

## SUBORDINATION, NONDISTURBANCE AND ATTORNMENT

This SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT (the "Agreement") is made and entered into as of this 17th day of March, 2004, by and among SOUTHTRUST BANK, an Alabama banking corporation ("Lender"), RAVE MOTION PICTURES BIRMINGHAM III, L.L.C., a Delaware limited liability company ("Tenant"), and AIG BAKER EAST VILLAGE, L.L.C., a Delaware limited liability company ("Landlord").

### RECITALS

A. Lender is now or will be the owner and holder of that certain Real Estate Note dated on or after the date hereof ("Note Date"), in the principal sum of Fifty Nine Million and No/100 Dollars (\$59,000,000.00), secured by, among other collateral, a Mortgage and Security Agreement from Landlord, as "Grantor" therein, to Lender, as "Grantee" therein, dated the Note Date, and to be recorded in the Shelby County, Alabama, records as amended from time to time (the "Mortgage"), which Mortgage constitutes a lien or encumbrance on that certain real property located in such County and State and more particularly described in the attached Exhibit "A" (the "Property").

B. Tenant is the tenant of the Property (the "demised premises") pursuant to the terms of that certain Lease dated December 12, 2003, between Landlord and Tenant (the "Lease").

C. Tenant, Landlord and Lender desire to confirm their understanding with respect to the Lease and the Mortgage.

### AGREEMENT

FOR AND IN CONSIDERATION of the sum of Ten and No/100 Dollars (\$10.00), the foregoing recitals, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Tenant, Landlord and Lender do hereby agree as follows:

1. So long as Tenant is not in default (beyond any period given Tenant to cure such default under the Lease) in the payment of rent or in the performance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed, Lender agrees for itself and its successors in interest and for any other person acquiring title to the Property through a foreclosure (an "Acquiring Party"), that Tenant's possession of the premises as described in the Lease will not be disturbed during the term of the Lease, as said term may be extended pursuant to the terms of the Lease or as said premises may be expanded as specified in the Lease, by reason of a foreclosure, and the Lease will remain in full force and effect. For purposes of this agreement, a "foreclosure" shall include (but not be limited to) a sheriff's or trustee's sale under the power of sale contained in the Security Instrument, the termination of any superior lease of the Property and any other transfer of the Landlord's interest in the Property under peril of foreclosure, including, without limitation to the generality of the foregoing, an assignment or sale in lieu of foreclosure.

2. If the interests of Landlord shall be transferred to and/or owned by Lender by reason of judicial foreclosure, power-of-sale foreclosure or other proceedings brought by Lender, or any other manner, including, but not limited to, Lender's exercise of its rights under the Mortgage, and Lender succeeds to the interest of the Landlord under the Lease, Tenant shall be bound to Lender under all of the terms, covenants and conditions of the Lease for the balance of the remaining term thereof and any extension thereof duly exercised by Tenant, with the same force and effect as if Lender were the Landlord under the Lease, and Tenant does hereby attorn to Lender as its Landlord, said attornment to be effective and self-operative without the execution of any further instruments on the part of any of the parties hereto immediately upon Lender's succeeding to the interest of the Landlord under the Lease. Tenant further covenants and agrees to attorn to: (i) Lender when in possession of the Premises; (ii) a receiver appointed in an action to foreclose the Mortgage; or (iii) any other party acquiring title to the Premise by foreclosure or conveyance in lieu of foreclosure. This provision shall operate automatically without further acknowledgement or instrument of attornment. Tenant agrees, however, to execute and deliver within a reasonable time, at any time and from time to time, upon the prior written request of the Lender or any Acquiring Party any reasonable instrument which may be necessary or appropriate to evidence such attornment, provided that such instrument is consistent with the Lease and does not alter the terms of the Lease.

3. If Lender shall succeed to the interest of Landlord under the Lease, Lender shall, subject to the last sentence of this Section 3, be bound to Tenant under all of the terms, covenants and conditions of the Lease; provided, however, that Lender shall not be:

- (a) liable for any act or omission of Landlord or Prior Landlord; or
- (b) subject to any offset or defenses which Tenant might have against Landlord or Prior Landlord; or
- (c) bound by any rent or additional rent or advance rent which Tenant might have paid for more than the current month to Landlord or Prior Landlord and all such rent shall remain due and owing notwithstanding such advance payment; or
- (d) bound by any amendment or modification of the Lease made without its consent and written approval; or
- (e) be required to complete improvements, repairs or renovations to the improvements on the Property or otherwise perform the obligations of Landlord under the Lease in the event of a foreclosure of the Mortgage or acceptance by Lender of a deed in lieu of foreclosure prior to full completion of such improvements.

Neither Lender nor any other party who, from time to time, shall be included in the definition of Lender hereunder shall have any liability or responsibility under or pursuant to the terms of this Agreement after it ceases to own a fee interest in or to the property described on Exhibit "A."

4. The Lease now is, and shall at all times continue to be, subject and subordinate in each and every respect, to the Mortgage and to any and all renewals, modifications, extensions,



substitutions, replacements and/or consolidations of the Mortgage. Nothing herein contained shall be deemed or construed as limiting or restricting the enforcement by Lender of any of the terms, covenants, provisions or remedies of the Mortgage, whether or not consistent with the Lease.

5. The term "Lender" shall be deemed to include Lender and any of its successors and assigns, including anyone who shall have succeeded to Landlord's interest by, through or under judicial or power-of-sale foreclosure or other proceedings brought pursuant to the Mortgage, or deed in lieu of such foreclosure or proceedings, or otherwise.

7. In the absence of the prior written consent of Lender, Tenant agrees not to do any of the following: (a) prepay the rent under the Lease for more than one (1) month in advance; (b) enter into any agreement with the Landlord to amend or modify the Lease in any respect; (c) voluntarily surrender the demised premises or terminate the Lease without cause; or (d) sublease or assign the demised premises.

8. In the event Landlord shall fail to perform or observe any of the terms, conditions or agreements in the Lease, or a default by Landlord shall otherwise occur thereunder, Tenant shall give written notice thereof to Lender and Lender shall have the right (but not the obligation) to cure such failure. Tenant shall not take any action with respect to such failure under the Lease including, without limitation, any action in order to terminate, rescind or avoid the Lease or to withhold any rent thereunder, for a period of the longer of (i) the time allowed the Landlord to cure under the Lease; or (ii) thirty (30) days after receipt of such written notice to run simultaneously with any notice to Landlord by Lender; provided, however, that in the case of any such default which cannot with diligence be cured within said 30-day period, if Lender shall proceed promptly to cure such failure and thereafter prosecute the curing of such failure with diligence and continuity, the time within which such failure may be cured shall be extended for such period as may be necessary.

9. Tenant acknowledges that Landlord and Lender have entered into the Mortgage, and that the Mortgage was or will be recorded in the public records of the county and state where the Property lies.

10. This Agreement may not be modified orally or in any other manner than by an agreement in writing signed by the parties hereto and their respective successors in interest. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns.

11. This Agreement may be executed in several counterparts, and all so executed shall constitute one agreement, binding on all parties hereto, notwithstanding that all parties are not signatories to the original or the same counterpart.

12. All notices, demands and requests given hereunder shall be in writing and shall be either by: (i) hand delivery to the address for notices; (ii) delivery by overnight courier service to the address for notices; or (iii) by certified mail, return receipt requested, addressed to the address for notices by United States mail, postage prepaid.

All notices shall be deemed received upon the earlier to occur of: (i) the hand delivery of such notice to the address for notices; (ii) one day after the deposit of such notice with an overnight courier service addressed to the address for notices; or (iii) three days after depositing the notice in the United States mail as set forth above.

All notices shall be addressed to the following addresses:

If to Landlord:	AIG Baker East Village, L.L.C. and Brookstone Townhomes, LLC 1701 Lee Branch Lane Birmingham, Alabama 35242 Attn: Ron Day
If to Tenant:	Rave Motion Pictures Birmingham III, L.L.C. c/o Rave Reviews Cinemas, L.L.C. 3333 Welborn, Suite 100 Dallas, Texas 75219 Attn: Tom W. Stephenson, Jr.
With a copy to:	Bryan Cave LLP 3500 One Kansas City Place 1200 Main Street Kansas City, Missouri 64105 Attn: Christopher J. Fisher
If to Lender:	SouthTrust Bank One Georgia Center – 22nd Floor 600 West Peachtree Street Atlanta, Georgia 30308 Attn: Randy Rinderknecht, Vice President
With a copy to:	George A. Mattingly, Esq. Arnall Golden Gregory LLP 2800 One Atlantic Center 1201 W. Peachtree Street Atlanta, Georgia 30309

or to such other person or at such other place as any party hereto may by notice designate as a place for service of notice.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement under seal as of the date and year first above written.

**TENANT:**

RAVE MOTION PICTURES BIRMINGHAM,  
III, L.L.C., a Delaware limited liability company

By: Peter A. Nelson  
Name: Peter A. Nelson  
Its: EW-CFO

STATE OF TEXAS )  
COUNTY OF DALLAS )

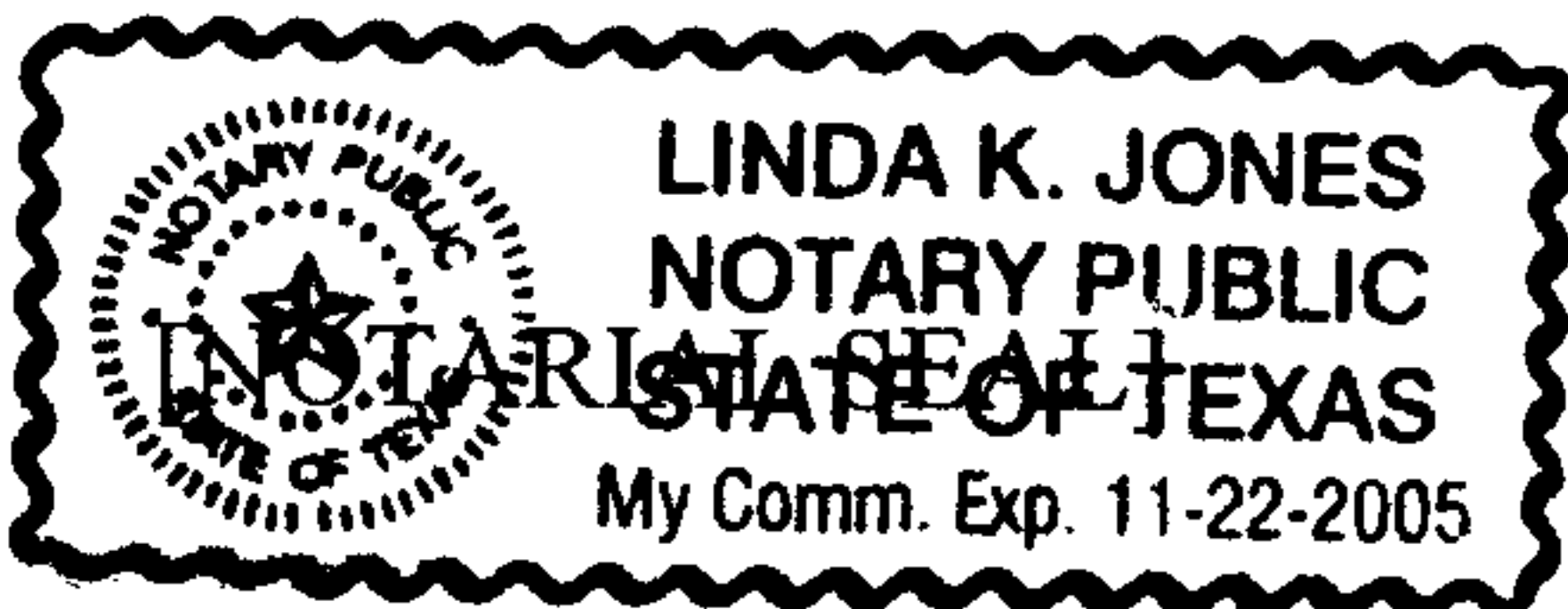
ACKNOWLEDGMENT

I, the undersigned, a notary public in and for said county in said state, hereby certify that PETER A. NELSON, whose name as the EW-CFO of **Rave Motion Pictures Birmingham III, L.L.C.**, is affixed 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 Rave Motion Pictures Birmingham III, L.L.C.

Given under my hand and official seal this 25 day of FEBRUARY, 2004.

Linda K. Jones  
Notary Public

My Commission Expires: 11-22-05





**LANDLORD**

AIG BAKER EAST VILLAGE, L.L.C.,  
a Delaware limited liability company

BY: AIG Baker Shopping Center Properties,  
L.L.C., a Delaware limited liability company  
Its Sole Member

By: [Signature] (Seal)  
Name: W. ERNEST MOSS  
Title: Executive Vice President

STATE OF ALABAMA     )  
                                  )  
COUNTY OF SHELBY )

**ACKNOWLEDGMENT**

I, the undersigned, a notary public in and for said county in said state, hereby certify that W. ERNEST MOSS, whose name as the EXECUTIVE VICE PRESIDENT of AIG Baker Shopping Center Properties, L.L.C., the sole member of AIG Baker East Village, L.L.C., is affixed 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 AIG Baker Shopping Center Properties, L.L.C., acting in its capacity as the sole member, for and as the act of said AIG Baker East Village, L.L.C.

Given under my hand and official seal this 27<sup>TH</sup> day of FEBRUARY, 2004.


[Signature]  
Notary Public

My Commission Expires: 7-2-07

[NOTARIAL SEAL]

**LENDER:**

SOUTHTRUST BANK,  
an Alabama banking corporation


By:   
Name: Randy Rinderknecht  
Group Vice President

STATE OF GEORGIA     )  
                                  )  
COUNTY OF FULTON    )

ACKNOWLEDGMENT

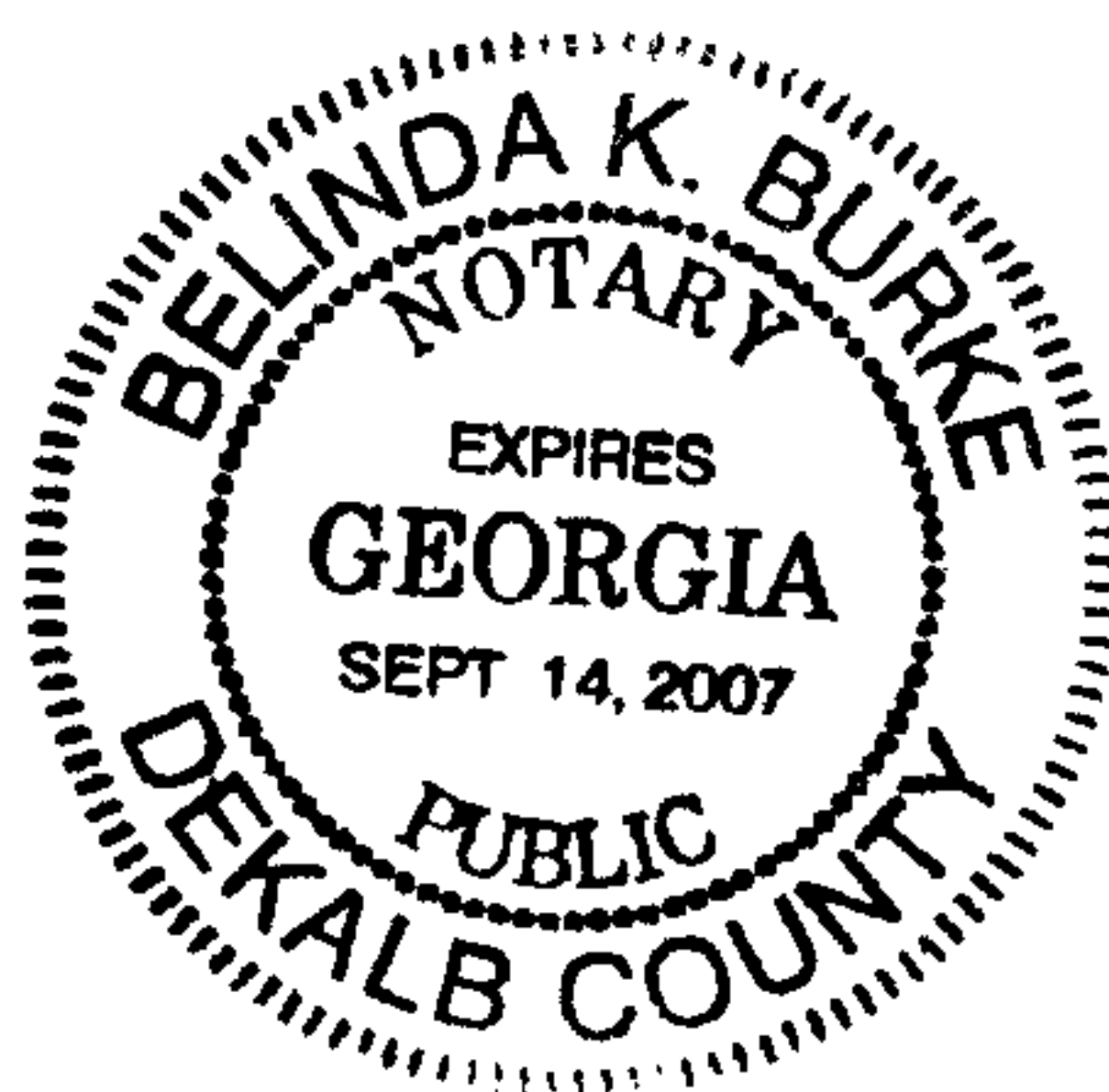
I, the undersigned, a notary public in and for said county in said state, hereby certify that Randy Rinderknecht, whose name as the Group Vice President of SouthTrust Bank, an Alabama banking corporation, is affixed to the foregoing instrument, and who is known to me, acknowledged before me on this day 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 SouthTrust Bank, acting in its capacity as the Group Vice President.

Given under my hand and official seal this 17<sup>th</sup> day of March, 2004.

  
Notary Public

My Commission Expires: 9/14/2007

[NOTARIAL SEAL]



## **EXHIBIT A**

### **DESCRIPTION OF LAND**

Lot 5A of "A RESUBDIVISION OF THE VILLAGE AT LEE BRANCH", as recorded in the Office of the Judge of Probate, Shelby County, Alabama, in Map Book 31, Pages 130A & B.