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THIS INSTRUMENT PREPARED BY:

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**MORTGAGE AND  
ASSIGNMENT OF LEASES AND RENTS**

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Mortgagor:

**GOODFELLAS HOLDINGS, LLC**  
10450 Old Highway 280  
Westover, Alabama 35147

Mortgagee:

**SOUTHPOINT BANK**  
3501 Grandview Parkway  
Birmingham, Alabama 35243

STATE OF ALABAMA       )  
                                  :  
SHELBY COUNTY         )

This **MORTGAGE AND ASSIGNMENT OF LEASES AND RENTS** (herein called the "**Mortgage**") made as of this 23rd day of March, 2023, by **GOODFELLAS HOLDINGS, LLC**, an Alabama limited liability company, as Mortgagor (herein called "**Mortgagor**"), to **SOUTHPOINT BANK**, an Alabama banking corporation (herein, together with its successors and assigns, called "**Lender**").

**WHEREAS**, simultaneously with the execution hereof, Lender is making a loan to Mortgagor in the aggregate principal amount not to exceed \$760,000.00 (as from time to time renewed or refinanced the "**Loan**"), pursuant to a Loan Agreement between Mortgagor and Lender (the "**Loan Agreement**") and evidenced by a Promissory Note of even date herewith in said amount (as from time to time amended, modified, replaced, restated or refinanced the "**Note**"; all capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the Loan Documents (the Note, the Loan Agreement, and the Security Documents (as defined in the Loan Agreement), the "**Loan Documents**"). In consideration of the Loan and as security therefor, Mortgagor has agreed to execute this Mortgage as security for the hereinafter defined Obligations.

**NOW, THEREFORE**, in consideration of the Loan and the promises and covenants contained herein and in the Loan Documents, and in order to secure the payment of the Obligations with the interest thereon, and any extensions or renewals thereof and further to secure the performance of the covenants, conditions and agreements hereinafter set forth, Mortgagor hereby does irrevocably grant, bargain, sell, convey, assign, alien, remise, release and confirm to Lender, and to its successors and assigns, in fee simple, with right of entry and possession as provided below, and grants to Lender a security interest in, the following (herein together called the "**Mortgaged Property**"):

(A) The land described in **Exhibit A** attached hereto and made a part hereof (the "**Land**") as well as all development rights, air rights, water, water rights and water stock relating to the Land, and all estates, rights, titles, interest, privileges, liberties, tenements, hereditaments and appurtenances whatsoever in any way belonging, relating or appertaining to any of the Land, and the reversion and reversions,

remainder and remainders, rents, issues, profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever at law and in equity of Mortgagor of, in and to the same, including but not limited to the other rights herein enumerated.

(B) All present and future structures, buildings, improvements and appurtenances of any kind now or hereafter situated on the Land (herein called the "**Improvements**") and all fixtures, fittings, apparatus, equipment and appliances of every kind and character now or hereafter attached or appertaining to the Improvements and all extensions, additions, improvements, betterments, renewals, substitutions, accessions, attachments and replacements to any of the foregoing, including, without limitation, all plumbing fixtures, ornamental and decorative fixtures, elevators, gas, steam, electric, solar and other heating, lighting, ventilating, air conditioning, refrigerating, cooking and washing equipment and appliances and sprinkling, smoke, fire and intrusion detection devices, it being intended and agreed that all such items will be conclusively considered to be a part of the real property conveyed by this Mortgage, whether or not attached or affixed to the Land.

(C) All appurtenances to the Land and all rights of Mortgagor in and to any streets, roads, public places, easements or rights of way relating to the Land.

(D) All the Rents, revenues, receipts, royalties, issues, income and profits of the Land and the Improvements and all rights of Mortgagor under all present and future Leases and subleases affecting the Land and the Improvements.

(E) All proceeds and claims arising on account of any damage to or taking of the Land or any Improvements thereon or any part thereof and all causes of action and recoveries for any loss or diminution in the value of the Land or any Improvements.

(F) All building materials, equipment, fixtures, fittings and appliances of every kind and character now owned or hereafter acquired by Mortgagor for the purpose of being solely used in connection with the operation of the Improvements as a building as distinct from any business conducted within the Improvements or on the Land, whether such building materials, equipment, fixtures, fittings and appliances are actually located on or adjacent to the Land and whether in storage or otherwise, wheresoever the same may be located, including, without limitation, all lumber and lumber products, bricks, building stones and blocks, sand, cement, roofing and flooring material, paint, doors, windows, hardware, nails, insulations, wires and wiring, plumbing and plumbing fixtures, heating and air conditioning equipment and appliances, electrical and gas equipment and appliances, pipes and piping, ornamental and decorative fixtures and all gas, steam, electric, solar and other heating, lighting, ventilating, air conditioning, refrigerating, cooking and washing equipment and appliances; and

(G) All general intangibles relating to the development or use of the Land, including, without limitation, all water and sewer allocations, all licenses, all governmental permits relating to construction on the Land, all names under or by which the Land or any Improvements on the Land may at any time be operated or known, and all rights to carry on business under any such names or any variant thereof, and all trademarks and goodwill in any way relating to the Land.

Some of the said items are or may become "fixtures" on the above-described property and as provided under Article 9 of the Uniform Commercial Code, this Mortgage, upon being filed for record in the real property records of the County where the Land is located, shall operate also as a "fixture filing" and financing statement upon such of the items which are or may become fixtures.

This instrument secures the Obligations. As used herein, "**Obligations**" shall mean: (1) the payment of all amounts now or hereafter becoming due and payable under the Note or other Loan Documents, including the principal amount of the Loan, all interest (including interest that, but for the filing

of a petition in bankruptcy, would accrue on any such principal) and all other reasonable fees, charges and costs (including reasonable attorneys' fees and disbursements) payable in connection therewith; (2) the observance and performance by Mortgagor of all of the provisions of the Loan Documents; (3) the payment of all sums advanced or paid by Lender in exercising any of its rights, powers or remedies under the Loan Documents, and all interest (including post-bankruptcy petition interest, as aforesaid) on such sums provided for herein or therein; (4) the payment and performance of all other indebtedness, obligations and liabilities of Mortgagor or other obligor to Lender (including obligations of performance) of every kind whatsoever, arising directly between Mortgagor and Lender or acquired outright, as a participation or as collateral security from another person by Lender, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter incurred, contracted or arising, joint or several, liquidated or unliquidated, regardless of how they arise or by what agreement or instrument they may be evidenced or whether they are evidenced by agreement or instrument, and whether incurred as maker, endorser, surety, guarantor, general partner, drawer, tortfeasor, account party with respect to a letter of credit, indemnitor or otherwise; and (5) all renewals, extensions, modifications, amendments, restatements and refinancings of any of the foregoing, whether or not any renewal, extension, modification, restatement, refinancing or amendment agreement is executed in connection therewith.

**TO HAVE AND TO HOLD** the Mortgaged Property and all parts thereof unto Lender and to its successors and assigns forever, subject however to the terms and conditions contained herein;

**PROVIDED, HOWEVER**, that these presents are upon the condition that, if the Obligations shall be paid, at the times and in the manner stipulated in the Note and other Loan Documents and Mortgagor shall perform and observe or cause to be performed and observed all the covenants and promises contained in the Mortgage and all the other Loan Documents, and any extension, renewal, substitution, modification, replacement, restatement or refinancing thereof, all without fraud or delay, then this Mortgage, and all the properties, interest and rights hereby granted, bargained, and sold shall cease, terminate and be void, but shall otherwise remain in full force and effect.

## **ARTICLE I**

### **COVENANTS OF MORTGAGOR**

In addition to covenants contained elsewhere herein, Mortgagor covenants and agrees with Lender as follows:

1.1 Performance of Loan Documents. Mortgagor covenants and agrees to pay, perform and observe all covenants, terms, conditions and Obligations contained herein and in the other Loan Documents in accordance with their respective terms and to duly and punctually pay the principal and interest due under the Note and all other Obligations secured hereby.

1.2 Warranty of Title. Mortgagor covenants that it is lawfully seized of an indefeasible estate in fee simple in the Land and other real property hereby mortgaged and has good and absolute title to all existing Improvements hereby mortgaged and has good right, full power and lawful authority to sell, convey and mortgage the same in the manner and form aforesaid; that the same is free and clear of all liens, charges and encumbrances whatsoever except for Permitted Encumbrances and that Mortgagor will warrant and forever defend the title thereto unto Lender and its successors and assigns against the claims of all persons whomsoever.

1.3 Further Assurances: After Acquired Property. Mortgagor covenants and represents that all the Loan Documents executed by Mortgagor have been duly executed and delivered and are valid and enforceable obligations of Mortgagor in accordance with the terms thereof. Mortgagor agrees to execute and deliver to Lender on demand and at Mortgagor's expense any documents, additional mortgages and instruments of further assurance required or desired by Lender to effectuate, complete, enlarge, perfect,



continue and preserve (a) the Obligations and (b) the lien of this Mortgage as a first lien upon all the Mortgaged Property, whether now owned or hereafter acquired by Mortgagor. Upon any failure of Mortgagor to execute and deliver any such instruments, Lender may execute and record any such instruments for and in the name of Mortgagor, and Mortgagor irrevocably appoints Lender the agent and the attorney-in-fact of Mortgagor for such purpose. The lien hereof will automatically attach, without further act, to all after-acquired property which is attached to, made a part of or substituted for any of the Mortgaged Property.

1.4 Assignment of Leases and Rents.

(a) All the existing and future rents, revenues, royalties, issues, income and profits of the Mortgaged Property that arise from its use or occupancy, including, without limitation, security deposits and advance rentals (herein together called the "**Rents**") and all leases, subleases or management, leasing or occupancy agreements pertaining to the Land or the Improvements now as hereinafter existing (herein together called the "**Leases**") are hereby absolutely and presently assigned to Lender.

(b) Mortgagor will not execute any Leases without first having received the prior written approval from Lender of the form and content of the same. Without limiting the foregoing, any managing, leasing or similar fee shall be subordinated to the lien of this Mortgage.

(c) Without the prior written consent of Lender, Mortgagor will not accept prepayments of Rent exceeding one month under any of the Leases (other than security deposits, if any), nor modify or amend any of the Leases, nor in any manner impair Mortgagor's interest in the Rents. Mortgagor will perform all covenants of the lessor under the Leases. In furtherance of the assignment set forth herein, at the request of Lender, Mortgagor will execute and deliver to Lender for recordation an Assignment of Leases and Rents in form acceptable to Lender.

(d) If required by Lender, the Leases must provide, in a manner approved by Lender, that the Leases are junior and subordinate to the lien of this Mortgage, and that the tenant thereunder will recognize as its lessor any person succeeding to the interest of Mortgagor upon any foreclosure of this Mortgage.

(e) Nothing herein shall render Lender liable under any existing or future Leases, regardless of the collection of Rents thereunder, for any of the covenants or agreements of Mortgagor under such Leases.

(f) Although it is the intention of the parties that the assignment of Leases and Rents hereunder shall be a present assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that Mortgagor shall have the right to collect the Rents, and to enter into Leases, to amend, modify, extend or terminate the Leases so long as there exists no Event of Default; *provided*, that such rights of Mortgagor may be revoked by Lender upon the occurrence of any such Event of Default.

1.5 Transfer Prohibited. Except as otherwise provided herein or except for Permitted Encumbrances, if the Mortgaged Property, or any part thereof, is sold, transferred, conveyed or encumbered in any manner, voluntarily or involuntarily without Lender's prior written consent, then such sale, transfer, conveyance, or encumbrance shall constitute a default under this Mortgage.

1.6 Compliance with Laws. Mortgagor will promptly and materially comply with all present and future laws, ordinances, rules, regulations and requirements of all governmental authorities having jurisdiction over the Mortgaged Property or any part thereof including, without limitation, all zoning regulations and building codes. Without the prior written consent of Lender, Mortgagor will not seek, make or consent to any change in the zoning or conditions of use of the Mortgaged Property. Mortgagor will comply with and make all payments required under the provisions of any covenants, conditions or restrictions affecting the Mortgaged Property, if any.

1.7 Books and Records. Mortgagor will keep true and correct financial books and records in accordance with the Note.

1.8 Performance by Lender. Mortgagor will, at its own expense, appear in and defend any action or proceeding that might affect Lender's security or the rights or powers of Lender or that purports to affect any of the Mortgaged Property. If Mortgagor fails to perform any covenant, condition, term or agreement contained in this Mortgage, or if any action or proceeding of any kind (including but not limited to any bankruptcy, insolvency, arrangement, reorganization or other debtor-relief proceeding) is commenced which might affect Lender's interest in the Mortgaged Property or Lender's right to enforce its security, then Lender may, at its option, take any actions and disburse any sums as may be necessary or desirable to protect or enforce this Mortgage or to remedy the failure of Mortgagor to perform its covenants (without, however, waiving any default of Mortgagor). Mortgagor agrees to pay all reasonable expenses of Lender thus incurred (including, without limitation, fees and disbursements of counsel). Any such expenses incurred by Lender will be additional Obligations of Mortgagor to Lender secured by this Mortgage, will bear interest as specified in the Note and will be payable by Mortgagor upon demand. Lender shall be the sole judge of the necessity for any such actions and of the amount to be paid or expended in connection therewith. Lender is hereby empowered to enter and to authorize others to enter upon the Land or any part thereof for the purpose of performing or observing any defaulted covenant, condition, term or agreement hereof, without thereby becoming liable to Mortgagor or any party in possession holding under Mortgagor. This paragraph will not be construed to require Lender to incur any expenses or take any actions.

1.9 Expenses. Mortgagor will pay or reimburse Lender for all costs and expenses (including, without limitation, attorneys' fees) incurred by Lender in connection with the closing of the Loan (whether or not collected at closing and including, without limitation, all title, recording, survey, and legal fees and expenses), in any proceeding involving the estate of a decedent or an insolvent, or in any action, proceeding or dispute of any kind in which Lender is involved or is made a party, or appears as party plaintiff or defendant, affecting the Note, this Mortgage, the other Loan Documents, Mortgagor or the Mortgaged Property, including, without limitation, the foreclosure of this Mortgage, any condemnation action involving the Mortgaged Property or any action to protect the security hereof or to enforce any provision hereof and in any situation where Lender employs an attorney to protect Lender's rights hereunder, whether or not legal proceedings are commenced or involved. Any such expenses incurred by Lender will be additional Obligations of Mortgagor to Lender secured by this Mortgage, will bear interest at the rate specified in the Note and will be payable by Mortgagor upon demand.

1.10 Monthly Insurance Premium and Tax Deposits. Upon the demand by Lender, Mortgagor will pay to Lender on the first day of each month, together with and in addition to the regular installment of principal and interest on the Note, an amount equal to one-twelfth (1/12) of the yearly taxes, assessments and hazard insurance premiums as estimated by Lender to be sufficient to enable Lender to pay, at least thirty (30) days before they become due, all taxes, assessments, casualty insurance premiums and other similar charges against the Mortgaged Property or any part thereof. Such added payments shall not be deemed to be trust funds but may be commingled with the general funds of Lender, and no interest shall be payable in respect thereof. Such amounts shall be used by Lender to pay ad valorem taxes, assessments and casualty insurance premiums when due. Upon demand of Lender, Mortgagor agrees to deliver to Lender such additional moneys as are necessary to make up any deficiencies in the amounts necessary to enable Lender to pay such taxes, assessments, insurance premiums and similar charges. In the event of an occurrence of an Event of Default under any of the Loan Documents as herein or therein defined, Lender may apply to the reduction of the sums secured hereby, in such manner as Lender shall determine, any such amount remaining to Mortgagor's credit.

1.11 Other Taxes, Utilities and Liens.



(a) Mortgagor will pay promptly when and as due, and will promptly deliver to Lender receipts for the payment of, all taxes, assessments, water rates, dues, charges, fines and impositions of every nature whatsoever levied, assessed or imposed upon or against the Mortgaged Property or any part thereof, or upon the interest of Lender in the Mortgaged Property, as well as all income taxes, assessments and other governmental charges lawfully levied and imposed by the United States of America or any state, county, municipality, district or other taxing authority upon Mortgagor or in respect of the Mortgaged Property or any part thereof, or any lien or charge which, if unpaid, would become a lien or charge upon the Mortgaged Property prior to or equal to the lien of the Mortgage for any amounts secured hereby or would have priority over or equality with the Mortgage in distribution of the proceeds of any foreclosure sale of the Mortgaged Property or any part thereof.

(b) Mortgagor will promptly pay all charges by utility companies, whether public or private, for electricity, gas, water, sewer or other utilities.

(c) Mortgagor will promptly pay and will not suffer any mechanic's, laborer's, statutory or other lien which might or could be prior to or equal to the lien of this Mortgage to be created or to remain outstanding upon any of the Mortgaged Property.

(d) In the event of the passage of any state, federal, municipal or other governmental law, order, rule or regulation, subsequent to the date hereof, in any manner changing or modifying the laws now in force governing the taxation of mortgages or debts secured by mortgages or the manner of collecting taxes so as to affect materially and adversely Lender with respect to the Loan, provided that Mortgagor is not then actively protesting such material change, the entire balance of the principal sum secured by the Mortgage and all interest accrued thereon shall without notice become due and payable forthwith at the option of Lender.

1.12 Insurance.

(a) Mortgagor shall keep the Improvements insured, and shall maintain during the entire term of this Mortgage, comprehensive general liability coverage and such other coverages requested by Lender, by carrier(s), in amounts and in form at all times reasonably satisfactory to Lender, which carrier(s), amounts and form shall not be changed without the prior written consent of Lender, such consent not to be unreasonably withheld, conditioned or delayed. All such policies of insurance shall be issued by insurers qualified under the laws of the state in which the Land is located, duly authorized and licensed to transact business in such state and reflecting a rating of AA or better. Mortgagor shall maintain all coverages on the Mortgaged Property as are required by Lender at the closing of the Loan, and all other coverages as may be deemed reasonably necessary by Lender from time to time during the term of the Loan. Any failure by Lender to insist on full compliance with all of the above insurance requirements at closing does not constitute a waiver of Lender's right to subsequently require full compliance with these requirements. Such insurance shall be in such minimum amounts that Mortgagor will not be deemed a co-insurer under applicable insurance laws, regulations and policies. In addition, all such insurance shall be payable to Lender as loss payee under a "standard" or "New York" loss payee clause. Without limiting the foregoing, Mortgagor will (i) keep all of its physical property insured with casualty or physical hazard insurance on an "all risks" basis, with broad form flood and earthquake coverages and electronic data processing coverage, with a full replacement cost endorsement and an "agreed amount" clause in an amount equal to 100% of the full replacement cost of such property, (ii) maintain all such workers' compensation or similar insurance as may be required by law and (iii) maintain, in amounts and with deductibles equal to those generally maintained by businesses engaged in similar activities in similar geographic areas, general public liability insurance against claims of bodily injury, death or property damage occurring, on, in or about the properties of Mortgagor. The original copy of each insurance policy required by Lender shall be furnished to Lender at closing and furnished annually thereafter, prior to the expiration of the preceding policy. All policies required hereunder shall be indicated by evidence of insurance on the ACORD 28 form of

certificate (as such form may be updated and renamed from time to time), naming Lender as loss payee and as additional insured. Unless Mortgagor provides Lender with evidence of the insurance coverage required by this Mortgage upon request by Lender, Lender may purchase insurance at Mortgagor's expense to protect Lender's interests in the Mortgaged Property and to maintain the insurance required by this Mortgage. This insurance may, but need not, protect Mortgagor's interests. The coverage purchased by Lender may not pay any claim made by Mortgagor or any claim that is made against Mortgagor in connection with the Mortgaged Property or any required insurance policy. Mortgagor may later request to cancel any insurance purchased by Lender, but only after providing Lender with evidence that Mortgagor has obtained insurance as required by this Mortgage. If Lender purchases insurance for the Mortgaged Property or insurance otherwise required by this Mortgage, Mortgagor will be responsible for the costs of that insurance, including interest and other charges imposed by Lender in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the Obligations. The costs of the insurance may be more than the cost of insurance Mortgagor is able to obtain on its own. If the Land is located in a flood hazard area or if required pursuant to §102 of the Flood Disaster Protection Act of 1973 (as the same may be modified, amended or superseded from time to time), flood insurance in an amount reasonably acceptable to Lender shall also be provided by Mortgagor. Mortgagor shall deliver to Lender receipts evidencing the payment of all such insurance policies and renewals. In the event of the foreclosure of this Mortgage or any other transfer of title to the Mortgaged Property in extinguishment of the Obligations secured hereby, all right, title and interest of Mortgagor in and to all insurance policies then in force shall pass to the purchaser or grantee.

(b) Each insurance company is hereby authorized and directed to make payment for all such losses directly to Lender instead of to Mortgagor and Lender jointly. After deducting from said insurance proceeds any expenses incurred by it in the collection or handling of such proceeds, Lender may apply or cause to be applied the net proceeds of such insurance, in its sole discretion, either toward restoring the Improvements or as a credit on any portion of the Obligations secured hereby whether then matured or to mature in the future, or at the option of Lender, such sums either wholly or in part may be paid over to Mortgagor to be used to repair the Improvements or to construct new improvements in their place or for any other purpose or object satisfactory to Lender without affecting the lien of the Mortgage for the full amount secured hereby before such payment took place. Lender shall not be held responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure.

1.13 Condemnation. If all or any part of the Land or the Improvements shall be materially damaged or taken through condemnation (which term when used in this Mortgage shall include any damage or taking by any governmental authority and any transfer by private sale in lieu thereof), either temporarily or permanently, the Obligations secured hereby shall at the option of Lender become immediately due and payable. Lender shall be entitled to all compensation, awards and other payments or relief thereof and is hereby authorized, at its option, to commence, appear in and prosecute in its own or Mortgagor's name any action or proceeding relating to any condemnation. All such compensation, awards, damages, claims, rights of action and proceeds and the right thereto are hereby assigned by Mortgagor to Lender, which, after deducting therefrom all its expenses, including attorney's fees, may release any moneys so received by it without affecting the lien of this Mortgage or in its sole discretion may apply the same in such manner as Lender shall determine to the payment of the Obligations secured hereby, and any balance of such moneys then remaining after satisfaction of the Obligations in full shall be paid to Mortgagor or such other party as its interest may appear. Mortgagor agrees to execute such further assignments of any compensations, awards, damages, claims, rights of action and proceeds as Lender may require.

1.14 Application of Insurance Proceeds. Notwithstanding anything in Section 1.12 of this Mortgage to the contrary, if (a) net insurance proceeds available to repair or restore the Mortgaged Property are less than \$25,000.00; (b) the Mortgaged Property can be repaired prior to the Maturity Date in an economically feasible manner, and in a manner which remains in compliance with all leases on the



Mortgaged Property and the requirements of all applicable building, subdivision and zoning codes; and (c) if no Default or Event of Default then exists and Lender does not reasonably deem itself insecure after taking into account the remaining value of the Mortgaged Property and the value of insurance proceeds received or expected to be received which would be deposited in the Cash Collateral Account (as hereinafter defined), then Lender shall after reimbursing itself for all reasonable costs and expenses, including reasonable attorneys' fees and disbursements, incurred in connection with the collection of such proceeds, place such proceeds in a cash collateral account (the "**Cash Collateral Account**") in which Lender shall have a perfected security interest and disburse such amount to Mortgagor for the repair of the damaged Improvements or for the erection of new Improvements in their place, to the extent necessary to restore the Mortgaged Property as nearly as possible to the condition, character and value thereof existing immediately prior to such damage or destruction, but only upon satisfaction of each of the following conditions (which conditions and procedures shall also apply if Lender elects to make additional insurance proceeds available to Mortgagor for repair and restoration of the Mortgaged Property):

(i) Mortgagor shall furnish evidence satisfactory to Lender that the restoration can be completed prior to ninety days prior to the Maturity Date;

(ii) If the estimated costs of restoration (as reasonably estimated by an architect or other person approved by Lender) shall exceed the insurance proceeds available, Mortgagor shall either deposit with Lender in the Cash Collateral Account the amount of such deficit or furnish a satisfactory bond of completion or other evidence satisfactory to Lender of Mortgagor's ability to meet such excess costs;

(iii) Lender shall be furnished, for its approval (in its sole discretion) (A) with an estimate for its approval of the cost of restoration of the Improvements, accompanied by the architect's certification as to such costs and appropriate final plans and specifications for such restoration; and (B) with evidence that all Improvements to be so restored and their contemplated use will, when completed, substantially comply with all zoning, environmental, building laws, ordinances and regulations and other governmental requirements and with the requirements of the Loan Documents;

(iv) Disbursement of the proceeds during the course of reconstruction shall be upon the architect's certification (or certification of the general contractor if there is no architect) as to the cost of materials furnished and work done and evidence that such work and materials are free and clear of liens; no payment made prior to the final completion of the work shall exceed 90% of the value of the work performed or materials furnished and incorporated into the structure from time to time, and at all times the undisbursed balance of said proceeds, together with all amounts deposited, bonded or otherwise funded pursuant to this Section 1.14, shall at least be sufficient to pay for the cost of completion of the work, free and clear of liens;

(v) Final payment shall be made upon receipt by Lender of a certification by the architect (or certification of the general contractor if there is no architect) as to the completion substantially in accordance with the approved plans and specifications, to the extent applicable, the issuance of a permanent certificate of occupancy (or local equivalent) and the expiration of the period provided under the laws of Alabama for the filing of mechanic's and materialmen's liens or receipt by Lender of proof, to the reasonable satisfaction of Lender, of final payment in full of all mechanics, materialmen or any other persons who have provided services in connection with the restoration;

(vi) Disbursement shall otherwise be made substantially in accordance with Lender's usual procedures for commercial construction loans;



(vii) Mortgagor shall execute any documentation reasonably required by Lender to confirm Lender's security interest in the Cash Collateral Account;

(viii) Mortgagor will promptly pay and will not suffer any mechanic's, laborer's, statutory or other lien which might or could be prior to or equal to the lien of the Mortgage to be created or to remain outstanding upon any of the Mortgaged Property.

In the event and to the extent such insurance proceeds are not required or used for the repair and restoration of the Mortgaged Property as aforesaid, Lender shall be entitled to apply such sums on account of the Obligations secured by this Mortgage, regardless of whether the same shall then be due and payable, and any balance of such sums thereafter remaining shall be paid to Mortgagor or such other party as its interest may appear.

1.15 Care of the Mortgaged Property: Inspection.

(a) Mortgagor will preserve and maintain the Mortgaged Property in good condition and repair, ordinary wear and tear excepted, and will not commit or suffer any waste and will not do or suffer to be done anything which will increase the risk of fire or other hazard to the Mortgaged Property or any part thereof or which might invalidate any insurance carried on the Mortgaged Property.

(b) Except as otherwise provided herein, no buildings, fixtures, personal property or other part of the Mortgaged Property shall be removed, demolished or substantially altered without the prior written consent of Lender. Mortgagor may sell or otherwise dispose of, free from the lien of this Mortgage, furniture, furnishings, equipment, appliances, machinery, fixtures or appurtenances which are subject to the lien hereof and which may become worn out, undesirable, obsolete, disused or unnecessary for use in the operation of the Mortgaged Property, not exceeding in value at the time of disposition thereof Ten Thousand Dollars (\$10,000.00) for any single transaction, or a total of Twenty-Five Thousand Dollars (\$25,000.00) in any one year, upon replacing the same by, or substituting for the same, other furniture, furnishings, equipment, appliances, machinery, fixtures or appurtenances not necessarily of the same character but of at least equal value to Mortgagor and costing not less than the amount realized from the property sold or otherwise disposed of, and such replacement or substitute property shall forthwith become, without further action, subject to the lien of this Mortgage. Mortgagor may sell or otherwise dispose of, free from the lien of this Mortgage, equipment, appliances, machinery, fixtures or appurtenances which are not a part of or used in connection with the operation of the Improvements or the Mortgaged Property.

(c) If the Mortgaged Property or any part thereof is damaged by fire or any other cause, Mortgagor will give prompt notice of the same to Lender.

(d) If all or any part of the Mortgaged Property shall be damaged by fire or other casualty, unless insurance proceeds are to be applied to repay the Obligations and are sufficient to satisfy the Obligations in full, Mortgagor will promptly restore the Mortgaged Property to the equivalent of its original condition, regardless of whether insurance proceeds exist, are made available or are sufficient. If any part of the Mortgaged Property shall be physically damaged through condemnation, unless condemnation proceeds are applied to repay the Obligations and are sufficient to satisfy the Obligations in full, Mortgagor will promptly restore, repair or alter the remaining property in a manner satisfactory to Lender.

1.16 Estoppel Affidavits. Within ten (10) days after written request from Lender, Mortgagor shall furnish a written statement, duly acknowledged, setting forth the unpaid principal of and interest on the Note and stating whether or not any offsets or defenses exist against such principal and interest, specifying the nature of the same.

1.17 Compliance with Laws.

(a) Mortgagor represents and warrants that Mortgagor and any tenants of the Mortgaged Property will comply in all material respects with all applicable federal, state or local laws, ordinances and regulations governing or pertaining to the use, generation, manufacture, release, storage or disposal of hazardous, toxic or dangerous waste, substances or materials defined as such in or for purposes of CERCLA and all other applicable federal, state or local laws, ordinances and regulations (herein collectively called "**Hazardous Substances**"). Mortgagor will adequately secure, protect and supervise the Mortgaged Property to prevent unregulated, unpermitted or illegal generation, manufacture, release, storage or disposal of any Hazardous Substance.

(b) Lender shall have the right, without prior notice, to conduct an inspection of the Mortgaged Property for Hazardous Substances, including, without limitation, asbestos, prior to closing and at any time during the term of the Loan and in sufficient detail to permit Lender to determine whether Hazardous Substances are present, in use or have been disposed of on the Mortgaged Property. Mortgagor will pay or reimburse Lender for all reasonable expenses incurred in connection with any environmental inspection of the Mortgaged Property and any such expenses will be additional Obligations of Mortgagor to Lender secured by this Mortgage, will bear interest as specified in the Note and will be payable on demand. Lender is hereby empowered to enter and to authorize others to enter upon the Land or Improvements for the purpose of performing an environmental inspection, without thereby becoming liable to Mortgagor or any party in possession holding under Mortgagor unless a loss or damage is caused by Lender's gross negligence or willful misconduct.

**ARTICLE II**  
**EVENTS OF DEFAULT AND REMEDIES**

2.1 Events of Default. The following shall be "**Events of Default**" hereunder, and the term "**Event of Default**" as used herein shall mean any one or more of the following events:

(a) The sale, transfer, conveyance or encumbrance of the Mortgaged Property in violation of Section 1.5 hereof;

(b) The failure by Mortgagor to perform any other covenant, condition or agreement contained in this Mortgage and the continuation of such failure for a period of thirty (30) days after Lender provides notice of such failure; and

(c) The occurrence (after giving effect to any applicable notice, grace or cure period specified therein) of an event which constitutes an "event of default" under the Loan Documents.

2.2 Remedies. Upon the occurrence of an Event of Default, Lender may, at its continuing option, and without notice to or demand upon Mortgagor:

(a) Declare all or any part of the Obligations secured by this Mortgage and the interest accrued thereon to be due and payable immediately;

(b) Enter onto and take possession of the Mortgaged Property and manage and operate the same, all as more particularly provided hereafter;

(c) Collect the Rents as more particularly provided hereinafter;

(d) Cause all or any part of the Mortgaged Property to be sold under the power of sale granted by this Mortgage in any manner permitted by applicable law as more particularly provided hereinafter; and

(e) Exercise any other right or remedy granted hereunder or under any of the other Loan Documents or available at law or in equity.

2.3 Right of Lender to Enter and Take Possession.

(a) If an Event of Default shall have occurred, upon demand of Lender Mortgagor shall forthwith surrender to Lender the actual possession of the Mortgaged Property, and Lender may enter and take possession of all or any part of the Mortgaged Property and may exclude Mortgagor and its agents and employees wholly therefrom.

(b) Upon every such entering upon or taking of possession, Lender may hold, store, use, operate, manage and control the Mortgaged Property and conduct the sole business of operating the Mortgaged Property as a separate and distinct business of Mortgagor and, from time to time (i) make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon and purchase or otherwise acquire additional fixtures, personalty and other property, (ii) insure or keep the Mortgaged Property insured, (iii) manage and operate the Mortgaged Property and exercise all the rights and powers of Mortgagor in its name or otherwise with respect to the same and (iv) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted Lender, all as Lender from time to time may determine to be to its best advantage, and Lender may collect and receive all the Rents of such Mortgaged Property including those past due as well as those accruing thereafter.

(c) Lender may deduct from such Rents (i) all expenses of taking, holding, managing and operating the Mortgaged Property (including compensation for the services of all persons employed for such purposes), (ii) the cost of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements and purchases and acquisitions, (iii) the cost of such insurance, (iv) such taxes, assessments and other charges prior to the lien of this Mortgage as Lender may determine to pay, (v) other proper charges upon the Mortgaged Property or any part thereof, and (vi) the reasonable compensation, expenses and disbursements of the attorneys and agent of Lender. Lender shall apply the remainder of the moneys so received to the payment of Obligations secured by this Mortgage, whether due or to become due, in whatever order and proportions Lender elects in its absolute discretion and without regard to the adequacy of its security.

(d) Whenever all such Events of Default have been cured and satisfied, Lender may, at its option, surrender possession of the Mortgaged Property to Mortgagor, its successors or assigns. The same right of taking possession, however, shall exist if any subsequent Event of Default shall occur.

2.4 Collection of Rents. If an Event of Default shall have occurred, Lender may collect the Rents itself or by an agent or receiver. No action taken by Lender to collect any Rents will make Lender a "mortgagee-in-possession" of the Mortgaged Property, and possession by a court-appointed receiver will not be considered possession by Lender. All Rents collected by Lender or a receiver will be applied first to pay all expenses of collection, and then to the payment of all costs of operation, management and preservation of the Mortgaged Property, and then to the payment of Obligations secured by this Mortgage in whatever order and proportions Lender elects in its absolute discretion and without regard to the adequacy of its security.

2.5 Power of Sale. If an Event of Default shall have occurred, Lender may sell the Mortgaged Property at public outcry to the highest bidder for cash in front of the courthouse door in the county where



the Land is located, either in person or by auctioneer, after having first given notice of the time, place and terms of sale, together with a description of the property to be sold, by publication once a week for three (3) successive weeks prior to said sale in some newspaper published in said county. Upon payment of the purchase money, Lender or any person conducting the sale for Lender is authorized to execute to the purchaser at said sale a deed to the property so purchased. Lender may bid at said sale and purchase said property or any part thereof if the highest bidder therefor and may credit some or all of the Obligations against the purchase price. At any foreclosure sale the Mortgaged Property may be offered for sale and sold as a whole without first offering it in any other manner or may be offered for sale and sold in any other manner Lender may elect in its sole discretion.

2.6 Application of Sale Proceeds. The proceeds of any sale under this Mortgage will be applied in the following manner:

First, to the payment of the costs and expenses of the sale, including but not limited to Lender's fees, legal fees and disbursements, appraisal fees, fees for environmental studies, title charges and transfer taxes, and payment of all expenses, liabilities and advances of Lender, together with interest at the rate provided under the Note on all advances made by Lender.

Second, to the payment of all sums expended by Lender under the terms of this Mortgage and not yet repaid, together with interest on such sums at the rate specified in the Note.

Third, to the payment of the Obligations secured by this Mortgage, whether due or to become due, in whatever order and proportions Lender elects in its absolute discretion and without regard to the adequacy of its security.

Fourth, to the remainder, if any, to the person or persons appearing of record to be the owner of the property sold.

2.7 Lender's Option on Foreclosure. At the option of Lender, this Mortgage may be foreclosed as provided by law or in equity, in either event a reasonable attorneys' fee shall, among other costs and expenses, be allowed and paid out of the proceeds of the sale. Lender may, at its option, foreclose this Mortgage subject to the rights of any tenants of the Mortgaged Property, and in the event Lender exercises its option to foreclose the Mortgage in equity, the failure to make any such tenants parties defendants to any such foreclosure proceeding and to foreclose their rights will not be, nor be asserted to be by Mortgagor, a defense to any proceedings instituted by Lender to collect the sums secured hereby.

2.8 Receiver.

(a) If an Event of Default shall have occurred, Lender, upon application to a court of competent jurisdiction, shall be entitled, without notice and without regard to the adequacy of any security for the Obligations or the solvency of any party bound for its payment, to the appointment of a receiver to take possession of and to operate the Mortgaged Property and to collect the Rents.

(b) Mortgagor will pay to Lender upon demand all expenses, including receiver's fees, attorneys' fees, costs and agent's compensation, incurred pursuant to the provisions of this paragraph. All such expenses will be additional Obligations secured by this Mortgage, will bear interest as specified in the Note and will be payable upon demand.

2.9 Waiver of Manner of Sale. Mortgagor waives all rights to direct the order or manner in which any of the Mortgaged Property will be sold in the event of any sale under this Mortgage, and also

any right to have any of the Mortgaged Property marshaled upon any sale. Lender may in its discretion sell any real and personal property together or in parts, in one or more sales, and in any sequence Lender selects.

2.10 Suits to Protect the Mortgaged Property. Lender shall have power (a) to institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Mortgaged Property by any acts which may be unlawful or any violation of this Mortgage, (b) to preserve or protect its interest in the Mortgaged Property and in the Rents and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with, such enactment, rule or order would impair the security hereunder or be prejudicial to the interest of Lender.

### **ARTICLE III** **GENERAL PROVISIONS**

3.1 Waiver of Exemption. Mortgagor waives all rights of exemption pertaining to real or personal property as to any indebtedness secured by or that may be secured by this Mortgage, and Mortgagor waives the benefit of any statute regulating the obtaining of a deficiency judgment or requiring that the value of the premises be set off against any part of the Obligations secured hereby.

3.2 Delay or Omission No Waiver. No delay or omission of Lender or of any holder of the Note to exercise any right, power or remedy accruing upon any Event of Default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every right, power and remedy given by this Mortgage to Lender may be exercised from time to time and as often as may be deemed expedient by Lender.

3.3 No Waiver of One Default to Affect Another.

(a) No waiver of any Event of Default hereunder shall extend to or shall affect any subsequent default or any other Event of Default or shall impair any rights, powers or remedies consequent thereto.

(b) If Lender (i) grants forbearance or an extension of time for the payment of any sums secured hereby, (ii) takes other or additional security for the payment thereof, (iii) waives or does not exercise any right granted herein or in the other Loan Documents, (iv) releases any part of the Mortgaged Property from the lien of this Mortgage or otherwise changes any of the terms of the Note or this Mortgage, (v) consents to the filing of any map, plat or replat of the Land, (vi) consents to the granting of any easement on the Land, (vii) makes or consents to any agreement subordinating the lien hereof, or (viii) enters into any agreement with Mortgagor or any member, partner or stockholder of Mortgagor or any one or more of them changing any term of the Loan Documents or releasing any member, partner or stockholder of Mortgagor or any security or respecting any matter whatsoever, then any such act or omission shall not release, discharge, modify, change or affect the original liability under the Note, this Mortgage or otherwise of Mortgagor or any subsequent purchaser of the Mortgaged Property or any part thereof, or any maker, co-signer, endorser, surety or guarantor, nor shall any such act or omission preclude Lender from exercising any right, power or privilege herein granted or intended to be granted upon an Event of Default, nor, except as otherwise expressly provided in an instrument or instruments executed by Lender, shall the lien of this Mortgage be altered thereby. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Mortgaged Property, Lender, without notice to any party is hereby authorized and empowered to deal with any such vendee or transferee with reference to the Mortgaged Property or the Obligations secured hereby, or with reference to any of the terms or conditions hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any of the liabilities or undertakings hereunder.

3.4 Discontinuance of Proceedings; Position of Parties Restored. In case Lender shall have proceeded to enforce any right or remedy under this Mortgage by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, then and in every such case Mortgagor and Lender shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Lender shall continue as if no such proceeding has been taken.

3.5 Remedies Cumulative. No right, power or remedy conferred upon or reserved to Lender by this Mortgage is intended to be exclusive of any right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity or by statute. Lender may exercise any one or more of its rights and remedies at its option without regard to the adequacy of its security.

3.6 Notices. All notices given under this Mortgage must be in writing and must be served as provided for in the Loan Agreement.

3.7 Inspection.

(a) Lender and its respective agents and representatives will have the right at any reasonable time to enter the Mortgaged Property and inspect all parts thereof. Lender will also have the right to examine, copy and audit the books, records, accounting data and other documents of Mortgagor relating to the Mortgaged Property.

(b) Lender is under no duty to supervise or inspect the Mortgaged Property or the operation of the Mortgaged Property or to examine any books and records. Any inspection or examination by Lender is for the sole purpose of protecting Lender's security and preserving Lender's rights under this Mortgage. No default of Mortgagor will be waived by any inspection by Lender.

3.8 Status and Authority.

(a) Mortgagor warrants that (i) it is duly organized and validly existing, in good standing under the laws of the State of Alabama, (ii) it has the power, authority and legal right to carry on the business now being conducted by it and to engage in the transactions contemplated by the Loan Documents and (iii) the execution and delivery of the Loan Documents and the performance and observance of the provisions thereof have been duly authorized by all necessary action.

(b) Mortgagor agrees that so long as any of its Obligations hereunder or under the Loan Documents remain unsatisfied, except as permitted therein, it will not dissolve or liquidate (in whole or in part) its existence and that it will maintain its existence and will not dissolve or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into another corporation or partnership without the prior written consent of Lender.

3.9 Successors. The terms of this Mortgage will bind and benefit the heirs, legal representatives, successors and assigns of Mortgagor and Lender.

3.10 Amendments. This Mortgage may not be modified or amended except by a written agreement signed by the parties. Mortgagor agrees that any modification entered into by the parties, including, without limitation, any changes in the interest rate, payment schedule, maturity date or increases in the amount outstanding, shall not affect or impair the priority of the lien of this Mortgage.

3.11 Applicable Law. This Mortgage shall be governed by the laws of the State of Alabama.

3.12 Counterparts. This Mortgage may be executed in counterparts, but all counterparts shall constitute but one and the same document.



3.13 Entire Agreement. This Mortgage and the other Loan Documents constitute the entire agreement between the parties and supersede all prior agreements and understandings including, without limitation, any loan commitment letter from Lender to Mortgagor.

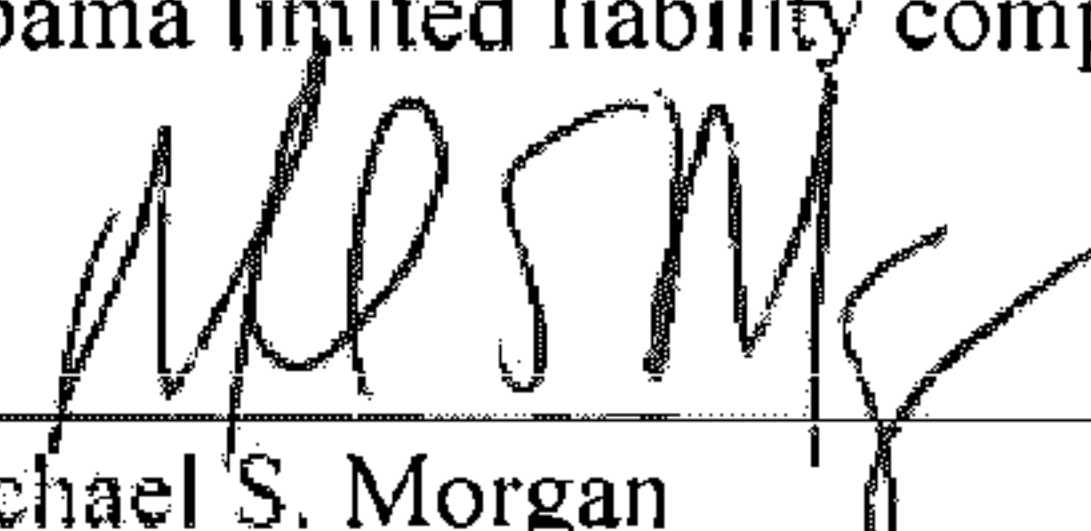
3.14 Severability. The provisions of this Mortgage are severable, and the invalidity or unenforceability of any one or more provisions of this Mortgage will in no way affect any other provision.

3.15 Interpretation. The term "Mortgagor" includes both the original Mortgagor and any subsequent owner or owners of any of the Mortgaged Property, and the term "Lender" includes the original Lender, and also any future owner or holder, including pledgees, assignees and participants, of the Note or any interest therein. Whenever the context requires, all words used in the singular will be construed to have been used in the plural, and vice versa, and each gender will include any other gender. The captions of the paragraphs of this Mortgage are for convenience only and do not define or limit any terms or provisions.

*[Remainder left blank intentionally;  
Signature Page to Follow]*

**IN WITNESS WHEREOF**, Mortgagor has caused this Mortgage and Assignment of Leases and Rents to be executed by its duly authorized representative on the day and year first above written.


**GOODFELLAS HOLDINGS, LLC**  
an Alabama limited liability company

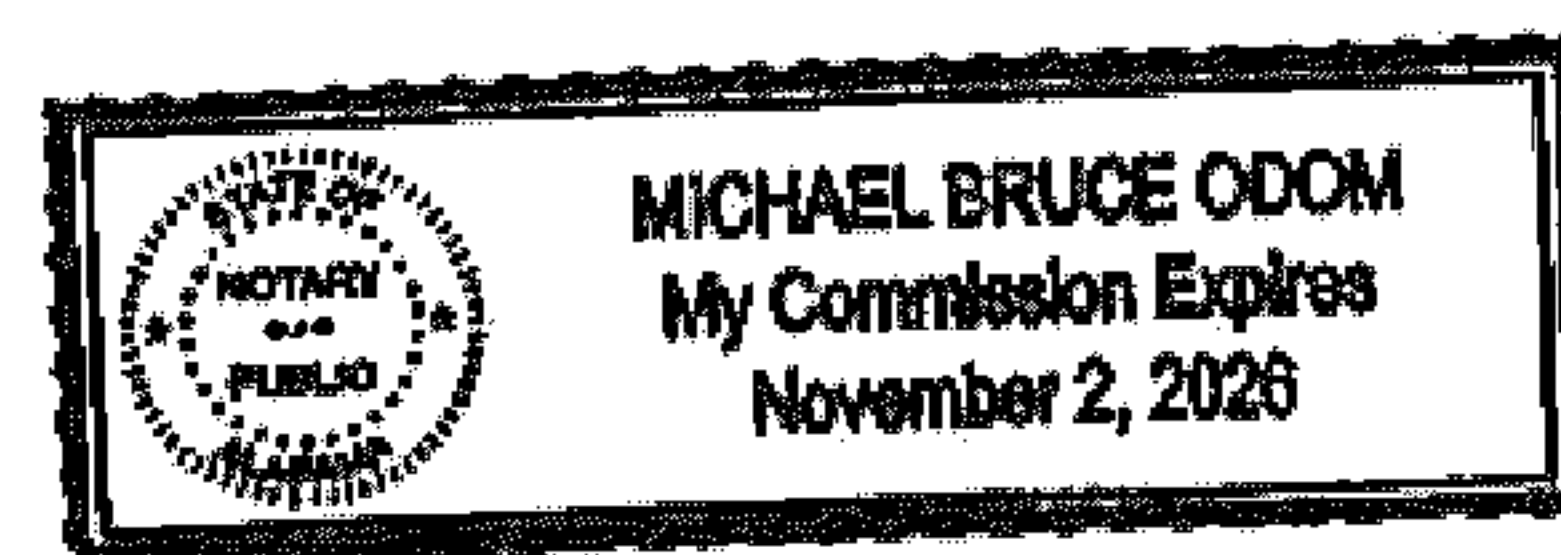
By:   
Michael S. Morgan  
Its: Manager

STATE OF ALABAMA )  
JEFFERSON COUNTY )

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Michael S. Morgan, whose name as Manager of GOOFELLAS 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 the said instrument, he, as Manager and with full authority, executed the same voluntarily for and as the act of GOOFELLAS HOLDINGS, LLC.

GIVEN under my hand and official seal of office, this 23<sup>rd</sup> day of March, 2023.

  
Notary Public  
Print Name: Michael B. Odom  
My Commission Expires: 11-2-2026



**Exhibit A**

(Legal Description of Land)

Lot 31A, according to the resurvey of Lots 31 and 32, Greystone 5th Sector, Phase I, as recorded in Map Book 17, 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**  
**03/23/2023 02:07:12 PM**  
**\$1210.00 JOANN**  
**20230323000081660**

*Allen S. Bayl*

Exhibit A