

This instrument prepared by and to be returned to:
Timothy D. Davis, Esq.
Gordon, Silberman, Wiggins & Childs, P.C.
1400 SouthTrust Tower
Birmingham, Alabama 35203

This instrument to be cross-indexed with
the Assignment of Leases and Rents
recorded at Instrument #1995-32445

STATE OF ALABAMA)
SHELBY COUNTY)

FIRST AMENDMENT TO ASSIGNMENT OF LEASES AND RENTS

THIS FIRST AMENDMENT TO ASSIGNMENT OF LEASES AND RENTS made and entered into effective as of the 27th day of October, 1998, by **GERALD DENNIS O'BRIEN**, an individual (the "Debtor") and **COLONIAL BANK**, an Alabama banking corporation (the "Lender").

WHEREAS, Debtor executed and delivered to the Lender an Assignment of Leases and Rents dated as of the 8th day of November, 1995 (the "Assignment"), which Assignment was recorded on November 9, 1995, at Instrument #1995-32445 in the Office of the Judge of Probate of Shelby County, Alabama (all capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to them in the Assignment); and

WHEREAS, the original principal sum secured by the Assignment was \$1,000,000.00, as evidenced by a promissory note dated as of November 8, 1995, and the principal balance currently outstanding under said promissory note is \$942,423.34; and

WHEREAS, Lender has agreed to loan additional funds in the principal amount of \$57,577.00 to Debtor and, concurrently herewith, Debtor is executing and delivering to Lender a Promissory Note in the principal amount of \$57,577.00 (the "\$57,577.00 Note"), and Debtor and Lender are amending certain of the Security Documents, including, without limitation, the Mortgage, in order to secure the indebtedness owing under the \$57,577.00 Note by such Security Documents; and

WHEREAS, the Debtor and the Lender have agreed to amend the Assignment to provide security for the \$57,577.00 Note, all as more specifically hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing recitals, Debtor and Lender hereby agree as follows:

11/03/1998-43205
09:20 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
1 003 CRH 13.50

Inst # 1998-43205

1. The Assignment is hereby amended by deleting the first paragraph of the Assignment in its entirety and substituting the following new paragraph in lieu thereof:

"THIS ASSIGNMENT OF LEASES AND RENTS is entered into by and between **GERALD DENNIS O'BRIEN**, an individual (the "Debtor"), and **COLONIAL BANK**, an Alabama banking corporation (the "Lender"), to secure (a) an indebtedness owing by the Debtor to the Lender, as evidenced by that certain promissory note dated as of November 8, 1995 (together with any and all amendments or modifications thereto any time made and/or any and all promissory notes given at any time in extension, renewal or substitution therefor, the "1995 Note") in the principal sum of **ONE MILLION AND NO/100 (\$1,000,000.00) DOLLARS**, payable to the order of the Lender and executed by the Debtor, which indebtedness is described in a Construction and Permanent Loan Agreement (together with any and all amendments or modifications thereto at any time made, the "Loan Agreement"), and (b) an indebtedness owing by the Debtor to the Lender, as evidenced by that certain promissory note dated as of October 27, 1998 (together with any and all amendments or modifications thereto any time made and/or any and all promissory notes given at any time in extension, renewal or substitution therefor, the "\$57,577.00 Note") in the principal sum of **FIFTY-SEVEN THOUSAND FIVE HUNDRED SEVENTY-SEVEN AND NO/100 (\$57,577.00) DOLLARS**, payable to the order of the Lender and executed by the Debtor (the 1995 Note and the \$57,577.00 Note being hereinafter sometimes referred to, singularly or collectively as applicable, as the "Note"), all of which indebtedness is described in and secured by a Mortgage and Security Agreement dated as of November 8, 1995 (together with any and all amendments or modifications thereto at any time made, the "Mortgage") executed by the Debtor to the Lender, covering the Debtor's interest in and to the real property described in Exhibit "A" attached hereto and made a part hereof (the "Subject Property"). Said indebtedness is hereinafter collectively referred to as the "Indebtedness." The Mortgage, this Assignment of Leases and Rents, the Loan Agreement and all other instruments executed by the Debtor further securing the Indebtedness, together with any and all amendments at any time made to any thereof, are hereinafter collectively referred to as the "Security Documents."

2. Except as hereinabove expressly amended, the terms of the Assignment are hereby ratified and affirmed.

IN WITNESS WHEREOF, Debtor has executed this Assignment and the Lender has caused this Assignment to be executed by its duly authorized officer as of the day and year first above written.

DEBTOR:


Gerald Dennis O'Brien

LENDER:

COLONIAL BANK

By: 
Its Corporate Lending Representative

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Gerald Dennis O'Brien, whose name 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 executed the same voluntarily as of the day the same bears date.

Given under my hand and official seal this 27 day of October, 1998.

Vanessa D. Cotton

(SEAL)

Notary Public

My Commission Expires: NOTARY PUBLIC STATE OF ALABAMA AT LARGE.
MY COMMISSION EXPIRES: MAR. 5, 2002
BONDED THRU NOTARY PUBLIC UNDERWRITERS.

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Mark Taylor, whose name as Corporate Lending Rep. of Colonial Bank, an Alabama state banking corporation, 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, as such officer and with full authority, executed the same voluntarily for and as the act of said banking corporation.

Given under my hand and official seal this 27 day of October, 1998.

Vanessa D. Cotton

(SEAL)

Notary Public

My Commission Expires: NOTARY PUBLIC STATE OF ALABAMA AT LARGE.
MY COMMISSION EXPIRES: MAR. 5, 2002
BONDED THRU NOTARY PUBLIC UNDERWRITERS.

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