

20221110000420660
11/10/2022 02:22:48 PM
SUBAGREM 1/7

THIS INSTRUMENT PREPARED BY:

Scott S. Frederick
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
420 20th Street North
Suite 1400
Birmingham, AL 35203

Mortgage in the amount of \$1,328,000.00 was
recorded in Instrument #20221021000397770 at
which time mortgage tax was paid.

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Statewide Title Services, Inc.
1 Perimeter Park South
Suite 440S
Birmingham, AL 35243

Space above this line for recorder's use

**SUBORDINATION, NONDISTURBANCE
AND ATTORNMENT AGREEMENT**

THIS AGREEMENT is made this 20th day of October, 2022, by and between
COMMERCEONE BANK, an Alabama banking corporation (hereinafter referred to as the
"Lender"), and SYNOVUS FINANCIAL CORP., a Georgia corporation (hereinafter referred to
as "Tenant").

WITNESSETH:

WHEREAS, Tenant is the lessee under a certain lease dated October 22, 1990, as amended,
modified and/or supplemented by that certain Notice of Option to Renew dated January 27, 2015,
Notice of Change of Ownership dated August 15, 2014, First Amendment to Lease dated October
4, 2010, and Second Amendment to Lease dated April 10, 2019 (collectively, the "Lease")
covering a portion of certain real property known as Inverness Corners Shopping Center located
at 102 Inverness Corners, Birmingham, Shelby County, Alabama, 35242 as said premises are
described in Exhibit A attached hereto ("Premises"), which Premises are owned by
VALLEYDALE CORNER CGP, LLC, a Delaware limited liability company ("Landlord"), the
Landlord under the Lease; and

WHEREAS, Lender has made a certain loan (the "Loan") to Landlord, which Loan is secured by a mortgage or similar security instrument (as amended, modified, restated, extended or renewed from time to time, the "Mortgage") executed by the Landlord for the benefit of Lender and recorded in the Probate Court Land Records office of Shelby County, Alabama, encumbering the Premises, and an assignment of rents and leases or similar security instrument (as amended, modified, restated, extended or renewed from time to time, the "Assignment") executed by the Landlord for the benefit of Lender and recorded in the Probate Court Land Records office of Shelby County, Alabama, assigning to Lender all of the right, title and interest of Landlord in and to all leases of the Premises, including the Lease, and all rents, revenues, income, payments, issues and profits arising from the leases or out of the Premises; and WHEREAS, it is a condition precedent to Lender making the Loan that the Mortgage shall be, and remain, a lien or charge upon the Premises hereinbefore described, prior and superior to the Lease, and the leasehold estate created thereby; and

WHEREAS, Tenant desires to facilitate the making of the Loan by Lender to Landlord.

NOW, THEREFORE, in consideration of the foregoing, the mutual promises and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lender and Tenant agree as follows:

1. Subordination. The Mortgage and Assignment and any renewals or extensions thereof, shall be and remain at all times a lien or charge on the Premises prior and superior to the Lease, the leasehold estate created thereby and to any options to lease or to purchase the Premises contained therein, and to all rights, privileges, and conditions therein contained. Tenant declares and acknowledges that it hereby intentionally waives, relinquishes, and subordinates the priority and superiority of the leasehold estate created by the Lease to the Mortgage and Assignment. All amendments, modifications, substitutions, renewals, extensions and replacements of the Lease shall be and remain so subordinated as provided in this paragraph without the necessity of any further act of the parties. Tenant also declares and acknowledges that it understands that in reliance upon and in consideration of this waiver, relinquishment, and subordination, a specific loan secured by the Mortgage and Assignment will be made, and monetary and other obligations will be entered into by third parties which would not be made or entered into but for said reliance upon this waiver, relinquishment and subordination.

2. Non-Disturbance. Lender shall not, in the exercise of any right, remedy or privilege granted by the Mortgage or the Assignment, or otherwise available to Lender at law or in equity, disturb Tenant's possession under the Lease or interfere with any of the rights of Tenant under the Lease so long as Tenant is not in default under any provision of the Lease. Nothing contained in this Paragraph 2, however, shall be construed to limit or prevent Lender in or from exercising any of its rights hereunder, at law, or in equity in connection with any breach by Tenant of its obligations under the provisions of this Agreement.

3. Attornment.

(a) Tenant shall, upon written notice from Lender or Landlord, attorn (i) to Lender, (ii) to any receiver or similar official for the Premises appointed at the instance, upon the request or with the consent of Lender, (iii) to Lender upon any acquisition by Lender of the Premises and Landlord's interest in the Lease and (iv) to any person or entity who acquires the Premises and the Landlord's interest in the Lease pursuant to Lender's exercise of any right, remedy, or privilege granted by the Mortgage or the Assignment, or otherwise available at law or in equity. Without

limiting the generality of the foregoing, Tenant shall attorn to any person or entity that acquires the Premises pursuant to foreclosure under the Mortgage, or by any proceeding or voluntary conveyance in lieu of such foreclosure, or from Lender, whether by sale, exchange, or otherwise.

(b) Upon any attornment under this Paragraph 3, the Lease shall continue in full force and effect as a direct lease between Tenant and the person or entity to whom Tenant attorns, in accordance with the foregoing subparagraph (a) and any such person or entity to whom Tenant attorns shall not be: (i) liable for any breach, act or omission of any prior landlord; (ii) subject to any claims or to any defenses which Tenant might have against any prior landlord; (iii) bound by any rent, additional rent or other payment in lieu of rent which Tenant might have paid to any prior landlord more than one (1) month in advance of its due date under the Lease; (iv) bound by any amendment or modification of the Lease, made without Lender's prior written consent; (v) bound by any election or exercise of any option to purchase by Tenant unless (A) Tenant delivers to the Lender written notice thereof and (B) the sales proceeds of such purchase would be sufficient to pay in full all sums then due and outstanding on the Loan; (vi) bound by any notice of default given by Tenant to Landlord, whether or not such notice is given pursuant to the terms of the Lease, unless a copy thereof was then also given to Lender.

(c) Lender and any other person or entity to whom Tenant attorns shall be liable to Tenant under the Lease only to the extent provided therein and only for liabilities which occur during such person's or entity's period of ownership of the Premises.

4. Rents. The Assignment provides for the direct payment to Lender of all rents and other monies due and to become due to Landlord under the Lease (collectively, "Rents"), upon the occurrence of certain conditions as set forth in the Assignment, without Lender's taking possession of the Premises or otherwise assuming Landlord's obligations under the Lease. Upon receipt from Lender of written notice to pay Rents to or at the direction of Lender, Tenant shall make all such payments to or at the direction of Lender. Upon receipt of such notice, Tenant thereafter shall pay all Rents then due and becoming due from Tenant under the Lease, to or at the direction of Lender. Tenant agrees that Lender's demanding and/or receiving any such payments shall not operate to impose any liability upon Lender for performance of any obligation of Landlord under the Lease. Such payment of Rents to Lender shall continue until Lender directs Tenant otherwise in writing, or until Tenant receives (i) a court order directing Tenant to pay Rents to another person or entity, or (ii) notice that the Premises have been sold to a person or entity other than Lender. The provisions of this Paragraph 4 will terminate upon the earliest to occur of (a) termination of the Lease, (b) the recording of a release of the Assignment, duly executed by Lender, or (c) Tenant's receipt of written notice to such effect from Lender.

5. Waste; Damage to Premises. Tenant agrees that, notwithstanding any provision of the Lease to the contrary, Lender shall in no event be liable for any waste permitted on the Premises by the Landlord or any tenant or be liable by reason of any damage to or defective condition of the Premises resulting in loss or injury to Tenant nor be liable for any other default, act or omission of the Landlord arising or accruing prior to the date when the Lender acquires title to the Premises, nor shall the Lender be subjected to any claim, or cause of action, or to any set off or credit or defense against rentals accruing after the Lender acquires such title, for any default, act or omission by the Landlord which arose or accrued prior to the date when the Lender acquired title.

6. Insurance Proceeds. Tenant agrees that, notwithstanding any provision of the Lease to the contrary, the terms of the Lease shall govern with respect to the disposition of any insurance

proceeds or eminent domain awards. This section shall be effective so long as Lender or any future holder of the Mortgage shall have an interest in the Project, whether as lender or owner.

7. Integrated Agreement. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties or their successors and permitted assigns.

8. Notices. Any and all notices required or permitted to be given or served by the terms and provisions of this Agreement shall be in writing and signed by the duly authorized representative of the party giving the notice and shall be deemed duly given when (1) sent certified or registered mail, postage prepaid, return receipt requested, (2) delivered in person, or (3) delivered by express overnight delivery. If to the Lender, notice shall be addressed as follows: 2100 Southbridge Parkway, Suite 385, Birmingham, AL 35209; if to Tenant, notice shall be addressed as follows: Synovus Bank, 1111 Bay Avenue, Ste 200, Columbus, GA 31901, Attn: Corp. Real Estate Executive and copy to Synovus Bank, P.O. Box 120, Columbus, GA 31902-0120, Attn: Corp. Real Estate Executive. All notices shall be deemed received upon receipt, if delivered by personal or courier delivery, or if delivered by certified mail, then upon the earlier of (i) actual receipt, or (ii) the date of the first attempted delivery thereof. Either party hereto may change its address and designate such other parties to receive additional copies of any notice for the above purposes by giving notice as aforesaid stating the change and setting forth the new address.

9. Assignability. The Lender shall have the right to assign this Agreement to the purchaser upon any foreclosure sale of the Premises or to any purchaser of its rights under the promissory note and loan documents evidencing the Loan and the Mortgage securing the same.

10. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

11. 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.

[SIGNATURES ON FOLLOWING PAGES]

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IN WITNESS WHEREOF, this Subordination, Nondisturbance and Attornment Agreement has been duly executed as of the day and year first above written.

LENDER:

Commerce One Bank, a Alabama banking corporation

By: G. Gaines Belcher

Name: G. Gaines Belcher

Title: Vice President, Commercial Banking

STATE OF Alabama
Jefferson COUNTY)

I, Jennifer Russ, a Notary in and for said County in said State, hereby certify that Gaines Belcher whose name as VP Commercial Banking of Commerce One Bank, a Alabama banking corporation, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed on the contents of the conveyance, he/she, as such signed and with full authority, executed the same voluntarily for and as the act of said corporation.

.Given under my hand this the 21 day of September, 2022.

Jennifer Russ
Official Signature of Notary

Jennifer Russ
Notary's printed or typed name, Notary Public

My commission expires: 01/06/2025

JENNIFER M RUSS
NOTARY PUBLIC
ALABAMA STATE AT LARGE
COMM. EXP. 01/06/2025

TENANT:

SYNOVUS BANK

a Georgia banking corporation

By:

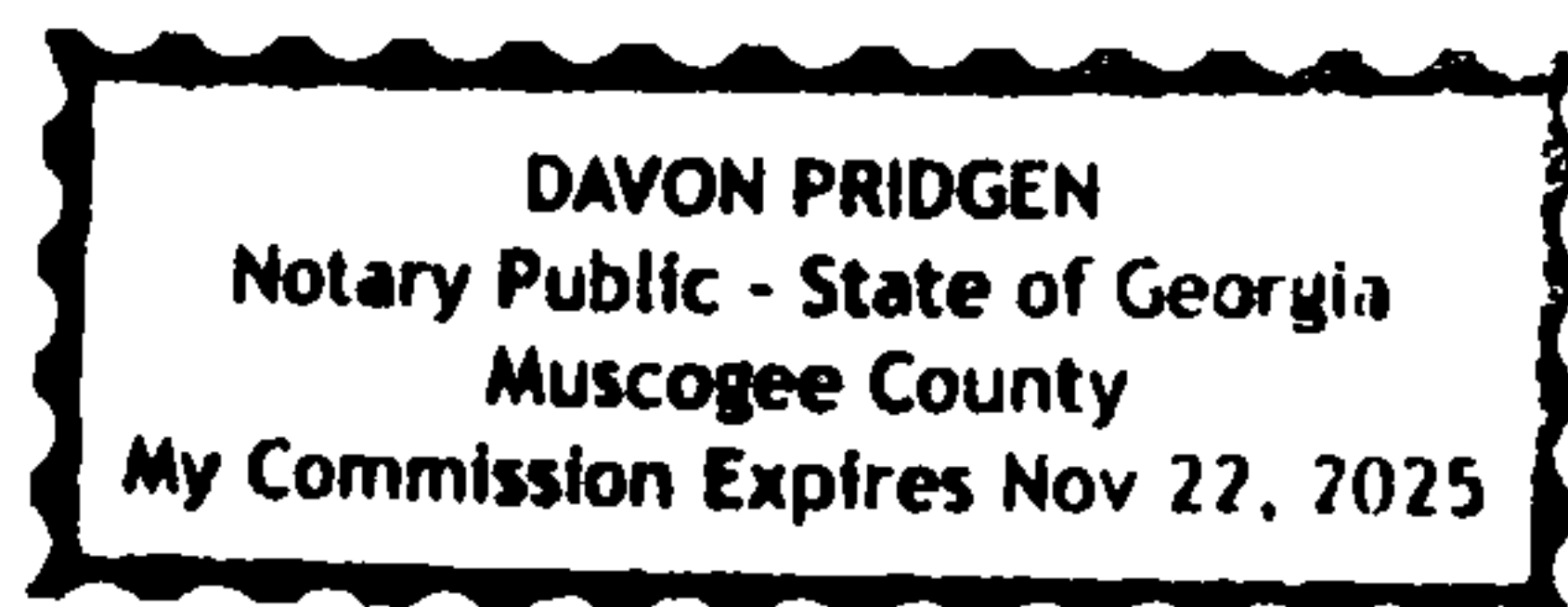
Sharon M Sanders
Name: Sharon M Sanders
Title: Sr VP, Corporate Service

STATE OF Georgia

Muscogee COUNTY)

I, Davon Pridgen, a Banker in and for said County in said State, hereby certify that Sharon Sanders whose name as SVP Corporate Service of Synovus Bank, a Georgia banking corporation, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed on the contents of the conveyance, he/she, as such _____ and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this the 26 day of Sept, 2022.



Davon Pridgen
Official Signature of Notary

Davon Pridgen
Notary's printed or typed name, Notary Public

My commission expires: 11/22/25

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EXHIBIT A

Lot 2, according to the Survey of Inverness Corners Subdivision as recorded in Map Book 44,
Page 113 in the Probate Office of Shelby County, Alabama.



Filed and Recorded
Official Public Records
Judge of Probate, Shelby County Alabama, County
Clerk
Shelby County, AL
11/10/2022 02:22:48 PM
\$42.00 BRITTANI
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Allie S. Bayl