

This instrument is prepared by:  
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**STATE OF ALABAMA  
COUNTY OF SHELBY**

**AGREEMENT MODIFYING MORTGAGE  
AND SECURITY AGREEMENT**

**THIS AGREEMENT MODIFYING MORTGAGE AND SECURITY AGREEMENT** is made as of the date set forth below by and between **BIRMINGHAM HOSPITALITY CORPORATION**, an Alabama corporation, (the "Mortgagor"), and **BANK OF PENSACOLA** (the "Mortgagee"), for the following uses and purposes:

**RECITALS:**

A. Mortgagor has previously executed in favor of **BANK OF PENSACOLA** (the "Mortgagee") that certain Mortgage and Security Agreement dated May 24, 2000, recorded in Instrument 2000-17592, in the Probate Office of Shelby County, Alabama (the "Mortgage");

B. The Mortgage secures the indebtedness of Mortgagor to Mortgagee as evidenced by that certain Promissory Note made by Mortgagor in favor of the Mortgagee dated May 24, 2000 in the original principal amount of **TWO MILLION SIX HUNDRED SIXTY TWO THOUSAND FIVE HUNDRED AND N0/100 DOLLARS (\$2,662,500.00)** (the "Existing Note") which currently has a balance of \$ **2,516,756.35**.

C. At the request of Mortgagor, Mortgagee has agreed to make an additional advance to Mortgagor in the amount of **ONE HUNDRED THOUSAND THREE HUNDRED SIXTY FOUR AND 40/100 DOLLARS (\$100,364.40)**.

D. Mortgagor has executed in favor of Mortgagee, on even date herewith, that certain Renewal Promissory Note in the original principal amount of **TWO MILLION SIX HUNDRED SEVENTEEN THOUSAND ONE HUNDRED TWENTY AND 75/100 DOLLARS (\$2,617,120.75)** (the "Renewal Note"), pursuant to which the indebtedness evidenced by the Original Note and the Additional Advance is consolidated and renewed, and the parties hereto desire to modify the Mortgage to expressly secure the Renewal Note.

**NOW, THEREFORE**, in consideration of the premises and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, Mortgagor and Mortgagee hereby covenant and agree as follows:

1. The Mortgage shall secure the obligations of Mortgagor to Mortgagee as evidenced by the Renewal Note, and all renewals thereof, together with interest thereon until paid at the rate specified therein, the said principal and interest being payable in the manner and upon the terms, provisions and conditions set forth therein.

2. Except as modified hereby, all other terms and conditions of the Mortgage shall remain in full force and effect, and Mortgagor and Mortgagee hereby ratify and confirm the terms and conditions thereof. Mortgagor represents and warrants to Mortgagee that Mortgagor has no counterclaims, setoffs or defenses to the rights of Mortgagee under the Mortgage, as amended hereby, the Renewal Note, or any other document or instrument evidencing, securing or otherwise executed in connection with any indebtedness of Mortgagor to Mortgagee.

**IN WITNESS WHEREOF**, Mortgagor and Mortgagee have caused this Agreement Modifying Mortgage and Security Agreement to be executed by its duly authorized officers effective as of this 20<sup>th</sup> day of March, 2003.

**MORTGAGOR:**

**BIRMINGHAM HOSPITALITY  
CORPORATION, an Alabama corporation**

BY:

  
**JULIAN MACQUEEN**  
Its President

**MORTGAGEE:  
BANK OF PENSACOLA**

BY:

  
**ERIC S. NICKELSEN**  
Its Vice President

[BANK SEAL]

STATE OF ALABAMA  
COUNTY OF BALDWIN

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Julian MacQueen, whose name as President of Birmingham Hospitality Corp, an Alabama 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 the said instrument he, in his capacity as such officer, and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this the 20<sup>th</sup> day of March, 2003.



[type/print name below signature]

My Commission Expires: 8/20/2005

Commission No.: \_\_\_\_\_

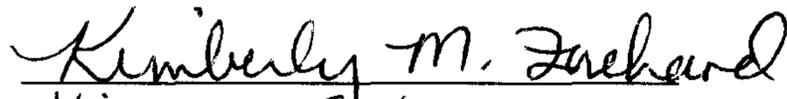
[NOTARY SEAL]

STATE OF Florida

COUNTY OF Escambia

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Eric S. Nickelsen, whose name as Vice President of Bank of Pensacola, 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 said instrument he, in his capacity as such officer, and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this the 24<sup>th</sup> day of March, 2003.



Kimberly M. Forehand

[type/print name below signature]

My Commission Expires: \_\_\_\_\_

Commission No.: \_\_\_\_\_

[NOTARY SEAL]



Kimberly M Forehand  
My Commission DD016876  
Expires April 30, 2004