

20090302000074530 1/4 \$22.00
Shelby Cnty Judge of Probate, AL
03/02/2009 02:43:38PM FILED/CERT

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

THIS MODIFICATION AGREEMENT AND THE MORTGAGE AS MODIFIED BY THIS AGREEMENT ARE GIVEN AS ADDITIONAL SECURITY FOR THE REVOLVING INDEBTEDNESS THAT IS ALSO SECURED BY A CERTAIN MORTGAGE RECORDED AS INSTRUMENT NUMBER 20061130000583080 IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA, AS MODIFIED BY MODIFICATION OF MORTGAGE RECORDED AS INSTRUMENT NUMBER 20070727000350690 IN SAID OFFICE (THE "SHELBY COUNTY MORTGAGE"). MORTGAGE RECORDING TAX HAS BEEN PAID ON THE FULL MAXIMUM PRINCIPAL AMOUNT OF \$10,000,000.00 SECURED BY THE SHELBY COUNTY MORTGAGE. NO ADDITIONAL RECORDING TAX IS DUE IN CONNECTION WITH THE RECORDING OF THIS MODIFICATION.

MODIFICATION OF MORTGAGE

THIS MODIFICATION OF MORTGAGE is made February 19, 2009, 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, together with all extensions and modifications thereof whenever made, (the "Mortgage") dated November 21, 2006, recorded as Instrument No. 20061130000583080 in the public land records of the County of Shelby, State of Alabama.

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 described in the Mortgage (the "Obligations").

WITNESSETH:

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

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 the 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 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 Note and shall be secured by the Mortgage.

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

Mortgagor

MMM PROPERTIES, LLC

By: Alan C. Howard, Managing Member (SEAL)

State of Alabama
County of Shelby

L. L. C. Acknowledgment

I certify that before me appeared this day Alan C. Howard, a person known to me, who after being sworn said he/she is Managing Member 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

19th day of February, 2009.

Notary Seal


Amanda Elizabeth Watson, Notary Public

Amanda Elizabeth Watson

(Printed Name of Notary)

My Commission Expires:

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


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RE: HPH PROPERTIES, LLC, Alabama Limited Liability Co.

Loan Number:

File Number: R09-17120

EXHIBIT "A"

Lots 13 and 227, according to the Survey of Hillsboro Subdivision, Phase I, as recorded in Map Book 37, Pages 104-A, 104-B, and 104-C, in the records of the Judge of Probate of Shelby County, Alabama.