

SUBORDINATION, NON-DISTURBANCE  
AND ATTORNMEN AGREEMENT

THIS AGREEMENT (the “**Agreement**”) is made and entered into this 12<sup>th</sup> day of December, 2023, by and among SOUTHPOINT BANK, an Alabama banking corporation (“**Lender**”), CHICK-FIL-A, INC., a Georgia corporation (“**Tenant**”), and HCI INVERNESS LLC, an Alabama limited liability company (“**Landlord**”).

RECITALS:

A. Landlord has executed and delivered to Lender the following security instruments (collectively, the “**Security Documents**”):

- (i) **MORTGAGE AND SECURITY AGREEMENT** from Landlord to Lender dated July 12, 2023, recorded on July 17, 2023 as Instrument Number 20230717000212920, in the Office of the Judge of Probate of Shelby County, Alabama records (the “**Records**”), and conveying or encumbering the property located in Shelby County, Alabama known as 500 Inverness Corners and Valleydale Road, Birmingham, Alabama (the “**Property**”); and
- (ii) **ABSOLUTE ASSIGNMENT OF RENTS AND LEASES** between Landlord and Lender recorded on July 17, 2023 as Instrument Number 20230717000212930, in the foregoing Records.

B. The Security Documents affect certain property including the land described on **EXHIBIT “A”** which is owned by Landlord and leased to Tenant pursuant to the Lease dated May 18, 2023, as amended (the “**Lease**”).

C. The Demised Premises (as such term is defined in the Lease) are a part of the Property conveyed or mortgaged to Lender pursuant to the Security Documents; and the parties desire to enter into this agreement with respect to the Security Documents and the Lease.

In consideration of the premises and the mutual covenants set forth in this Agreement, Lender, Tenant and Landlord covenant and agree, intending to be legally bound, as follows:

1. **Subordination.** The Lease is now and will remain subject and subordinate to the lien of the Security Documents and to the lien of any renewals, modifications, and replacements of the Security Documents, subject to the terms of this Agreement.

2. **Non-Disturbance.** Lender covenants and agrees that, as long as no default exists, and no event has occurred and has continued to exist for such period of time (after notice and expiration of all cure periods, if any, required by the Lease) as would entitle the Landlord or any other party, including Lender, succeeding to Landlord’s interest under the Lease (each, a “**Successor Landlord**”) to terminate the Lease, (i) Lender will not terminate the Lease, (ii) Lender will not interfere with Tenant’s use, possession or enjoyment of the Demised Premises, and (iii) if Lender or any other person or entity becomes the owner of the Demised Premises by foreclosure, conveyance in lieu of foreclosure or otherwise, the Demised Premises will be subject to the Lease, and Successor Landlord will recognize Tenant as the tenant of the Demised Premises for the remainder of the term, including all renewal terms, in accordance with the provisions of the Lease. Lender agrees that it will not join Tenant as a party defendant in any action or proceeding for the purpose of terminating the Lease because of any default of Landlord under the Security Documents.

3. Attornment. If the interests of the Landlord are transferred by any foreclosure or other proceeding for enforcement of the Security Documents, Tenant will be bound to the Successor Landlord with the same force and effect as if the Successor Landlord were the original Landlord under the Lease. Tenant will attorn to any such Successor Landlord as its Landlord under the Lease. The attornment will be effective and self-operative without the execution of any further instruments upon the succession by any such Successor Landlord to the interest of the Landlord under the Lease.

4. Notice of Default by Landlord. Tenant covenants and agrees to give Lender written notice simultaneously with the giving of any notice of default to the Landlord under the provisions of the Lease. Tenant agrees that Lender will have the right, but not the obligation, within thirty (30) days after receipt by Lender of such notice to correct or remedy, or cause to be corrected or remedied, each such default before Tenant may take any action under the Lease by reason of such default. The notices to Lender will be delivered to:

SOUTHPOINT BANK  
3501 Grandview Parkway  
Birmingham, Alabama 35243

or to such other address as the Lender designates to Tenant by giving written notice to Tenant at Chick-fil-A, Inc., 5200 Buffington Road, Atlanta, Georgia 30349, or to such other address as may be designated by written notice from Tenant to Lender. Notices will be given and will be effective in accordance with Section 23 of the Lease.

5. As to Landlord and Tenant. As between Landlord and Tenant, Landlord and Tenant covenant and agree that nothing contained in this Agreement, nor anything done pursuant to the provisions of this Agreement will be deemed or construed to modify the Lease. As among Landlord, Tenant, and Lender, Landlord agrees not to accept rental payments under the Lease for more than thirty days in advance of the due date and Tenant agrees not to pay rental payments for more than thirty days in advance of the due date.

6. As to Landlord and Lender. As between Landlord and Lender, Landlord and Lender covenant and agree that nothing contained in this Agreement, nor anything done pursuant to the provisions of this Agreement will be deemed or construed to modify the Security Documents.

7. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the state in which the Property is located.

8. Provisions Binding. The terms and provisions of this Agreement will be binding on and will inure to the benefit of the heirs, executors, administrators, successors and permitted assigns, respectively, of Lender, Tenant, and Landlord.

**[SIGNATURES COMMENCE ON FOLLOWING PAGE]**

Lender, Landlord and Tenant have executed this Agreement as of the day, month and year first written above.

**LENDER**

SOUTHPOINT BANK,  
an Alabama banking corporation

By: Hawie Myers  
Name: Hawie Myers  
Title: EVP

STATE OF ALABAMA

COUNTY OF Jefferson

I, Nikki Matherson a Notary Public of the County and State aforesaid, certify that  
Hawie Myers, EVP of SOUTHPOINT BANK, an Alabama banking corporation personally appeared before me this day and acknowledged the execution of the foregoing instrument on behalf of the corporation.

Witness my hand and official seal, this 9th day of November, 2023.

[NOTARY SEAL]



Nikki Matherson  
Notary Public

Nikki Matherson  
Printed Name of Notary Public

My commission expires: Sept. 14, 2024

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

**TENANT**

CHICK-FIL-A, INC.,  
a Georgia corporation

By:   
Name: Elvin Sutton  
Title: Director

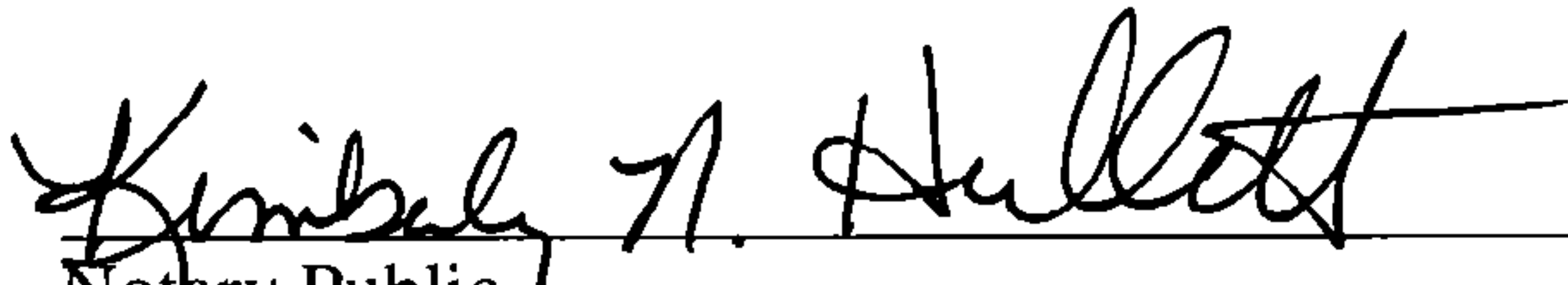
STATE OF GEORGIA

COUNTY OF FULTON

I, Kimberly N. Hullett, a Notary Public of the County and State aforesaid, certify that  
Elvin Sutton, Director of Chick-Fil-A, Inc., a Georgia corporation  
personally appeared before me this day and acknowledged the execution of the foregoing instrument on behalf  
of the corporation.

Witness my hand and official seal, this 30 day of November, 2023.

[NOTARY SEAL]

  
Notary Public

Kimberly N Hullett  
Printed Name of Notary Public

My commission expires: \_\_\_\_\_  
**NOTARY PUBLIC**  
**Coweta County, GEORGIA**  
**My Commission Expires 11/06/2024**

[SIGNATURES CONTINUED ON FOLLOWING PAGE]



**LANDLORD**

HCI INVERNESS LLC,  
an Alabama limited liability company

By: [Signature]  
Name: W. Jordy Henson  
Title: MANAGER

STATE OF ALABAMA

COUNTY OF JEFFERSON

I, SUE R. SWEATT, a Notary Public of the County and State aforesaid, certify that  
W. JORDY HENSON, MANAGER of HCI INVERNESS LLC, an Alabama limited  
liability company personally appeared before me this day and acknowledged the execution of the foregoing  
instrument on behalf of the corporation.

Witness my hand and official seal, this 9th day of November, 2023.

[NOTARY SEAL]

Sue R. Sweatt  
Notary Public

SUE R. SWEATT

Printed Name of Notary Public

My commission expires:

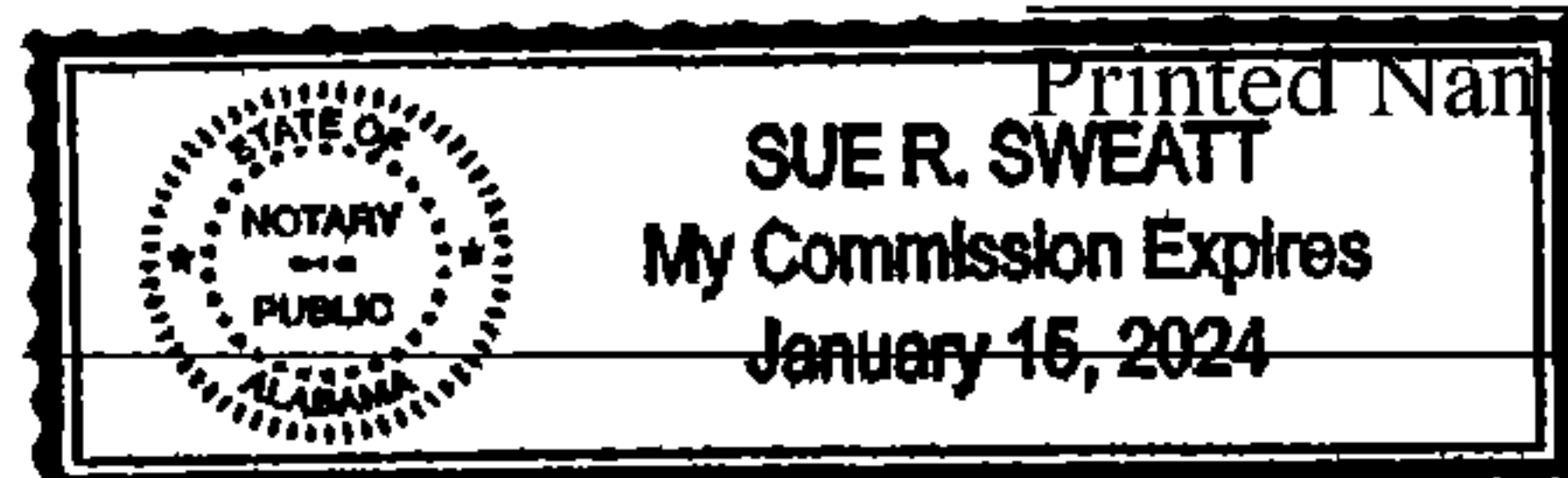


EXHIBIT "A"

Lot 1B-2 according to the Resurvey of Lot 1B, Inverness Corners Subdivision as recorded in Map Book 51, Page 76, in the Probate Office of Shelby County, Alabama.

Together with rights that constitute an interest in Real Estate contained in Reciprocal Easement Agreement by and between Metropolitan Life Insurance Company and Investment Associates, LLC, dated November 25, 2003, and recorded in Instrument No. 20031205000788530.

Together With rights that constitute an interest in Real Estate contained in Declaration of Easements, Covenants, Conditions, and Restrictions by Branch Inverness Associates, LP, as recorded in Inst. No. 20220725000289280.



Filed and Recorded  
Official Public Records  
Judge of Probate, Shelby County Alabama, County  
Clerk  
Shelby County, AL  
12/22/2023 09:23:39 AM  
\$38.00 JOANN  
20231222000367480

*Allen S. Bayl*