy, privilege, power or immunity granted by the Indenture or the Assignment, will operate to impose any liability upon Lender for performance of any obligation of Landlord under the Lease unless and until Lender elects otherwise in writing or acquires the Demised Premises through foreclosure of the Indenture or by deed from Landlord in lieu of foreclosure. Such payments shall continue until Lender directs Tenant otherwise in writing. Landlord further agrees that Tenant shall have the absolute right, following demand by Lender to pay rent and other sums to Lender, and rely upon the genuineness and accuracy of any such demand received from Lender and that Tenant shall incur absolutely no liability to Landlord in so doing. Notwithstanding the payment by Tenant of rent to Lender following such demand, Landlord shall remain liable to perform and observe all of the obligations on Landlord's part to be performed and observed under the Lease.



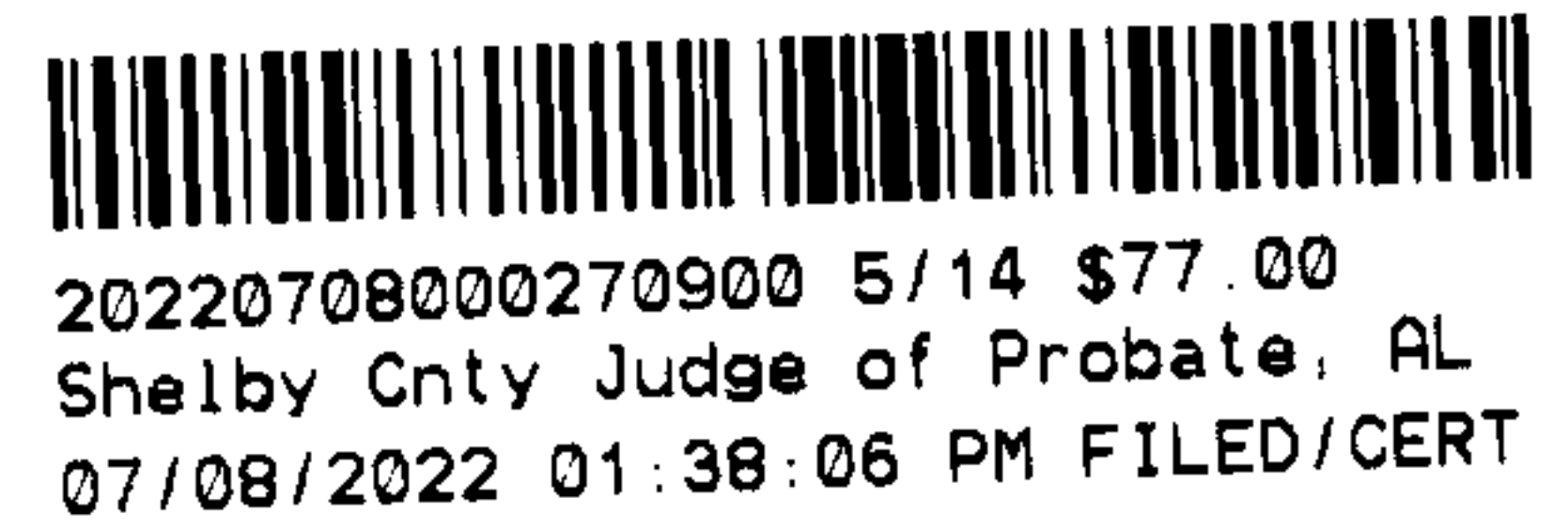
7. Cure. At the time Tenant notifies Landlord of any default by Landlord, which, if not cured, would entitle Tenant to terminate the Lease or to an abatement of rent or to offset or withhold rent, Tenant shall give Lender a copy of such notice as a condition precedent to terminating the Lease or offsetting rent (provided, however, that Tenant shall not be liable in any way to Lender for money damages or otherwise for failure to send to Lender a copy of any such notice), and Lender's right to cure the specified default shall be the later of twenty (20) business days after Lender's receipt of such notice, or five (5) business days more than Landlord has to cure, whichever is longer; provided, however, that if the act, omission or other default cannot with due diligence be remedied within such period, the Lender shall have a reasonable time within which to remedy same provided the Lender commences to remedy same within such time period and diligently and continuously pursue the remedy thereof. Lender has the right to cure any such default but is not obligated to specifically perform any such cure, in which case Tenant shall have all of its remedies available.

8. Amendment. Landlord and Tenant, jointly and severally agree that they will not amend or modify the Lease in any material respect, or waive the benefit of any of its material provisions, or in any way terminate or surrender the Lease except as expressly provided in the Lease, or this Agreement, or both, without Lender's prior written approval, which will not be unreasonably withheld, delayed or conditioned so long as such proposed action of Landlord and Tenant will not adversely affect the security intended to be provided by the Indenture and the Assignment. All amendments, modifications, substitutions, renewals, extensions, and replacements of the Lease shall be and remain subordinated as provided in Section 1 and in accordance with the other terms and conditions of this Agreement, without the necessity of any further act of the Parties.

9. Tenant's Property. Neither the Indenture nor any other instrument executed in connection therewith shall cover or be construed as subjecting in any manner to the lien thereof, any trade fixtures, signs or other personal property at any time furnished or installed by Tenant or its subtenants or licensees in, on or within the Demised Premises regardless of the manner or mode of attachment thereof ("**Tenant's Property**"). Although the provisions of this Section 9 shall be self-operative without any further action by lender or Tenant, Lender agrees that if any lender to which Tenant shall grant a security interest in Tenant's Property or any lessor who shall lease Tenant's Property to Tenant shall request that Lender confirm that it has waived any lien which Lender may have thereupon pursuant to the Indenture, by operation of law or otherwise, Lender shall promptly execute and deliver to Tenant an instrument so requested of it in form reasonably satisfactory to such lender or lessor and to Lender and Tenant.

10. Estoppel Letters. As often as reasonably requested by Lender, but in no event more than twice in any twelve (12) month period, Landlord and Tenant shall severally execute and deliver to or at the direction of Lender, and without charge to Lender, one (1) or more written estoppel certificates as provided in the Lease, and as to Tenant's occupancy of the Demised Premises, whether Tenant has exercised any renewal options and a confirmation that the Lease is and remains subordinated as provided in this Agreement.

11. Notices. All notices, demands and other communications that must or may be given or made in connection with this Agreement must be in writing and delivered personally, by



reputable overnight courier which provides for receipted delivery (*e.g.* Federal Express, DHL, UPS), or sent by certified mail, postage prepaid, to the following addresses:

To Lender: FS CREIT ORIGINATOR LLC, a Delaware limited liability company  
c/o Rialto Capital Management, LLC  
600 Madison Avenue, 12th Floor  
New York, New York 10022  
Attention: Philip J. Orban, Managing Director

with a copy to: FS Credit CREIT Originator LLC  
c/o Rialto Capital Management, LLC  
200 South Biscayne, Suite 3550  
Miami, Florida 33131  
Attention: Sorana Georgescu, In-House Counsel

With a copy to: POLSINELLI  
900 W. 48th Place, Suite 900  
Kansas City, Missouri 64112  
Attention: Marla R. Bell, Esq. and Jesse M. Nichols, Esq.

To Landlord: Brook Highland SC LLC,  
Brook Highland SC TIC 1 LLC,  
Brook Highland SC TIC 2 LLC,  
Brook Highland SC TIC 3 LLC,  
Brook Highland SC TIC 4 LLC,  
Brook Highland SC TIC 5 LLC,  
Brook Highland SC TIC 8 LLC,  
Brook Highland SC TIC 9 LLC,  
Brook Highland SC TIC 10 LLC  
151 Bodman Place, Suite 201  
Red Bank, NJ 07001  
Attention: General Counsel

To Tenant: Lowe's Home Centers, LLC  
1000 Lowe's Boulevard  
 Mooresville, NC 28117  
Attention: Property Management Dept. (PMT-62)

with a copy to: Lowe's Companies, Inc.  
1000 Lowe's Boulevard  
 Mooresville, NC 28117  
Attention: Legal Department-Real Estate (LGL)



Any notice given hereunder by personal delivery or overnight courier shall be deemed delivered when received or when receipt is refused as evidenced by the records of the delivery or courier service. Any properly addressed notice given herein by certified mail shall be deemed delivered when the return receipt thereof is signed, except that any notice which is (according to the terms of this Section 10) correctly addressed, but which is returned by the postal service as undeliverable shall be deemed to have been received on the earliest date on which the postal service attempted delivery as indicated by postal service endorsement on the return receipt form. Any Party, by notice to the other, may designate another or different address to which notices for the designating Party shall be sent, but such notice shall only be deemed given upon receipt and shall be effective fifteen (15) business days after receipt. Landlord and Tenant jointly and severally agree that they will furnish Lender with copies of all notices required by the Lease.

12. Successors and Assigns. This Agreement shall bind and inure to the benefit of Landlord, Tenant and Lender, their legal representatives, successors and assigns.

13. Governing Law. This Agreement and all questions of interpretation hereof, and all controversies hereunder, shall be construed in accordance with the laws of the state where the Demised Premises are located.

14. Amendment. This Agreement may not be changed, amended or modified in any manner other than by an agreement in writing specifically referring to this Agreement and executed by Lender, Tenant and Landlord.

15. Severability. If any provision of this Agreement shall be held by any court of competent jurisdiction to be unlawful, void or unenforceable for any reason as to any person or circumstance, such provision or provisions shall be deemed severable from and shall in no way affect the enforceability and validity of the remaining provisions of this Agreement.

16. Further Assurances. Lender, Landlord and Tenant from time to time shall execute and deliver all instruments that may be necessary or appropriate to evidence their agreements hereunder.

17. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all such counterparts shall constitute one and the same instrument.

**[BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK  
SIGNATURES ARE ON THE FOLLOWING PAGE]**



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Shelby Cnty Judge of Probate, AL  
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IN WITNESS WHEREOF, Lender and Tenant have duly executed this Agreement as of the date first above written.

**LENDER:**

**FS CREIT ORIGINATOR LLC,**  
a Delaware limited liability company

By: 

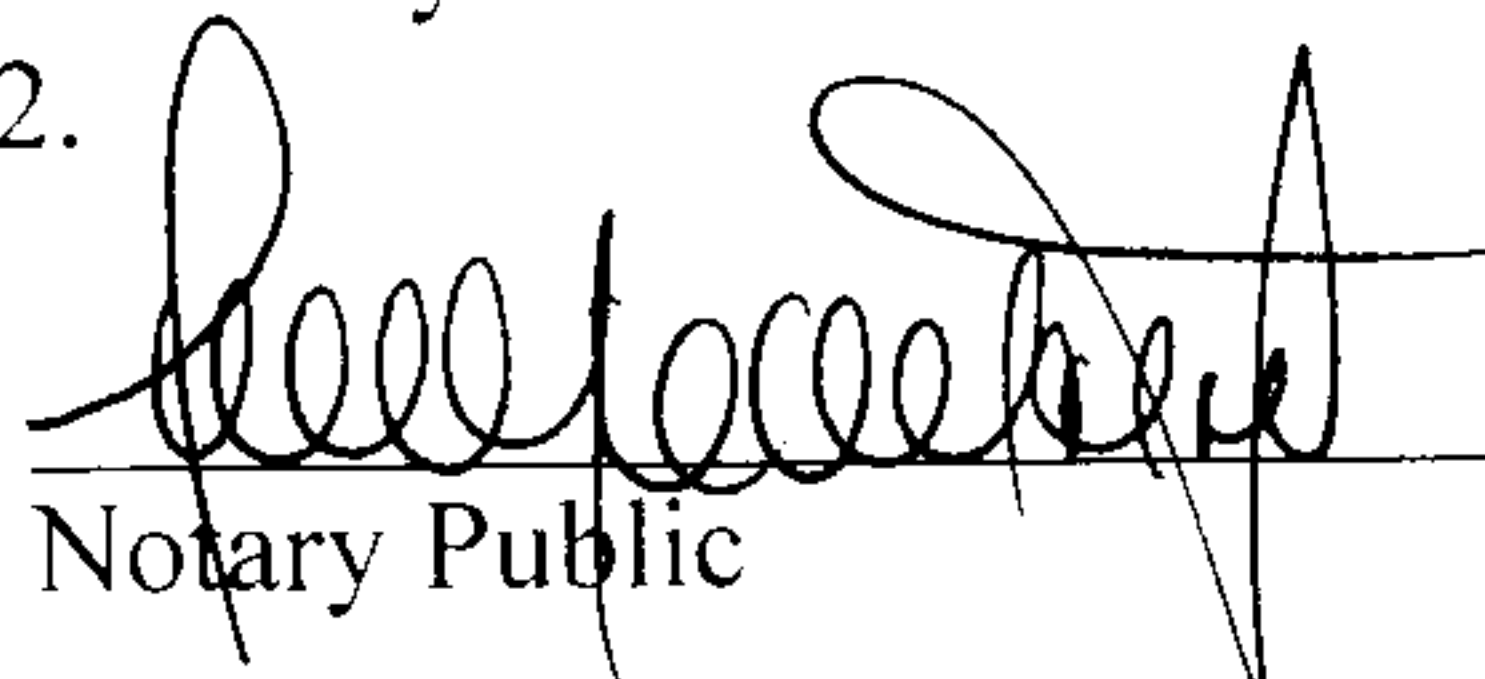
Name: Sorana Georgescu

Title: Authorized Signatory

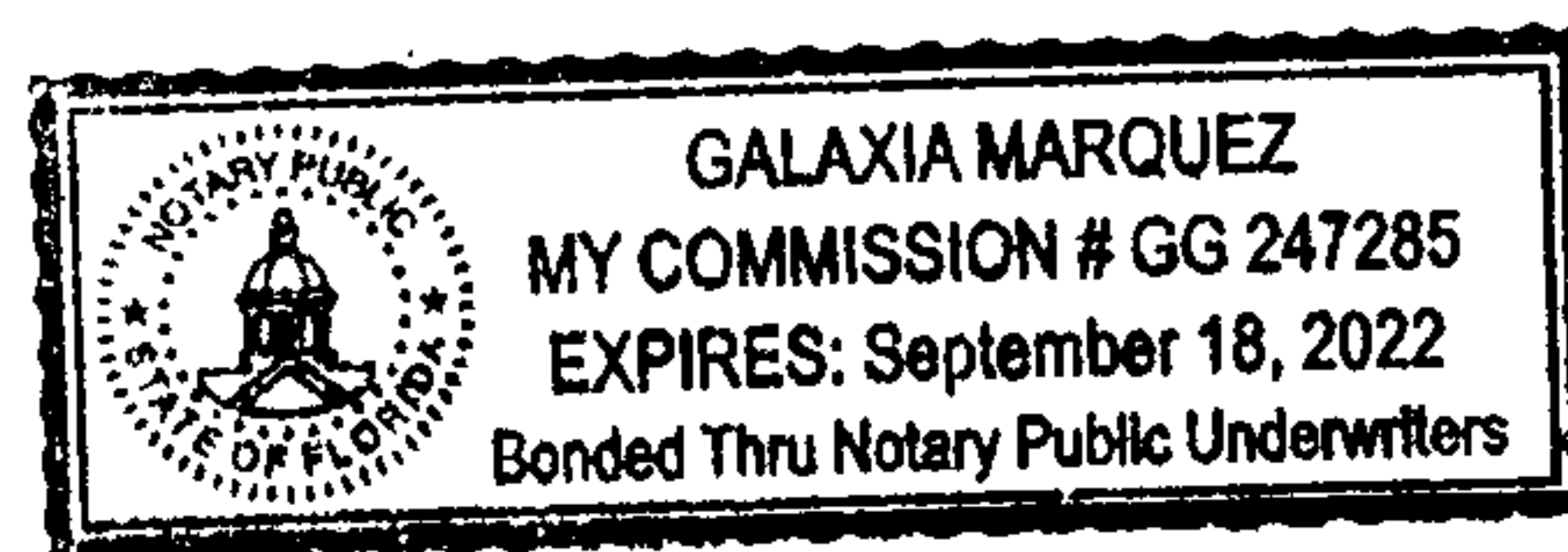
STATE OF Florida )

COUNTY OF Miami-Dade )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Sorana Georgescu, whose name as Authorized Signatory of FS Creit Originator LLC, a Delaware 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 officer and with full authority, executed the same voluntarily for and as the act of said limited liability company on the day the same bears date. Given under my hand and official seal this 22nd day of June, 2022.

  
Notary Public

My Commission Expires: \_\_\_\_\_




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The undersigned accepts and agrees to  
the provisions of Section 4 hereof:

LANDLORD:


**BROOK HIGHLAND SC LLC,**  
a Delaware limited liability company

By: FNRP Realty Advisors LLC,  
a Delaware limited liability company  
its Manager

By:   
Name: Andrew DeNardo  
Title: Authorized Signatory

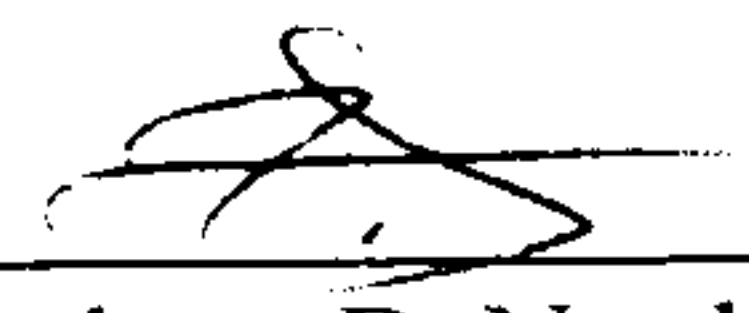
**BROOK HIGHLAND SC TIC 1 LLC,**  
a Delaware limited liability company

By: FNRP TIC Manager LLC,  
a Delaware limited liability company  
its Manager

By:   
Name: Andrew DeNardo  
Title: Authorized Signatory

**BROOK HIGHLAND SC TIC 2 LLC,**  
a Delaware limited liability company

By: FNRP TIC Manager LLC,  
a Delaware limited liability company  
its Manager

By:   
Name: Andrew DeNardo  
Title: Authorized Signatory





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**BROOK HIGHLAND SC TIC 3 LLC,**  
a Delaware limited liability company

By: FNRP TIC Manager LLC,  
a Delaware limited liability company  
its Manager

By:   
Name: Andrew DeNardo  
Title: Authorized Signatory

**BROOK HIGHLAND SC TIC 4 LLC,**  
a Delaware limited liability company

By: FNRP TIC Manager LLC,  
a Delaware limited liability company  
its Manager

By:   
Name: Andrew DeNardo  
Title: Authorized Signatory

**BROOK HIGHLAND SC TIC 5 LLC,**  
a Delaware limited liability company


By: FNRP TIC Manager LLC,  
a Delaware limited liability company  
its Manager

By:   
Name: Andrew DeNardo  
Title: Authorized Signatory

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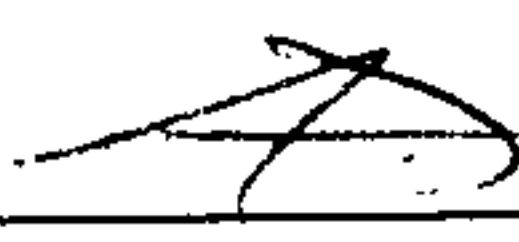
**BROOK HIGHLAND SC TIC 8 LLC,**  
a Delaware limited liability company

By: FNRP TIC Manager LLC,  
a Delaware limited liability company  
its Manager

By:   
Name: Andrew DeNardo  
Title: Authorized Signatory


**BROOK HIGHLAND SC TIC 9 LLC,**  
a Delaware limited liability company

By: FNRP TIC Manager LLC,  
a Delaware limited liability company  
its Manager

By:   
Name: Andrew DeNardo  
Title: Authorized Signatory

**BROOK HIGHLAND SC TIC 10 LLC,**  
a Delaware limited liability company

By: FNRP TIC Manager LLC,  
a Delaware limited liability company  
its Manager

By:   
Name: Andrew DeNardo  
Title: Authorized Signatory



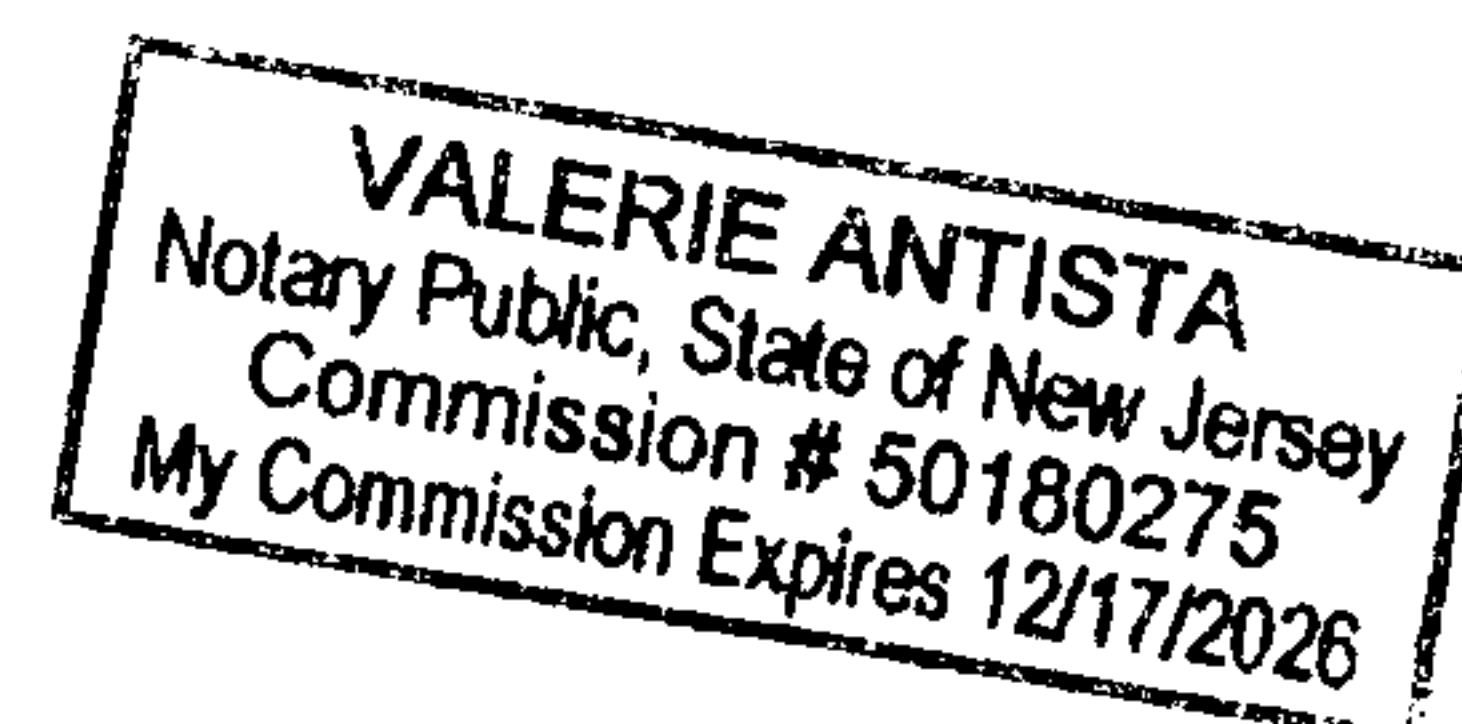
STATE OF New Jersey )  
COUNTY OF Morris )

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I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Andrew DeNardo, whose name as Authorized Signatory of FNRP Realty Advisors LLC, a Delaware limited liability company, the Manager of Brook Highland SC LLC, and as Authorized Signatory of FNRP TIC Manager LLC, a Delaware limited liability company, the Manager of each of Brook Highland SC TIC 1 LLC, Brook Highland SC TIC 2 LLC, Brook Highland SC TIC 3 LLC, Brook Highland SC TIC 4 LLC, Brook Highland SC TIC 5 LLC, Brook Highland SC TIC 8 LLC, Brook Highland SC TIC 9 LLC, and Brook Highland SC TIC 10 LLC, each a Delaware 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 officer and with full authority, executed the same voluntarily for and as the act of said limited liability company on the day the same bears date. Given under my hand and official seal this 14<sup>th</sup> day of June, 2022.

Valerie Antista  
Notary Public

My Commission Expires: 12/17/26




PREPARED BY AND UPON  
RECORDATION RETURN TO:

POLSINELLI  
900 W. 48<sup>th</sup> Place, Suite 900  
Kansas City, Missouri 64112  
Attention: Marla R. Bell, Esq.

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**TENANT**

**LOWE'S HOME CENTERS, LLC**  
a North Carolina limited liability company

By:   
Name: Richard Goodman  
Title: Vice President

AN  
AN

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MW

MWK  
MWK

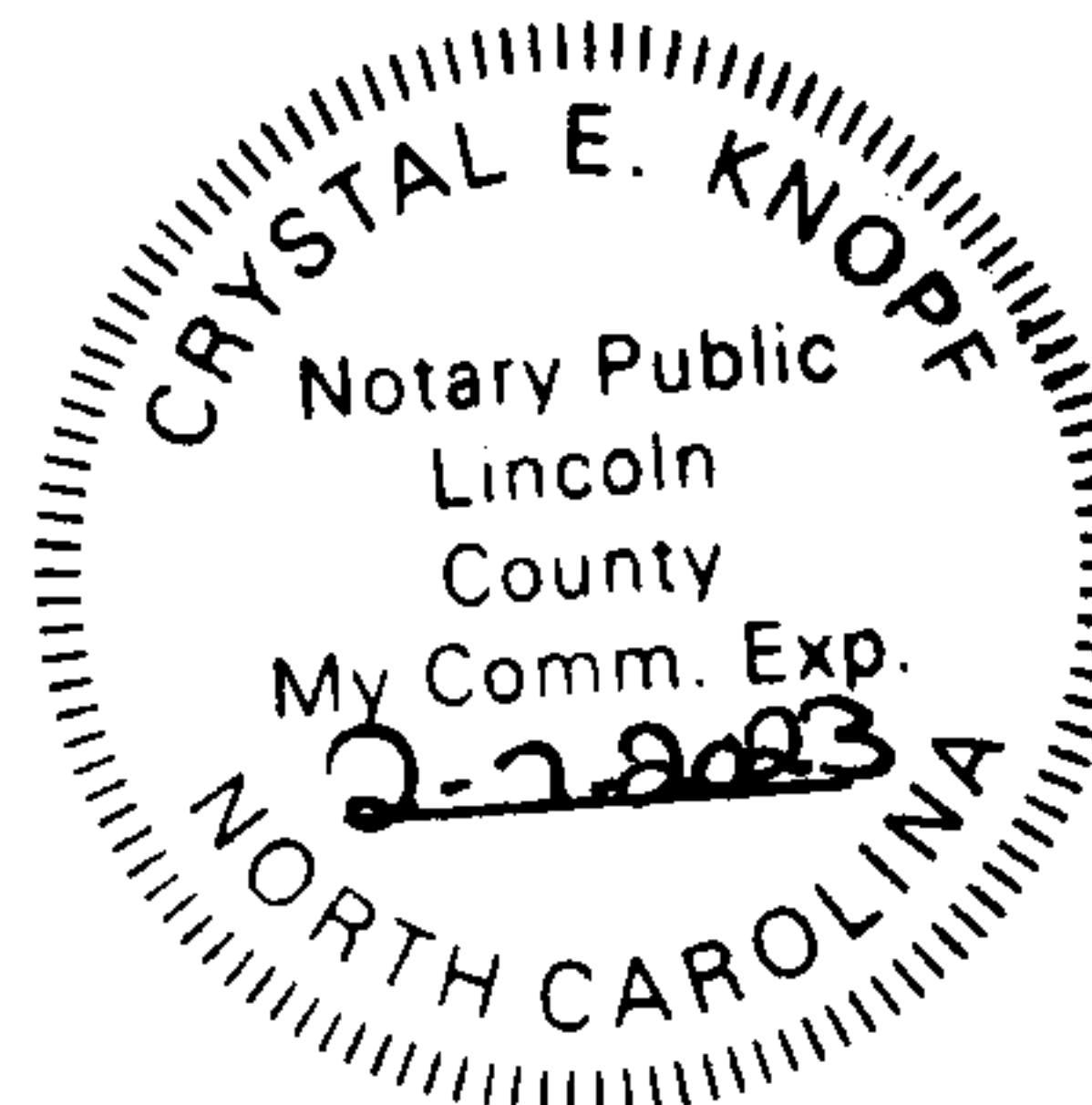
STATE OF NORTH CAROLINA )  
COUNTY OF IREDELL ) ss.:

ON THIS the 27 day of June, 2022, before me the undersigned officer, personally appeared Richard Goodman who acknowledged himself to be the Vice President of Lowe's Home Centers, LLC and that he/she as such officer being duly authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the company himself as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

My commission expires: 2-7-2023

  
Notary Public





**EXHIBIT A**

**Legal Description of the Demised Premises**

Parcel I

Lot 2 A according to the Map of Lowe s Addition to Brook Highland Plaza as recorded in Map Book 30 page 11, in the office of the Judge of Probate Office of Shelby County, Alabama

Said parcel being more particularly described as follows \

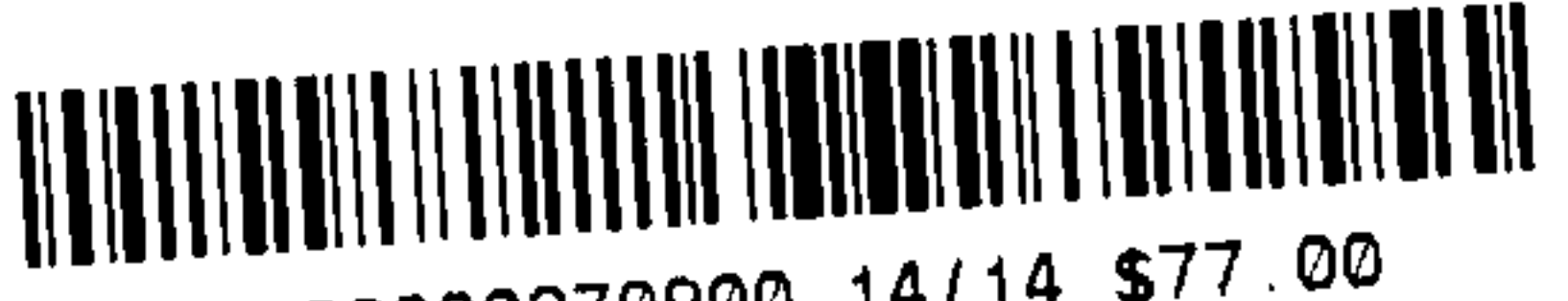
Parts of Lot 1 and Lot 2 Brook Highland Plaza Resurvey Map Book 18 Page 99 as recorded in the Probate Office of Shelby County, Alabama and particularly described as follows

Begin at the Southeast corner of said Lot 2 and run in a northwesterly direction along the east boundary line of said Lot and the west nght of way line of Shelby County Highway 495 for a distance of 621 02 feet thence turn an intenor angle of 90 degrees 06 minutes 26 seconds to the right and run in a southwesterly direction for a distance 471 63 feet, thence turn an interior angle of 166 degrees 31 minutes 24 seconds to the nght and run in a southwesterly direction for a distance of 28 54 feet thence turn an intenor angle of 193 degrees 28 minutes 36 seconds to the nght and run in a southwesterly direction for a distance of 210 00 feet thence turn an interior angle of 90 degrees 00 minutes 00 seconds to the right and run in a southeasterly direction for a distance of 46 00 feet thence turn an interior angle of 270 degrees 00 minutes 00 seconds to the right and run in a southwesterly direction for a distance of 184 32 feet, thence turn an interior angle of 90 degrees 00 minutes 00 seconds to the right t and run in a southeasterly direction for a distance of 340 80 feet, thence turn an in interior angle of 270 degrees 00 minutes 00 seconds to the right and run in a southwesterly direction for a distance of 51 74 feet to a point on a curve to the right with a radius of 314 45 feet, a central angle of 20 degrees 15 minutes 22 seconds and a chord length of 110 59 feet thence turn an interior angle to chord of said curve 74 degrees 14 minutes 15 seconds to the right and run along the arc of said curve in a southeasterly direction for a distance of 111 17 feet thence continue in a southeasterly direction along the tangent extended from said curve for a distance of 204 03 feet thence turn an interior angle of 51 degrees 17 minutes 18 seconds to the right and run in a northeasterly direction for a distance of 31 72 feet thence turn an interior angle of 224 degrees 36 minutes 27 seconds to the right and run in a northeasterly direction for a distance of 566 01 feet, thence turn an interior angle of 89 degrees 59 minutes 13 seconds to the right and run in a northwesterly direction for a distance of 63 64 feet thence turn an interior angle of 270 degrees 00 minutes 00 seconds to the right and run in a northeasterly direction for a distance of 307 56 feet to the Point of Beginning Said lot containing 585 903 square feet or 13 450 acres more or less

Parcel II

Together with the non exclusive easements and rights of ingress and egress parking utility and other purposes pursuant to that certain Declaration of Easements and Restrictive Covenants as recorded in Real Volume 307, page 985 and that certain Easement Agreement recorded under Instrument 1994 37773 re-executed under Instrument Number 1995 27233

ALSO

  
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Together with beneficial rights and interests as created by the Covenants, Conditions and  
Restrictions by and between Developers Diversified of Alabama Inc and Lowe's Home Centers  
Inc recorded or intended to be recorded on the date of the Ground Lease