

20050415000178360 1/8 \$35.00  
Shelby Cnty Judge of Probate, AL  
04/15/2005 12:14:05PM FILED/CERT

*This instrument prepared by:*

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**SECOND AMENDMENT TO MORTGAGE AND SECURITY  
AGREEMENT AND TO ASSIGNMENT OF RENTS AND LEASES**

**THIS SECOND AMENDMENT TO MORTGAGE AND SECURITY AGREEMENT AND TO ASSIGNMENT OF RENTS AND LEASES** (this "Agreement"), made as of the 22nd day of December, 2004, by and between **ALABASTER RETAIL PROPERTY, L.L.C.**, an Alabama limited liability company (the "Borrower") whose address is 3500 Eastern Boulevard, Montgomery, Alabama 36116-1781, Attention: Mr. Jake Aronov, and **SOUTHTRUST BANK**, an Alabama banking corporation (the "Lender"), whose address is 420 North 20th Street, P.O. Box 2554, Birmingham, Alabama 35290 (if by mail for delivery to the P.O. Box; 35203 if for delivery to the street address), Attention: Commercial Real Estate Department.

**RE C I T A L S:**

As security of a loan by Lender to Borrower, Borrower executed and delivered to Lender that certain Mortgage and Security Agreement dated February 7, 2003, recorded as Instrument #20030210000081150 in the office of the Judge of Probate of Shelby County, Alabama and that certain Assignment of Rents and Leases of even date therewith, recorded as Instrument #20030210000081160 in said office. The Mortgage and Security Agreement and the Assignment of Rents and Leases were amended by that certain Amendment to Mortgage and Security Agreement and to Assignment of Rents and Leases dated April 8, 2003, executed by Borrower and Lender and recorded as Instrument #20030421000240350 in the office of the Judge of Probate of Shelby County, Alabama (as so amended, the "Mortgage" and the "Assignment," respectively). Borrower and Lender mutually desire to amend the Mortgage and the Assignment as hereinafter set forth in order to correct an error in the legal description in the Mortgage and the Assignment.



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## AGREEMENT

**NOW, THEREFORE,** in consideration of the foregoing Recitals, the parties hereto agree as follows:

1. The Recitals herein are true and correct.
2. Exhibit A of the Mortgage and Assignment are each amended to delete the legal description in its entirety, and insert, in lieu thereof, the legal description found on Exhibit A attached hereto. This Agreement is intended to have the same effect as if Exhibit A to this Agreement had been attached as the legal description to each of the Mortgage and the Assignment when originally executed and recorded. Notwithstanding the foregoing, included in Exhibit A are four (4) parcels described in Exhibit B that were originally included at the time of the recording of the Mortgage and Assignment but have been released and nothing herein is intended to include such four (4) parcels described in Exhibit B or rescind the releases. Borrower does hereby grant, bargain, sell, assign, mortgage and convey to the Lender, subject to all terms and conditions of the Mortgage, the real property described in Exhibit A (less and except the parcels described in Exhibit B) together with all improvements thereon and all appurtenances thereto.
3. Except as herein amended, the Mortgage and Assignment shall remain in full force and effect, and the Mortgage and Assignment, as so amended, are hereby ratified and affirmed in all respects. The Borrower confirms that it has no offsets or defenses with respect to its obligations pursuant to the Mortgage or Assignment, each as herein amended.

\* \* \*

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed and delivered as of the day and year first above written.

**BORROWER:**

**ALABASTER RETAIL PROPERTY, L.L.C.,**  
an Alabama limited liability company

BY: SC Management, Inc.,  
an Alabama corporation  
Its Manager

BY: Jennifer P. Autrey  
Print Name: Jennifer P. Autrey  
Title: Secretary / Treasurer

STATE OF ALABAMA )  
COUNTY OF MONTGOMERY )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Jennifer P. Autrey whose name as Sec. / Treas. of SC Management, Inc., an Alabama corporation, acting as Manager of Alabaster Retail Property, L.L.C., 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 the instrument, s/he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation acting as Manager of said limited liability company.

Given under my hand and official seal this 25<sup>th</sup> day of January, 2005 ~~December, 2004~~.

[Signature]  
Notary Public  
My commission expires: 11-22-2008

[NOTARY SEAL]

LENDER:

**SOUTHTRUST BANK,**  
an Alabama banking corporation

BY: [Signature]

Print Name: Stephen T. Lodge

Its Senior Vice President

**STATE OF ALABAMA )**  
**COUNTY OF JEFFERSON )**

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Stephen T. Lodge whose name as Senior Vice President of SouthTrust Bank, an Alabama 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 the instrument, s/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 22<sup>nd</sup> day of December, 2004.

[Signature]  
Notary Public

My commission expires: 5/08/07

[NOTARY SEAL]



**EXHIBIT A**

**LEGAL DESCRIPTION**

**PARCELS 1-7**

A parcel of land located in the Northwest quarter of the Northwest quarter and in the Northeast quarter of the Northwest quarter of Section 14, Township 21 South, Range 3 West and being more particularly described as follows:

Commence at a 3 inch pipe found at the Northwest corner of said Section 14; thence run South 89 degrees 03 minutes 42 seconds East and along the Section line 1538.52 feet to a half inch capped rebar set at the POINT OF BEGINNING, said POINT being on the East right of way of Alabama Highway 119, a variable-width right of way; thence continue South 89 degrees 03 minutes 42 seconds East and along the section line 804.97 feet to a half inch capped rebar set; thence run South 25 degrees 30 minutes 31 seconds West 1443.13 feet to a half inch capped rebar set on the North right of way of Shelby County Road 26, an 80 foot wide right of way; thence North 83 degrees 11 minutes 42 seconds West and along said right of way 658.64 feet; thence run North 19 degrees 20 minutes 38 seconds West along a right of way transition 109.84 feet to a point on the East right of way of Alabama Highway 119 that is 117 feet right of centerline station 455+70; thence run North 22 degrees 54 minutes 14 seconds East along said right of way 166.37 feet to a point that is 110 feet right of centerline station 457+37; thence run North 25 degrees 20 minutes 17 seconds East along said right of way 313.00 feet to a point that is 110 feet right of centerline station 460+50; thence run North 47 degrees 08 minutes 22 seconds East along said right of way 26.93 feet to a point that is 120 feet right of centerline station 460+75; thence run North 25 degrees 20 minutes 17 seconds East along said right of way 175.00 feet to a point that is 120 feet right of centerline station 462+50; thence run North 14 degrees 01 minutes 41 seconds East along said right of way 152.97 feet to a point that is 90 feet right of centerline station 464+00; thence run North 25 degrees 20 minutes 17 seconds East along said right of way 412.63 feet to the POINT OF BEGINNING.

LESS AND EXCEPT from the above description the following described parcel.

Commence at a 3 inch pipe found at the Northwest corner of said Section 14; thence run South 89 degrees 03 minutes 42 seconds East and along the section line 1837.00 feet; thence run South 00 degrees 56 minutes 18 seconds West 13.00 feet to a half inch capped rebar set at the POINT OF BEGINNING; thence run South 89 degrees 03 minutes 42 seconds East 100.00 feet to a half inch capped rebar set; thence run South 00 degrees 56 minutes 18 seconds West 100.00 feet to a half inch capped rebar set; thence run North 89 degrees 03 minutes 42 seconds West 100.00 feet to a half inch capped rebar set; thence run North 00 degrees 56 minutes 18 seconds East 100.00 feet to the POINT OF BEGINNING.

PARCEL 8

An easement located in the Northeast quarter of the Northwest quarter of Section 14, Township 21 South, Range 3 West, Shelby County, Alabama and being more particularly described as follows:

Commence at the Northwest corner of Section 14; thence run South 89 degrees 03 minutes 42 seconds East and along the section line 2343.49 feet; thence run South 25 degrees 30 minutes 31 seconds West 617.60 feet to the POINT OF BEGINNING; thence continue South 25 degrees 30 minutes 31 seconds West 589.55 feet; thence run North 44 degrees 42 minutes 44 seconds East 69.92 feet; thence run North 25 degrees 30 minutes 31 seconds East 355.71 feet; thence run North 17 degrees 42 minutes 15 seconds East 169.38 feet to the POINT OF BEGINNING.

PARCEL 9

An easement located in the southeast quarter of the southwest quarter of Section 11, Township 21 South, Range 3 West and being more particularly described as follows:

COMMENCE at the southwest corner of said Section 11; thence run South 89 degrees, 03 minutes, 42 seconds East and along the section line 2169.97 feet to the POINT OF BEGINNING; thence continue South 89 degrees, 03 minutes, 42 seconds East along the section line 272.66 feet; thence run North 25 degrees, 30 minutes, 31 seconds East 339.88 feet; thence run North 65 degrees, 14 minutes, 00 seconds West 682.70; thence run South 25 degrees, 30 minutes, 07 seconds West 296.73 feet; thence run South 20 degrees, 01 minutes, 42 seconds West 153.82 feet; thence run South 65 degrees, 14 minutes, 00 seconds East 419.98 feet to the POINT OF BEGINNING.

PARCEL 10

A 30-foot wide easement for ingress and egress lying in the southeast quarter of the southwest quarter of Section 11, Township 21 South, Range 3 West, said easement being more particularly described as follows:

COMMENCE at the southwest corner of said Section 11; thence run South 89 degrees, 03 minutes, 42 seconds East and along the section line 2442.63 feet; thence run North 25 degrees, 30 minutes, 31 seconds East 339.88 feet; thence run North 65 degrees, 14 minutes, 00 seconds West 682.70 feet; thence run South 25 degrees, 30 minutes, 07 seconds West 36.55 feet to the POINT OF BEGINNING of said easement; thence run North 65 degrees, 00 minutes, 09 seconds West 141.95 feet to a point on the east right-of-way of Alabama Highway 119; thence run South 25 degrees, 19 minutes, 55 seconds West and along said east right-of-way 30.00 feet; thence run South 65 degrees, 00 minutes, 09 seconds East 141.86 feet, more or less; thence run North 25 degrees, 30 minutes, 07 seconds East 30.00 feet to the POINT OF BEGINNING.

**EXHIBIT B**

**RELEASED PARCELS**

- (1) A parcel of land situated in the Northeast quarter of the Northwest quarter of Section 14, Township 21 South, Range 3 West, Shelby County, Alabama, more particularly described as follows:

Commence at a 3 inch iron pipe found at the Northwest corner of said Section 14; thence run South 89 degrees 03 minutes 42 seconds East along the North boundary of said Section 14 a distance of 1538.52 feet to a point on the Southeast right of way of Alabama Highway No. 119 (variable right of way); thence run South 25 degrees 20 minutes 17 seconds West along said right of way a distance of 134.10 feet; thence depart said right of way and run South 67 degrees 21 minutes 17 seconds East a distance of 253.16 feet to the POINT OF BEGINNING; thence continue South 67 degrees 21 minutes 17 seconds East a distance of 87.31 feet to the Point of Curvature of a curve concave Northeastwardly, said curve having a radius of 280.00 feet and a delta angle left of 13 degrees 19 minutes 35 seconds; thence run along said curve an arc distance of 65.13 feet to the Point of Tangency of said curve (the chord subtending said arc bearing South 74 degrees 01 minutes 05 seconds East a distance of 64.98 feet); thence run South 08 degrees 58 minutes 33 seconds East a distance of 19.25 feet; thence run South 25 degrees 30 minutes 31 seconds West a distance of 173.45 feet; thence run North 64 degrees 29 minutes 29 seconds West a distance of 162.19 feet; thence run North 25 degrees 30 minutes 31 seconds East a distance of 174.20 feet to the POINT OF BEGINNING.

The above and foregoing parcel being one and the same as Lot 1, according to the Map of White Stone Center Subdivision, as said Map appears of record in the Office of the Judge of Probate of Shelby County, Alabama, in Map Book 33, at Pages 138-A and 138-B.

- (2) A parcel of land situated in the NE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 14, Township 21 South, Range 3 West, Shelby County, Alabama, more particularly described as follows:

Commence at a 3" iron pipe found at the northwest corner of said Section 14; thence, run South 89°03'42" East along the north boundary of said Section 14 a distance of 1538.52 feet to a point on the southeast right-of-way of Alabama Highway No. 119 (variable right-of-way); thence, run South 25°20'17" West along said right-of-way a distance of 134.10 feet to the POINT OF BEGINNING; thence, depart said right-of-way and run South 67°21'17" East a distance of 253.16 feet; thence, run South 25°30'31" West a distance of 217.20 feet; thence, run North 64°29'29" West a distance of 252.23 feet to a point on the southeast right-of-way of said Alabama Highway No. 119; thence, run North 25°20'17"

East along said right-of-way a distance of 204.56 feet to the POINT OF BEGINNING.

Said parcel contains 1.223 acres, more or less.

The above and foregoing parcel being one and the same as Lot 2, according to the Map of White Stone Center Subdivision, as said Map appears of record in the Office of the Judge of Probate of Shelby County, Alabama, in Map Book 33, at Pages 138-A and 138-B.

- (3) A parcel of land situated in the NE 1/4 of the NW 1/4 of Section 14, Township 21 South, Range 3 West, Shelby County, Alabama, more particularly described as follows:

Commence at a 3" iron pipe found at the northwest corner of said Section 14; thence, run South 89°03'42" East along the north boundary of said Section 14 a distance of 2343.49 feet; thence, run South 25°30'31" West a distance of 408.41 feet to the POINT OF BEGINNING, said point lying on the proposed south right-of-way of Kent Dairy Road (60-foot right-of-way proposed); thence, continue South 25°30'31" West a distance of 173.96 feet; thence, run North 64°29'29" West a distance of 241.65 feet; thence, run North 19°29'29" West a distance of 49.50 feet; thence, run North 25°30'31" East a distance of 121.10 feet to a point on the proposed right-of-way of said Kent Dairy Road; thence, run South 80°40'52" East along said right-of-way a distance of 19.53 feet to the Point of Curvature of a curve concave southwestwardly with a radius of 312.69 feet and a delta angle right of 16°11'06"; thence, run along said proposed right-of-way an arc distance of 88.33 feet to the Point of Tangency of said curve (the chord subtending said arc bearing South 72°35'20" East a distance of 88.03 feet); thence, run South 64°29'47" East a distance of 170.74 feet to the POINT OF BEGINNING.

Said parcel contains 1.076 acres, more or less.

The above and foregoing parcel being one and the same as Lot 8B, according to the Map of White Stone Center Subdivision, as said Map appears of record in the Office of the Judge of Probate of Shelby County, Alabama, in Map Book 33, at Pages 138-A and 138-B.

- (4) Lot 3, according to the Map of White Stone Center Subdivision, as said Map appears of record in the Office of the Judge of Probate of Shelby County, Alabama, in Map Book 33, at Pages 138-A and 138-B.