

*This instrument prepared by:*  
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**FIRST AMENDMENT  
TO  
MORTGAGE AND SECURITY AGREEMENT**

**THIS FIRST AMENDMENT TO MORTGAGE AND SECURITY AGREEMENT** (this "Amendment") is entered into on or as of November 3, 2003 by and between **THE MANDALA PROJECT, LLC**, an Alabama limited liability company ("Mortgagor"), and **FIRST COMMERCIAL BANK**, an Alabama state bank ("Mortgagee").

**RECITALS:**

A. Mortgagor entered into that certain Mortgage and Security Agreement in favor of Mortgagee dated June 17, 2003, which is recorded in the Office of the Judge of Probate of Shelby County, Alabama, as Instrument 20030618000380540 (the "Mortgage"). The Mortgage encumbers the property described on Exhibit A attached hereto.

B. The Mortgage secures, among other things, that certain Promissory Note dated June 17, 2003 in the maximum principal amount of \$2,600,000.00 executed by Mortgagor in favor of Mortgagee (the "Note"). The Note is being amended and restated by that certain Amended and Restated Promissory Note of even date herewith pursuant to which the maximum principal balance of the note will be increased by \$5,900,000.00 to \$8,500,000.00. The additional proceeds of the Note will be advanced to Mortgagor pursuant to the terms of that certain Construction and Term Loan Agreement of even date herewith by and between Mortgagor and Mortgagee (the "Loan Agreement").

C. Mortgagor and Mortgagee have agreed to enter into this Amendment in order to provide that the Mortgage will hereafter secure the Note as so amended and restated.

**NOW, THEREFORE**, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the party hereto agree that the Mortgage is amended as follows:

1. From and after the date hereof, the Mortgage shall secure the Note, as amended and restated by the Amended and Restated Promissory Note described in the recitals hereto, and the Note, as defined in the Mortgage, shall hereafter refer to the Note, as so amended and restated, together with all subsequent modifications, amendments, extensions, renewals or replacements thereof. The Mortgage shall also secure all obligations and liabilities of Mortgagor which may now or hereafter arise under the Loan Agreement, and the term "Loan Documents", as used in the Mortgage, shall hereafter include the Loan Agreement and any modifications and amendments thereof.

2. Subject to this Amendment, all terms, conditions and provisions of the Mortgage shall remain in full force and effect, and the same are hereby ratified and affirmed in all respects by Mortgagor.

**IN WITNESS WHEREOF**, this Amendment has been duly executed by Mortgagor and Mortgagee on or as of the day and year first above written.

**MORTGAGOR:**

THE MANDALA PROJECT, LLC

By: Gary Pharo  
Gary Pharo  
Its: Manager

**MORTGAGEE:**

FIRST COMMERCIAL BANK

By: Julia A. [Signature]  
Its: Vice President

STATE OF ALABAMA

)

:

JEFFERSON COUNTY

)

I, the undersigned, a notary public in and for said county in said state, hereby certify that Gary Pharo, whose name as Manager of The Mandala Project, 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 said instrument, he, as such Manager and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand and official seal this 1<sup>st</sup> day of Nov., 2003.

Norma C. Durbin  
Notary Public

[NOTARIAL SEAL]

My commission expires: 7.14.04

STATE OF ALABAMA

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:

JEFFERSON COUNTY

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I, the undersigned, a notary public in and for said county in said state, hereby certify that John Marks, whose name as Vice President of First Commercial Bank, a state banking association, 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 association.

Given under my hand and official seal this 4<sup>th</sup> day of Nov., 2003.

Norma C. Durbin  
Notary Public

[NOTARIAL SEAL]

My commission expires: 7.14.04

## EXHIBIT A

### Legal Description

That certain parcel of land situated in Jefferson County, Alabama, which is more particularly described as follows:

A parcel of land situated in the Northwest Quarter of the Southeast Quarter and the Northeast Quarter of the Southwest Quarter of Section 36, Township 18 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Southwest Corner of the Northwest Quarter of the Southeast Quarter of Section 36, Township 18 South, Range 2 West; thence run North 00°01'03" West along the West line of said Quarter-Quarter for a distance of 518.01 feet to the Point of Beginning; thence leaving said Quarter line run North 80°00'58" West for a distance of 187.24 feet; thence run North 73°17'13" West for a distance of 258.79 feet to the Southeasterly right-of-way of Inverness Center Drive (R.O.W. varies); said Point also being the Point of Curvature of a curve to the right, having a radius of 386.00 feet, a central angle of 22° 19' 05", a chord length of 149.41 feet and a chord bearing of North 39° 33' 18" East; thence continue along the arc of said curve and along said right-of-way for a distance of 150.36 feet to the Point of Tangency of said curve; thence run North 54°35'51" East along said right-of-way for a distance of 173.20 feet; to the Point of Curvature of a curve to the left, having a radius of 289.00 feet, a central angle of 49°11'49", a chord length of 240.60 feet and a chord bearing of North 30°12'19" East; thence continue along the arc of said curve and along said right-of-way for a distance of 248.15 feet to the Point of Tangency of said curve; thence run North 05°36'24" East along said right-of-way for a distance of 52.15 feet to the Point of Curvature of a curve to the right, having a radius of 166.00 feet, a central angle of 33°07'51", a chord length of 94.66 feet and a chord bearing of North 21°59'22" East; thence continue along the arc of said curve and along said right-of-way for a distance of 95.99 feet to the Southwesterly right-of-way of U.S. Highway 280 (R.O.W. varies); thence run South 60°53'29" East along said Southwesterly right-of-way for a distance of 608.78 feet; thence leaving said right-of-way run South 29°08'00" West for a distance of 430.11 feet; thence run North 72°07'15" West for a distance of 102.38 feet; thence run North 60°54'30" West for a distance of 218.18 feet to the West line of the Northwest Quarter of the Southeast Quarter of Section 36, Township 18 South, Range 2 West; thence run South 00°01'03" East along said Quarter line for a distance of 135.69 feet to the Point of Beginning.

TOGETHER WITH right of Grantee in and to that certain Access Road and Drainage Easement recorded in Instrument No. 20030618000380510, in the Probate Office of Shelby County, Alabama.