

STATE OF ALABAMA  
COUNTY OF SHELBY

**ASSIGNMENT OF LEASE AND RENTS BY LESSOR**

KNOW ALL MEN BY THESE PRESENTS that PEAK, INC. (hereinafter called the Assignor), in consideration of ONE AND NO/100 DOLLAR (\$1.00) paid by AMSOUTH BANK, N.A. (hereinafter called Assignee) and to induce the Assignee to make a loan to Assignor does hereby assign unto the Assignee the following leases;

Any and all leases (hereinafter "Lease Agreement"), be they verbal or written, by and between Assignor as Lessor and any individual or entity as Lessee on or concerning the property described on Exhibit "A" attached hereto and incorporated herein by this reference.

Together with any and all options to purchase, modifications, extensions, and renewals thereof and together with all rights to the possession thereof.

Also, together with any and all other leases now existing or hereafter made during the term of this Assignment for the whole or any part of the above-described leased premises, and any modification, extension or renewal thereof.

1. **RENTAL PAYMENTS.** It is expressly understood and agreed by the Assignor and the Assignee hereof that said Assignor reserves and is entitled to the possession of said leased premises and to retain, use, and enjoy the same unless and until the Assignor defaults in the performance of the terms and conditions of its agreements to the Assignee.

In the Event of Default by the Assignor in the performance of any of the terms and conditions of said Agreement with the Assignee, or this Assignment, the Assignor hereby authorizes the Assignee, at its option, to enter and take possession of the leased premises and to exercise all of the rights and privileges of the Assignor under the terms of the lease assigned. If the Assignee shall exercise such option and the Assignor shall thereafter remedy such default, of which fact judgment of the Assignee shall be conclusive, the Assignor and Assignee shall be restored to their respective rights and estates as if no default had occurred. Said option may be exercised by said Assignee as often as any such default occurs, and a failure to exercise said option shall not impair the future rights of the Assignee hereunder. Upon payment in full of all indebtedness secured hereby, as evidenced by the records of the Assignee, the assignment shall be null, void, and of no effect.

assign.lr 2/15/94 11:09am

Inst # 1994-07967

03/11/1994-07967  
09:14 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
004 MCD 16.00

Inst # 1994-07967

2. **WARRANTY.** Assignor warrants that title to all property subject to the Lease Agreement is in Assignor; that Assignor is the lawful owner of the entire Lessor's interest in the Lease Agreement; that the Lease Agreement is genuine; that Lessee has full capacity to contract; that Assignor has the right to make this Assignment; that full title and right to receive all rents and other sums due or to become due under the Lease Agreements are vested in Assignee by this Assignment; that no rentals payments have been made nor will be made thirty (30) days prior to the date such payments are due under the Lease Agreement; and that the rental property and rental payments and other sums are free from liens, encumbrances, claims, and set-offs of every kind whatsoever, and that, as of the date of this Assignment, the Lease Agreement is not in default.

3. **POWER OF ATTORNEY.** Assignor appoints Assignee its true, lawful, and irrevocable attorney to demand, receive, and enforce payment, to give receipts, releases, and satisfactions, and to sue, either in the name of Assignor or in the name of Assignee, for all rents and sums payable under the Lease Agreement.

4. **CONSENT.** Assignor consents that, without further notice and without releasing the liability of Assignor, Assignee may, at Assignee's discretion, give grace or indulgence in the collection of all rents and sums due or to become due under the Lease Agreement and grant extensions of time for the payment of the same before, at, or after maturity.

5. **OBLIGATIONS OF ASSIGNOR.** Assignee does not assume any of the Lessor's obligations under the Lease Agreement, and Assignor agrees: (a) to keep and perform all obligations of the Lessor under the Lease Agreement and to save Assignee harmless from the consequences of any failure to do so; and (b) to preserve the property subject to the Lease Agreement free and clear of liens and encumbrances, except to or with the consent of Assignee.

6. **NOTICE OF ASSIGNMENT AND PAYMENTS AFTER NOTICE OR DEFAULT.** Assignor agrees that Assignor will not assign any other interest in the Lease or Lease Agreement; that notice of this Assignment may be given to at any time at Assignee's option; and that upon such notice or a default hereunder, all payment under the Lease Agreement shall be made to Assignee, and if any are made to Assignor, Assignor will hold such payment in trust for Assignee and promptly transmit such payment to Assignee in the same form as it is received by Assignor except that Assignor will endorse instruments which are payable to Assignor.

7. **DURATION.** This Assignment is irrevocable and shall remain in full force and effect until and unless there is payment in full of all obligations secured by it or it is released by Assignee.

WITNESS its hand and seal this 16<sup>th</sup> day of February, 1994.

PEAK, INC.

BY: *Mark W. Bond*  
(Its President)

STATE OF ALABAMA     )  
SHELBY COUNTY        )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Mark W. Bond, whose name as President of PEAK, INC., is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she, as such officer, and with full authority, executed the same voluntarily, as an act of said corporation, acting in his/her capacity as aforesaid.

Given under my hand and official seal, this the 16<sup>th</sup> day of February, 1994.

*Melinda Standridge*  
NOTARY PUBLIC     MY COMMISSION EXPIRES JANUARY 28, 1997  
My Commission Expires: \_\_\_\_\_

THIS INSTRUMENT PREPARED BY:  
Karen F. Bean  
ENGEL, HAIRSTON & JOHANSON, P.C.  
P.O. Box 370027  
Birmingham, Alabama 35237  
(205) 328-4600

**EXHIBIT "A"**  
**TO**  
**MORTGAGE**  
**LIEN AFFIDAVIT**  
**FINANCING STATEMENT (UCC-1)**  
**ASSIGNMENT OF LEASE AND RENTS**  
**HAZARDOUS SUBSTANCE INDEMNIFICATION AND WARRANTY AGREEMENT**

**BORROWER:** Peak, Inc.  
**LENDER:** AmSouth Bank, N.A.

Lot 10-A, according to a resurvey of Lot 10,  
Cahaba Park South, as recorded in Map Book 11  
page 89, in the Probate Office of Shelby  
County, Alabama; being situated in Shelby  
County, Alabama.

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