



20070727000350690 1/5 \$8504.00
Shelby Cnty Judge of Probate, AL
07/27/2007 01:18:13PM FILED/CERT

PREPARED BY: Pamela Schuchert
RETURN TO: CREDU, VA9505
Wachovia Bank, National Association
816 Greenbrier Circle, Suite G
Chesapeake, VA 23320

A TOTAL OF \$8,469.00 IN RECORDING TAX HAS BEEN PAID ON THE CURRENT MAXIMUM PRINCIPAL AMOUNT OF \$10,000,000.00 IN CONNECTION WITH THE RECORDING OF THE MORTGAGE AT INSTRUMENT NO. 20061130000583080, SHELBY COUNTY (FOR THE ORIGINAL PRINCIPAL NOTE AMOUNT OF \$5,646,000.00, WITH A CURRENT PRINCIPAL BALANCE OF \$4,346,000.00). RECORDING TAX OF \$8,481.00 ON THE ADDITIONAL PRINCIPAL INDEBTEDNESS OF \$5,654,000.00 IS BEING PAID IN CONNECTION WITH THE RECORDING OF THIS MODIFICATION HEREWITH. THE MORTGAGE, AS MODIFIED, SECURES REVOLVING CREDIT IN A MAXIMUM PRINCIPAL AMOUNT OF \$10,000,000.00. THE MATURITY OF THE INDEBTEDNESS HAS NOT BEEN EXTENDED.

MODIFICATION OF MORTGAGE

THIS MODIFICATION OF MORTGAGE is made effective as of May 31, 2007, by MMM PROPERTIES, LLC, whose address is 2236 Cahaba Valley Drive, Suite 100, Birmingham, Alabama 35242, the Mortgagor under the Mortgage described below ("Mortgagor"), and delivered to Wachovia Bank, National Association, a national banking association as Mortgagee (referred to herein as "Bank"), whose address is Birmingham, Alabama 35203. Bank is the mortgagee hereunder for indexing purposes by the judge of probate.

RECITALS

Bank is owner and holder of a certain Mortgage (the "Mortgage") dated November 21, 2006, recorded in Instrument No. 20061130000583080, of the public land records of the County of SHELBY, State of Alabama together with all extensions and modifications thereof whenever made.

Bank is owner and holder of a certain promissory note (the "Note") in the original amount of \$5,646,000.00, dated November 21, 2006, made by Mortgagor, payment of which is secured by the Mortgage; \$1,300,000.00 principal has been repaid on the Note, the current principal balance is \$4,346,000.00.



Bank, and Mortgagor have modified the Note and accordingly have agreed to modify the Mortgage.

Mortgagor has agreed to mortgage the property described in EXHIBIT A attached hereto and made part hereof (the "Property") to Bank as additional security for all obligations (the "Obligations") described in the Mortgage.

WITNESSETH:

In consideration of the foregoing premises Mortgagor and Bank hereby modify the Mortgage and any prior modifications thereof as follows:

Note Modified. Mortgagor has modified the Note (as modified, the "Modified Note") by executing an amended and restated note dated of even date herewith that modifies the terms of the Note. The stated principal amount due under the Modified Note is \$10,000,000.00. The Note, as modified, evidences a revolving credit not exceeding \$10,000,000.00.

Modified Note Secured. Mortgagor acknowledge(s) and agree(s) (i) that the Modified Note is a modification of the Note, (ii) that the payment and performance of the Obligations (as the term "Obligations" is defined in the Modified Note) is secured by the Mortgage, (iii) that there are no defenses or impediments to enforcement of the lien of the Mortgage, and (iv) that the Modified Note evidences the same indebtedness as the Note and is not a novation.

Additional Property Encumbered by the Mortgage. "Loan Documents" and "Default" have the definitions set forth in the Mortgage.

NOW THEREFORE, and in consideration of these premises and for other consideration, Mortgagor does mortgage, grant, bargain, sell and convey, with power of sale unto Bank, its successors and assigns, all of Mortgagor's right, title and interest now owned or hereafter acquired in and to Property, including all estates, rights, tenements, hereditaments, privileges easements, and appurtenances of any kind benefiting the Property, all means of access to and from the Property, whether public or private and all water and mineral rights.

The Property is subject to the terms of the Mortgage as fully as if the Property had been included in the description of the property subject to the Mortgage at the time execution of the Mortgage.

TO HAVE AND TO HOLD the Property and all the estate, right, title and interest, in law and in equity, of Mortgagor's in and to the Property unto Bank, its successors and assigns, forever.

Mortgagor WARRANTS AND REPRESENTS that Mortgagor is lawfully seized of the Property, that Mortgagor has the legal right to convey and encumber the same, and that the Property is free and clear of all liens and encumbrances. Mortgagor further warrants and will forever defend all and singular the Property and title thereto to Bank and Bank's successors and assigns, against the lawful claims of all persons whomsoever.

PROVIDED ALWAYS that if (i) all the Obligations (including without limitation, all termination payments and any other amounts due under or in connection with any swap agreements (as defined in 11 U.S.C. § 101) secured hereunder) are paid in full, (ii) each and every representation, warranty, agreement, covenant and condition of this Mortgage, and the other Loan Documents, are complied with and abided by, and (iii) any and all swap agreements (as defined in 11 U.S.C. § 101) secured hereunder have matured or been terminated, then this Mortgage and the estate hereby created shall cease and be null, void, and canceled of record.

Mortgage Confirmed. Mortgagor acknowledge(s) and agree(s) that the Mortgage and any prior modifications thereof, except as expressly modified by this Modification Agreement shall remain in full



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force and effect as originally executed and the terms of this Modification Agreement shall be part of the Mortgage.

Document Taxes and Other Charges. Mortgagor shall pay the full amount of any documentary stamp tax, intangible tax, interest, filing fees and penalties, if any, charged incident to the loan transaction and modification(s) described in or created by this Modification and the filing of this Agreement. If Mortgagor fails to pay the obligations under this paragraph, Bank may pay such obligations. Any amounts so paid by Bank shall bear interest at the default rate stated in the Modified Note and shall be secured by the Mortgage.

IN WITNESS WHEREOF, Mortgagor and Bank have duly signed and sealed this instrument effective as of the day and year first above written.

Mortgagor

MMM PROPERTIES, LLC

By: Alan Howard (SEAL)
name title

State of Alabama
County of JEFFERSON

L. L. C. Acknowledgment

I certify that before me appeared this day Alan Howard (name) a person known to me, who after being sworn stated he/she is member (title) of MMM PROPERTIES, LLC, a Alabama limited liability company and is duly authorized to act on behalf of said Company, and being informed of the contents thereof, acknowledged execution of the foregoing instrument on behalf of said Company voluntarily and with full authority.

Witness my hand and official seal, this 31 day of May, 2007.

Notary Seal

Amanda Elizabeth Watson, Notary Public
Amanda Elizabeth Watson
(Printed Name of Notary)

My Commission Expires: MY COMMISSION EXPIRES: Jan 30, 2010
NOTARY PUBLIC STATE OF ALABAMA AT LARGE
BONDED THRU NOTARY PUBLIC UNDERWRITERS

Bank
Wachovia Bank, National Association

CORPORATE
SEAL

By: [Signature]
Steven Smith, Vice President

State of ~~ALABAMA~~
County of Jefferson

Bank Acknowledgment

I certify that before me appeared this day, Steven Smith, a person known to me, who after being sworn said he/she is Vice President of Wachovia Bank, National Association, a national banking association, and is duly authorized to act on behalf of said Bank, that the seal affixed to the foregoing instrument is the seal of said Bank and that said instrument was signed and sealed by him/her on behalf of said Bank, and being informed of the contents thereof, acknowledged execution of the foregoing instrument on behalf of said Bank voluntarily and with full authority.

Witness my hand and official seal, this 31 day of May, 2007.

Notary Seal

Amanda Elizabeth Watson, Notary Public
Amanda Elizabeth Watson
(Printed Name of Notary)

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
My Commission Expires Jan 30, 2010
BONDED THRU NOTARY PUBLIC UNDERWRITERS

CAT - Deal # 843396 Facility ID 632592


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Lots 293 through 310, inclusive; Lots 315 through 345, inclusive; and Lots 218 through 220, inclusive, all according to the survey of Hillsboro Subdivision, Phase II, as recorded in Map Book 38, Page 98-A and Page 98-B, in the Probate Office of Shelby County, Alabama.

EXHIBIT A