

PARTIAL RELEASE AND TERMINATION OF MORTGAGE,
ASSIGNMENT OF RENTS
AND/OR LEASES AND TRI-PARTY AGREEMENT

STATE OF ALABAMA}

COUNTY OF SHELBY}

KNOW ALL MEN BY THESE PRESENTS, that for and ion consideration of TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledges, Bank of America, N.A., for itself and as successor to Nationsbank of Georgia, N.A., does hereby release the lien of the following with respect to the property described therein which is located in Shelby County, Alabama:

(1) That certain Mortgage executed by Ezell, L.L.C., a Nevada limited liability company, E.E.E., L.L.C., a Nevada limited liability company, J.C. Ezell, L.L.C., a Nevada limited liability company, and W.C. Ezell, L.L.C., in favor of Bank of America, N.A., d/b/as Nationsbank, N.A. dated July 29, 1999 and recorded as Instrument No. 1999/32127.

(2) That certain Assignment of Rents and/or Leases executed by Ezell, L.L.C., a Nevada limited liability company, E.E.E., L.L.C., a Nevada limited liability company, J.C. Ezell, L.L.C., a Nevada limited liability company, and W.C. Ezell, L.L.C., in favor of Bank of America, N.A., d/b/as Nationsbank, N.A. recorded in Instrument No. 1999/32127.

(3) That certain Mortgage granted by Treetop Enterprises, Inc., to Nationsbank of Georgia, N.A. with Assignment of Lessors interest in Leases dated January 13, 1992 and recorded in Real Volume 382, page 945 with Assignment of Lessors interest in leases recorded in Real Volume 383, page 92, and modification of mortgage and security agreement as recorded in Instrument No. 1993-02465.

(4) That certain Tri-Party Agreement between Treetop Enterprises, Inc., Nationsbank of Georgia, N.A. (now Bank of America) and Waffle House, Inc. recorded in Instrument No. 383, page 1.

(5) That certain Modification of Tri-Party Agreement between Treetop Enterprises, Inc., Nationsbank of Georgia, N.A. (now Bank of America) and Waffle House, Inc. recorded in Instrument No. 1996-34103 .

It is the intent of Bank of America, N.A. to release the lien created by the above referenced documents only as to the property described therein that is located in Shelby County, Alabama.

All recording references are to the records maintained in the Office of the Judge of Probate of Shelby County, Alabama.

IN WITNESS WHEREOF, Bank of America, N.A. has caused this instrument to be executed by its duly authorized officer on this the 1st day of ~~April~~ ^{May}, 2006.

BANK OF AMERICA, N.A.

By: Julie A. Smith

As its: SVP

STATE OF North Carolina
COUNTY OF Mecklenburg

I, the undersigned Notary Public in and for said County and State, hereby certify that Julie A. Smith, whose name as SVP of BANK OF AMERICA, N.A. 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, (s)he, as such SVP and with full authority executed the same voluntarily for and as the act of Bank of America.

Given under my hand this the 1 day of ~~April~~ ^{May}, 2006.

[AFFIX SEAL]

Monica A. Bottoms
NOTARY PUBLIC

MY COMMISSION EXPIRES: May 15, 2010

This instrument was prepared by:
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