

This Instrument Prepared By:

Elizabeth J. Harkins
Tacala, LLC
3750 Corporate Woods Drive
Birmingham, Alabama 35242

SUBORDINATION, NON-DISTURBANCE, AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE, AND ATTORNMENT AGREEMENT ("Agreement") executed by and between **CGP CALERA (HWY 31) TB, LLC**, a Delaware limited liability company ("Landlord"), **TACALA, LLC**, a Delaware limited liability company ("Tenant") and **M1 BANK** ("Lender")

WITNESSETH:

WHEREAS, Tenant has entered into a certain lease ("Lease") with Landlord relating to certain premises located in Shelby County, Alabama (the "Premises"), said Premises being more particularly described in said Lease and being situated on the real property described in EXHIBIT A attached hereto and made a part hereof; and

WHEREAS, Lender has made a loan to Landlord, secured by that certain Mortgage (the "Mortgage") covering the Premises, which Mortgage was recorded in the real property records of Shelby County, Alabama on or around the date hereof; and

WHEREAS, Tenant and Lender desire to establish certain rights, safeguards, obligations, and priorities with regard to their respective interests by means of this Agreement;

NOW, THEREFORE, for and in consideration of the premises, the mutual covenants of the parties, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lender, for itself and its successors and assigns, and Tenant hereby agree as follows:

1. To the extent that Tenant's rights and entitlements under the Lease are not diminished or otherwise affected, and except as provided in this Agreement, the Lease is and shall be subject and subordinate to the lien of the Mortgage and to all renewals, modifications, consolidations, replacements, and extensions of the Mortgage.

2. Lender hereby acknowledges and consents to Tenant's rights under the Lease to obtain a leasehold mortgage (the "Leasehold Mortgage"), and the liens and security interests evidenced by the same and encumbering (among other things) Tenant's leasehold interest under the Lease. In no event shall the Mortgage cover or encumber (and shall not be construed as subjecting in any manner to the lien thereof) any of Tenant's fixtures, business, equipment, furniture, signs, or other personal property at any time placed on or about the Premises, Lender, and Tenant acknowledging that such property shall be pledged to the leasehold mortgagee as further security for the obligations of Tenant under the Leasehold Mortgage. Likewise, in no event shall the Leasehold Mortgage cover or encumber any of the Improvements as defined in the Lease.

Lender acknowledges that upon any exercise by the leasehold mortgagee of any of its rights and remedies under the Leasehold Mortgage and related loan documents, all such property, together with Tenant's rights under the Lease, may be transferred to the leasehold mortgagee.

3. In the event of foreclosure of the Mortgage or should Lender obtain title by deed in lieu thereof, or otherwise, Lender, for itself and its successors and assigns (which shall include any persons acquiring title by voluntary deed, assignment, or other disposition or transfer in lieu of foreclosure), agrees that the Lease shall not terminate on account of such foreclosure or other such succession, by operation of law or otherwise, and Tenant shall not be disturbed in its quiet use, possession, and occupancy of the Premises in accordance with the terms and provisions of the Lease, so long as Tenant is not in material default under the Lease beyond any applicable notice and cure period. Lender agrees not to name Tenant as a party defendant in any foreclosure action.

4. Subject to the foregoing provisions, Tenant agrees to attorn to: (a) Lender when in possession of the Premises; (b) a receiver appointed in an action or proceeding to foreclose the Mortgage or otherwise; or (c) to any party acquiring title to the Premises as a result of foreclosure of the Mortgage or deed in lieu thereof. Tenant further covenants and agrees to execute and deliver, upon request of Lender, or its assigns, an appropriate agreement of attornment, in form and content reasonably acceptable to Tenant and Lender (but which shall not amend the terms of the Lease or otherwise diminish Tenant's rights thereunder) with any subsequent titleholder of the Premises.

5. So long as the Mortgage remains outstanding and unsatisfied, Tenant will deliver to Lender a copy of all notices of default given to Landlord by Tenant. At any time before the rights of Landlord shall have been forfeited or adversely affected because of any default under the Lease as therein provided, Lender shall have the right (but not the obligation) to cure such default within the same period of time as is allowed Landlord under the Lease.

6. If Lender shall succeed to the interest of Landlord under the Lease, Lender shall be bound to Tenant under all the terms, covenants, and conditions of the Lease, and Tenant shall, from and after Lender's succession to the interest of Landlord under the Lease, have the same remedies against Lender for the breach of an agreement contained in the Lease that Tenant might have had under the Lease against Landlord if Lender had not succeeded to the interest of Landlord; provided, however, that Lender shall not be:

(a) liable for any act or omission of any prior landlord (including Landlord), except those of a continuing nature; or

(b) subject to any offsets, defenses, or abatements which Tenant might have against any prior landlord (including Landlord), except (i) offsets specifically provided for in the Lease, or (ii) those which arose out of such Landlord's default under the Lease and accrued after Tenant has notified Lender and given Lender an opportunity to cure as provided in Paragraph 5 above; or

(c) bound by any rent or Additional Rent which Tenant might have paid for more than the current month to any prior landlord (including Landlord).

7. Lender consents to the application and disposition of casualty proceeds and condemnation awards in accordance with the Lease.

8. The Tenant and Landlord shall not agree to any alteration, modification, amendment, waiver, or termination of the Lease without first obtaining the Bank's prior written consent.

9. This Agreement shall be binding upon and inure to the benefit of the heirs, successors, and assigns (which shall include any persons acquiring title by voluntary deed, assignment, or other disposition or transfer in lieu of foreclosure) of each of the parties.

10. Any notices under this Agreement may be delivered by hand or sent by commercial delivery services or United States Postal Service express mail, in either case for overnight delivery with proof of service, or sent by certified mail, return receipt requested, to the following addresses:

To Landlord: CGP Calera (Hwy 31) TB, LLC
361 Summit Boulevard, Suite 110
Birmingham, Alabama 35243

With a Copy to: Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C.
1901 Sixth Avenue North, Suite 2600
Birmingham, Alabama 35203
Attn: Scott Frederick

To Tenant: Tacala, LLC
3750 Corporate Woods Drive
Birmingham, Alabama 35242

To Lender: M1 Bank
112 S. Hanley, Suite 120
Clayton, MO 63105

The notice shall be deemed to have been given, in the case of hand delivery, on the date of delivery, and in the case of delivery by commercial delivery service or United States Postal Service, on the date of receipt or refusal as evidenced by the carrier's or courier's receipt.

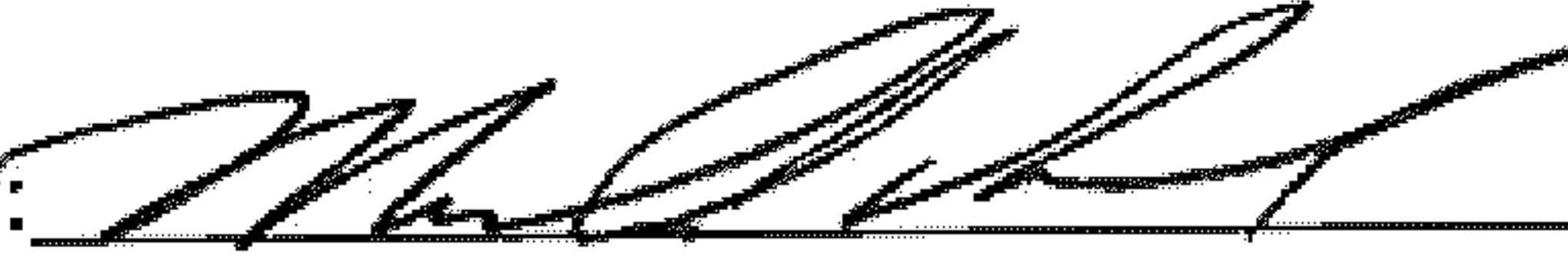
11. This Agreement may be executed and delivered in counterparts for the convenience of the parties.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date indicated below their respective signatures.

TENANT:

TACALA, LLC,
a Delaware limited liability company

By: 

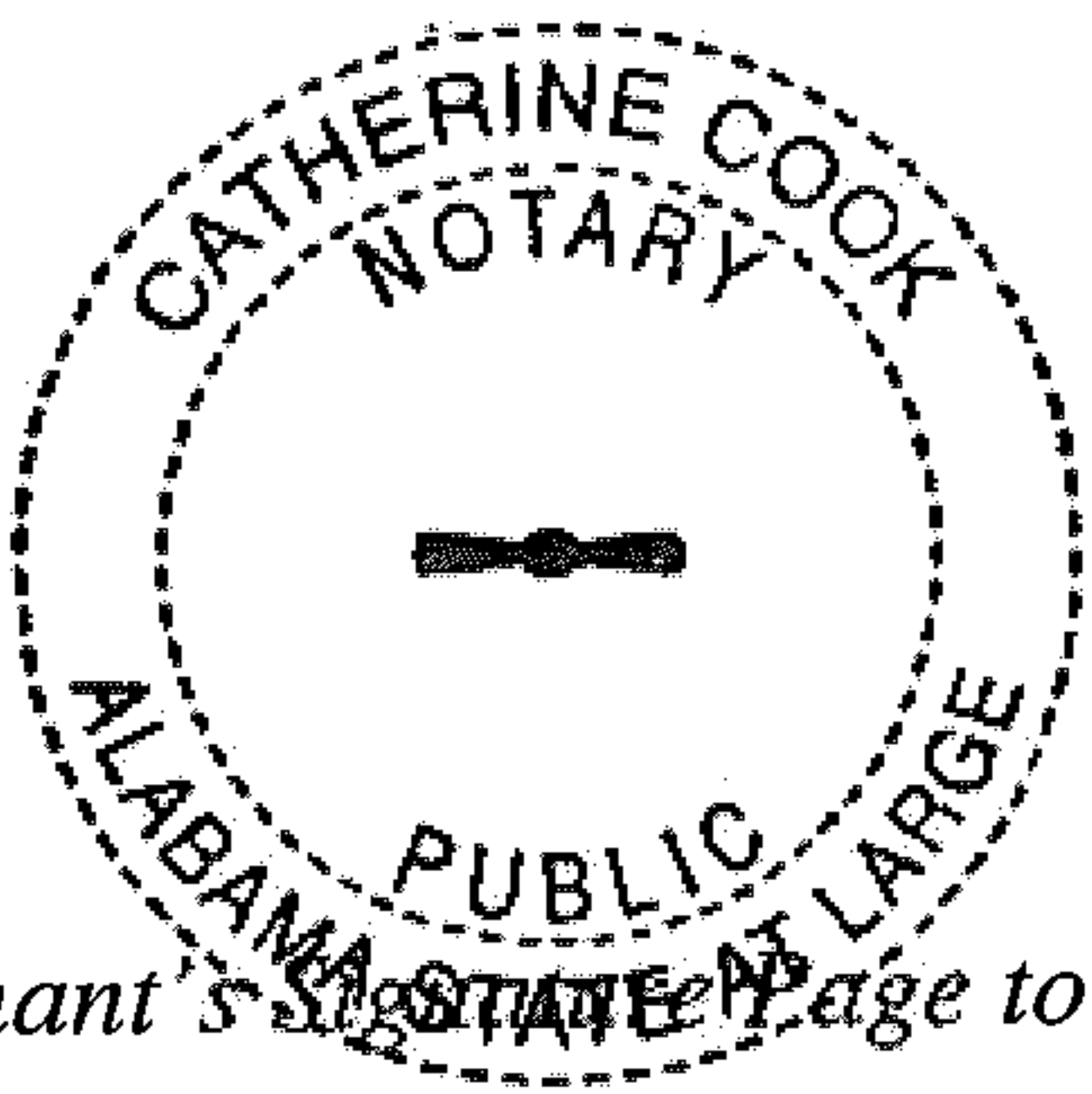
Print Name: Michael Border

Its: Chief Development Officer

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned Notary Public in and for said County, in said State, hereby certify that Michael Border, whose name as Chief Development Officer of Tacala, 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 the instrument, he, as such Chief Development Officer and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand and official seal this 1st day of September, 2023.




NOTARY PUBLIC

My Commission Expires 03/04/2026
My Commission Expires: _____

[Tenant's Signature Page to Subordination, Non-Disturbance, and Attornment Agreement]

LANDLORD:

CGP CALERA (HWY 31) TB, LLC,
a Delaware limited liability company

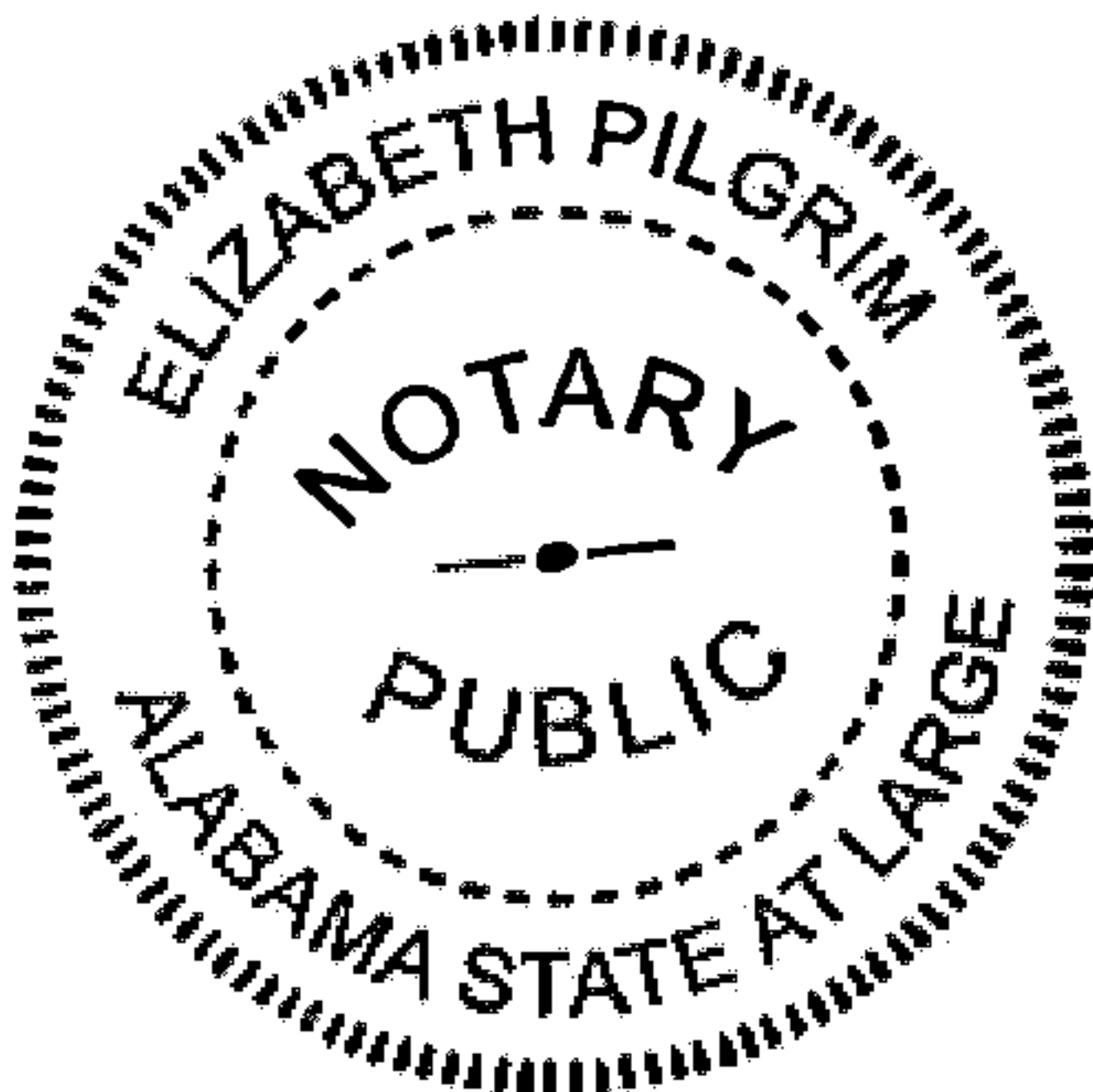
By: 
Name: Danielle E. Yance
Title: Authorized Agent

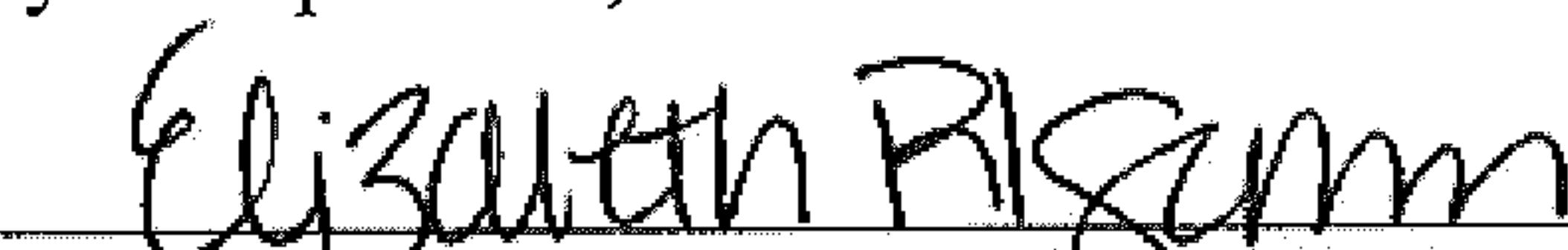
STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned Notary Public in and for said County, in said State, hereby certify that Danielle E. Yance, whose name as Authorized Agent of CGP Calera (Hwy 31) TB, 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 the instrument, he or she, as such Authorized Agent and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand and seal this the 1st day of September, 2023.

[SEAL]




Notary Public; Elizabeth Pilgrim

My Commission Expires: November 12, 2024

[Landlord's Signature Page to Subordination, Non-Disturbance, and Attornment Agreement]

LENDER:

M1 BANK

By: David M. Bequeaith
Print Name: David M. Bequeaith
Its: Director & President

**STATE OF MISSOURI)
COUNTY OF SAINT LOUIS)**

I, the undersigned Notary Public in and for said County, in said State, hereby certify that David M. Bequeaith, whose name as Director & President of M1 Bank, 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 instrument, he or she, as such Director & President and with full authority, executed the same voluntarily for and as the act of said bank.

Given under my hand and official seal this 1st day of September, 2023.



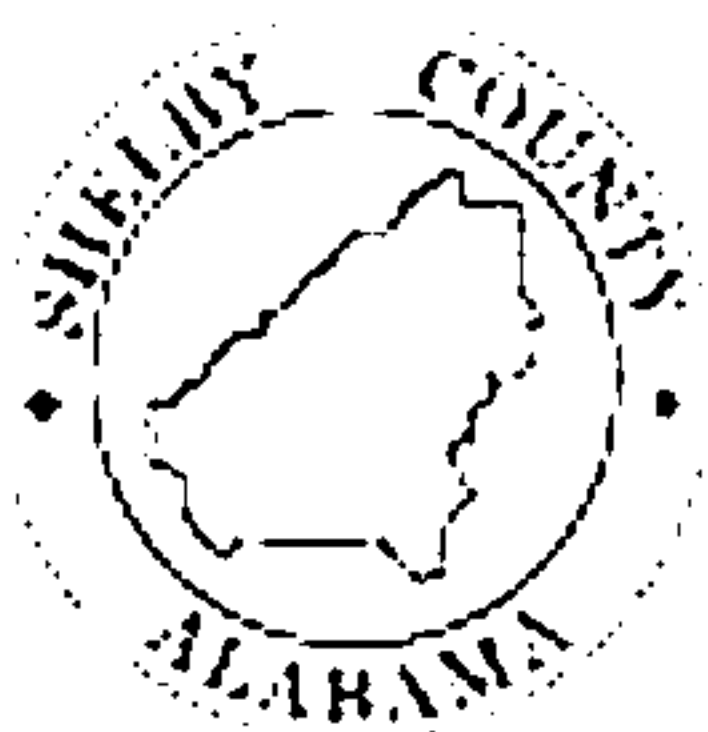
Fabienne Driver
NOTARY PUBLIC

My Commission Expires: 12-7-2026

[Lender's Signature Page to Subordination, Non-Disturbance and Attornment Agreement]

EXHIBIT A

Lot 1, according to the Map of Taco Bell Calera No. 1, as recorded in Map Book 58, Page 60, 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
09/11/2023 02:00:58 PM
\$40.00 JOANN
20230911000273670

Allen S. Bayl