

**NOTE TO PROBATE COURT:** This Agreement is being recorded as additional security for the Obligations described in a First Amendment to Mortgage and Security Agreement of even date herewith between the Grantor and the Bank, which First Amendment to Mortgage and Security Agreement is being filed for record concurrently with the recording of this Agreement.

STATE OF ALABAMA     )

SHELBY COUNTY         )

**FIRST AMENDMENT TO ASSIGNMENT OF RENTS AND LEASES**

**THIS FIRST AMENDMENT TO ASSIGNMENT OF RENTS AND LEASES** ("this Amendment") dated as of January 1, 2008 is entered into by **OAK MOUNTAIN PROPERTIES, LLC**, an Alabama limited liability company and **PELHAM PROPERTIES, LLC**, an Alabama limited liability company (collectively, the "Grantor"), in favor of **REGIONS BANK**, an Alabama banking corporation, successor by merger to AmSouth Bank (the "Bank").

**Recitals**

A. Luxor Management Company, Inc., an Alabama corporation (the "Corporation") and the Bank did enter into a Credit Agreement dated April 1, 2003 (the "2003 Credit Agreement"), pursuant to which the Bank issued a letter of credit for the account of the Corporation (the "2003 Letter of Credit"), and in connection therewith, the Grantor executed an assignment of rents and leases dated April 1, 2003 (the "Assignment") in favor of the Bank covering the property more particularly described in Exhibit A attached to and made a part of the Assignment. The Assignment was recorded on April 28, 2003 as Instrument Number 200304028000257010 in the Office of the Judge of Probate of Shelby County, Alabama.

B. Concurrently herewith the Bank is amending and restating the Credit Agreement by that certain Amended and Restated Credit Agreement dated as of the date hereof (the "Credit Agreement") pursuant to which the Bank is issuing a new letter of credit for the account of the Corporation (the "Letter of Credit"), and in connection therewith, the Grantor has agreed to enter into this Amendment with the Bank.

**Agreement**

**NOW, THEREFORE**, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor and the Bank hereby agree and the Assignment is hereby amended as follows:

1. **Rules of Construction.** For the purposes of this Amendment, the rules of construction shall be the same as set forth in the Assignment.

2. Amendment. The third sentence in the recitals is deleted in its entirety and replaced with the following:

"To induce the Bank to issue the Letter of Credit, the Grantor has (a) executed and delivered to the Bank a mortgage and security agreement (including any and all amendments thereto, the "Mortgage") covering the land described in Exhibit A thereto (the "Land"), which Mortgage was been recorded in the office of the Judge of Probate of the county in which the Land is situated, and (b) agreed to execute this Agreement."

3. Definitions.

(a) Capitalized terms not otherwise defined herein shall have the meanings assigned them in the Assignment.

(b) All references in the Assignment and this Amendment to "this Assignment" shall refer to the Assignment, as amended of even date herewith.

(c) All references in the Assignment to any other document executed in connection with the Credit Agreement and the Letter of Credit, shall refer to such document as amended in connection with this Amendment and as such document may hereafter be amended.

4. Reaffirmance of Representations and Warranties. The Grantor hereby represents and warrants that (i) all of the representations and warranties set out in the Assignment are true and correct as of the date hereof, (ii) they are in compliance with all the terms and provisions set forth in the Assignment on their part to be observed and performed, and (iii) no Event of Default, nor any event which upon notice or lapse of time or both would constitute such an Event of Default has occurred and is continuing.

5. Consents, Registrations, Approvals, etc. No registration with or consent or approval of, or other action by, any governmental authority is required for the execution, delivery and performance of this Amendment, the Letter of Credit or any of the other Financing Documents by the Grantor.

6. Assignment to Remain. Except as expressly modified and amended, the Assignment shall remain in full force and effect in accordance with its terms.

7. Counterparts. This Amendment may be executed in two or more counterparts, each of which shall constitute an original, but when taken together shall constitute but one agreement and any party may execute this Amendment by executing any one or more such counterparts.


8. Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the State of Alabama.

9. Headings. The headings and captions used in this Amendment are for purposes of convenient reference only and shall not limit or define the meaning of any provision of this Amendment.



10. Enforceability. If any provision of this Amendment is now or at any time hereafter becomes invalid or unenforceable, the other provisions hereof shall remain in full force and effect, and the remaining provisions hereof shall be construed in favor of the Bank to effectuate the provisions hereof.

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20080104000005910 3/6 \$26.00  
Shelby Cnty Judge of Probate, AL  
01/04/2008 04:11:26PM FILED/CERT

IN WITNESS WHEREOF, the undersigned Grantor has caused this instrument to be executed by its duly authorized member on the date set forth below said member's acknowledgment.

OAK MOUNTAIN PROPERTIES, LLC

By [Signature]  
Name: Donovan H. Gravlee, Jr.  
Its: Sole Member

STATE OF ALABAMA                    )  
  
JEFFERSON COUNTY                    )

  
20080104000005910 4/6 \$26.00  
Shelby Cnty Judge of Probate, AL  
01/04/2008 04:11:26PM FILED/CERT

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Donovan H. Gravlee, Jr., whose name as sole member of Oak Mountain Properties, LLC, 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 general partner and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand and official seal, this the 21<sup>st</sup> day of December, 2007.

Carolyn N. Lantier  
Notary Public

AFFIX SEAL

My commission expires: \_\_\_\_\_

My Commission Expires September 20, 2010

IN WITNESS WHEREOF, the undersigned Grantor has caused this instrument to be executed by its duly authorized member on the date set forth below said member's acknowledgment.

PELHAM PROPERTIES, LLC

By

Name: Donovan H. Gravlee, Jr.

Its: Sole Member

STATE OF ALABAMA

)

JEFFERSON COUNTY

)

20080104000005910 5/6 \$26.00  
Shelby Cnty Judge of Probate, AL  
01/04/2008 04:11:26PM FILED/CERT

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Donovan H. Gravlee, Jr., whose name as sole member of Pelham Properties, LLC, 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 general partner and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand and official seal, this the 21<sup>st</sup> day of December, 2007.

Carolyn N. Lantier  
Notary Public

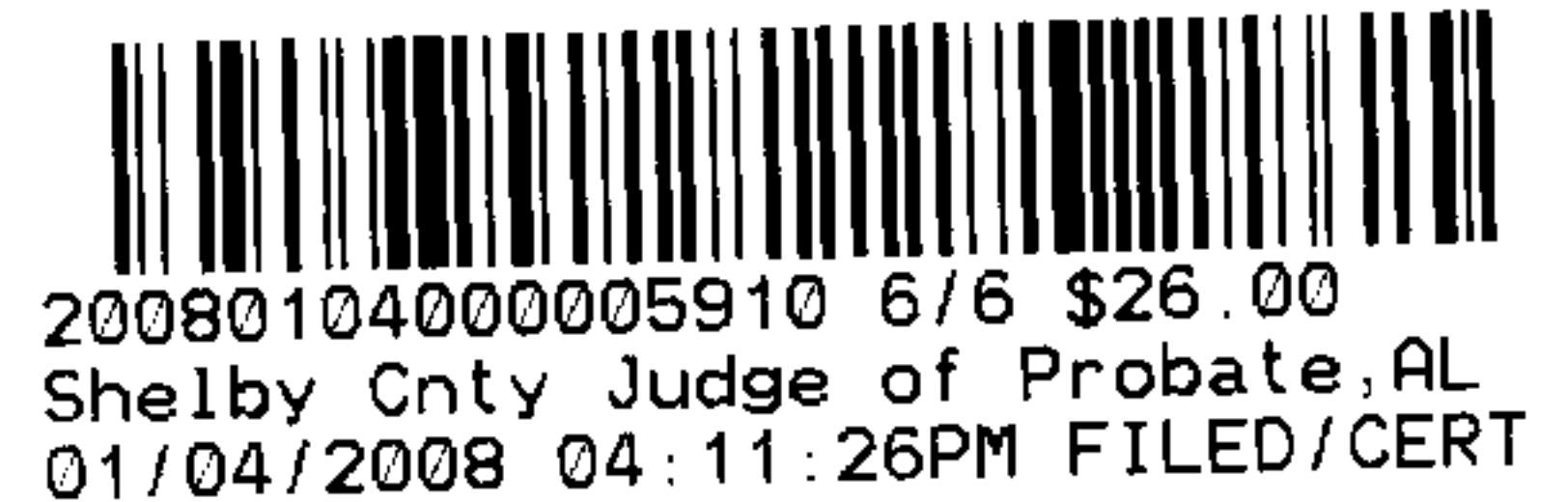
AFFIX SEAL

My commission expires: \_\_\_\_\_

My Commission Expires September 23, 2009

REGIONS BANK

By: [Signature]  
Name: Hunter Hill  
Title: AVP



STATE OF ALABAMA )

JEFFERSON COUNTY )

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that HUNTER Hill, whose name as ASSISTANT 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, 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 21<sup>st</sup> day of December, 2007.

[Signature: Carolyn N. Santrip]  
Notary Public

AFFIX SEAL

My commission expires: \_\_\_\_\_

My Commission Expires September 29, 2009

This instrument was prepared by:

Julia G. Bernstein  
MAYNARD, COOPER & GALE, P.C.  
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