


AFTER RECORDING RETURN TO:

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Shelby Cnty Judge of Probate, AL  
12/28/2007 08:19:37AM FILED/CERT

**FIRST AMENDMENT TO LEASEHOLD MORTGAGE /**  
**MORTGAGE AND SECURITY AGREEMENT**

**THIS FIRST AMENDMENT TO LEASEHOLD MORTGAGE / MORTGAGE AND SECURITY AGREEMENT** (this "First Amendment") is made and entered into as of December 20, 2007, by and between **SMCMOB II, L.L.C.**, an Alabama limited liability company (the "Mortgagor"), and **REGIONS BANK**, an Alabama banking corporation (the "Mortgagee"). Capitalized terms used herein but not defined shall have the meanings ascribed to such terms in the Loan Agreement (as hereinafter defined).

**WHEREAS**, Wachovia Bank, National Association (successor by merger to SouthTrust Bank, the successor by conversion to SouthTrust Bank, National Association) ("Wachovia") previously made available to Mortgagor certain credit facilities pursuant to the terms of that certain Construction Loan Agreement dated as of April 29, 1998, between Mortgagor and Wachovia, which Construction Loan Agreement has been assigned by Wachovia to Mortgagee pursuant to that certain Assignment, Acceptance, Agreement and Release of even date herewith (the "Assignment of Loan Documents") among Mortgagor, Mortgagee and Wachovia (as so assigned to Mortgagee, and as heretofore and hereafter amended from time to time, the "Loan Agreement"); and

**WHEREAS**, Mortgagor previously executed and delivered in favor of Wachovia that certain Leasehold Mortgage / Mortgage and Security Agreement, dated April 29, 1998, which instrument was recorded in the office of the Judge of Probate of Shelby County, Alabama, as Instrument No. 1998-15830, and which instrument has been assigned to Mortgagee pursuant to the Assignment of Loan Documents and pursuant to that certain Assignment of Leasehold Mortgage and Security Agreement and Assignment of Rents and Leases of even date herewith executed by Wachovia in favor of Mortgagee and recorded in the office of the Judge of Probate of Shelby County, Alabama as Instrument No. \* (as so assigned to Mortgagee, and as amended from time to time, the "Mortgage"); and \* 20071228000580710

**WHEREAS**, Mortgagor and Mortgagee desire to amend the Mortgage as provided for hereinafter.

**NOW, THEREFORE**, in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Mortgagor and Mortgagee hereby agree that the Mortgage is amended as follows:

1. The Mortgage is hereby amended to provide that (A) any reference therein to the "Loan Agreement" shall mean the Loan Agreement as defined in this First Amendment; (B) any reference therein to the "Secured Obligations" or any other indebtedness or obligations secured

thereby shall include the Swap Obligations (as defined in the Loan Agreement); (C) any reference therein to the "Loan" shall mean and include the Loan as defined in the Loan Agreement; and (D) any reference therein to the "Note" shall mean and include the Note as defined in the Loan Agreement.

2. The maximum principal indebtedness secured by the Mortgage is hereby changed to \$6,685,250.00, and mortgage recording tax on such amount is being paid concurrently with the recording of this First Amendment.

3. Mortgagor does hereby convey, mortgage and warrant, grant, bargain, sell, assign, transfer, pledge and set over, re-convey, re-mortgage and re-warrant, re-grant, re-bargain, re-sell, re-assign, re-transfer, re-pledge and re-set over to Mortgagee, its successors and assigns, a lien and security interest on, upon and in the Mortgaged Property (as defined in the Mortgage).

4. Except as hereinafter expressly amended, the terms of the Mortgage are hereby ratified and affirmed.

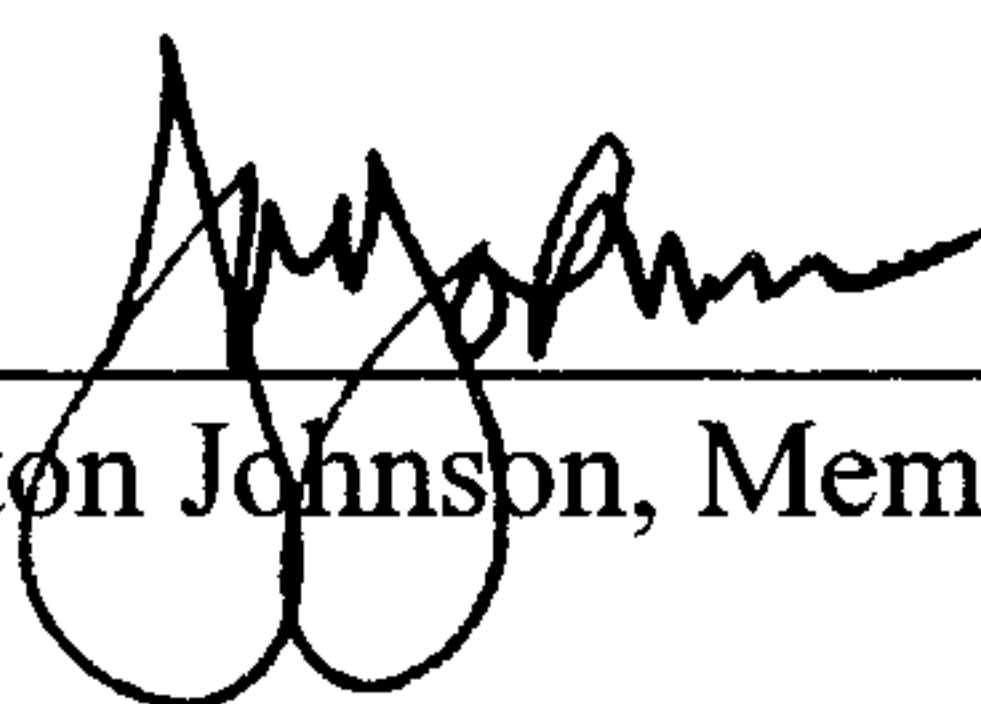
5. In the event of any conflict between the provisions of the Mortgage, as hereby amended, and the provisions of the Loan Agreement, the provisions most favorable to Bank shall control.

*[Signature follows on next page]*



IN WITNESS WHEREOF, this First Amendment has been executed and delivered as of the date first above written.

SMCMOB II, L.L.C.

By:   
James Milton Johnson, Member

REGIONS BANK

By: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF ALABAMA  
COUNTY OF Jefferson

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that James Milton Johnson, whose name as Member of SMCMOB II, 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 said instrument, he, as such Member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal, this the 20<sup>th</sup> day of December, 2007.

(SEAL)

  
Notary Public  
My Commission Expires: Feb. 6, 2010

STATE OF ALABAMA  
COUNTY OF JEFFERSON

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that \_\_\_\_\_, whose name as \_\_\_\_\_ of Regions 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 said instrument, he/she, 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 the \_\_\_\_\_ day of December, 2007.

(SEAL)

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

IN WITNESS WHEREOF, this First Amendment has been executed and delivered as of the date first above written.

SMCMOB II, L.L.C.

By: \_\_\_\_\_  
James Milton Johnson, Member

REGIONS BANK

By: *[Signature]*  
Its: *SVP*

STATE OF ALABAMA  
COUNTY OF \_\_\_\_\_

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that James Milton Johnson, whose name as Member of SMCMOB II, 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 said instrument, he, as such Member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal, this the \_\_\_\_\_ day of December, 2007.

(SEAL)

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

STATE OF ALABAMA  
COUNTY OF JEFFERSON

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that *Brian Smith*, whose name as *Senior Vice President* of Regions 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 said instrument, he/she, 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 the 20 day of December, 2007.

(SEAL)

*Barbara J. Knight*  
Notary Public  
My Commission Expires: \_\_\_\_\_