


This instrument prepared by:  
Katie Booth  
Balch & Bingham, LLP  
1901 Sixth Avenue North  
Suite 1500  
Birmingham, Alabama 35203

  
20090826000329920 1/5 \$24.00  
Shelby Cnty Judge of Probate, AL  
08/26/2009 02:39:05 PM FILED/CERT

## STATE OF ALABAMA

## COUNTY OF SHELBY

### AMENDMENT TO AMENDED AND RESTATED MORTGAGE

This Amendment made effective as of the 21<sup>st</sup> day of August, 2009, between **COMPASS BANK**, an Alabama banking corporation (the “**Lender**”), and **CAHABA BEACH INVESTMENTS, LLC**, an Alabama limited liability company (the “**Borrower**”).

**WHEREAS**, in connection with two loans from Lender to Borrower in the aggregate principal sum of SIXTEEN MILLION FOUR HUNDRED TWENTY THOUSAND AND NO/100 DOLLARS (\$16,420,000.00) (the “**Loans**”), Borrower executed and delivered to Lender the following documents, among other documents, to evidence and secure the Loans: (i) that certain Promissory Note dated as of the 14<sup>th</sup> day of October, 2005 in the original principal amount of \$7,920,000.00 (as amended, the “**\$7.92MM Note**”); (ii) that certain Amended and Restated Promissory Note dated as of the 31<sup>st</sup> day of December, 2008 in the principal amount of \$8,500,000.00 (as amended, the “**\$8.5MM Note**” and together with the \$7.92MM Note, the “**Notes**”), which amends and restates that certain Master Note dated as of the 14<sup>th</sup> day of October, 2005, as amended, and that certain Master Note dated as of the 5<sup>th</sup> day of January, 2007, as amended (iii) that certain Amended and Restated Future Advance Mortgage, Assignment of Rents and Leases, and Security Agreement, as recorded at Instrument Number 20090421000147180, with Probate Court of Shelby County, Alabama (as amended, the “**Mortgage**”); and (iii) UCC-1 Financing Statements (collectively, the “**Initial Loan Documents**”); and

**WHEREAS**, Borrower and Lender desire to amend the Mortgage as set forth herein.

**NOW, THEREFORE**, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Borrower and Lender agree that the Mortgage is amended as follows:

1. By deleting **Exhibit A** to the Mortgage in its entirety and substituting in place thereof **Exhibit A** attached hereto.
2. The Mortgage shall continue to secure the Loans, as amended hereby.
3. Except as modified herein, all other terms and conditions of the Mortgage shall remain in full force and effect.
4. This document may be executed in a number of identical counterparts, each of which for all purposes is deemed an original, and all of which constitute collectively one (1) document and agreement, but in making proof of this document, it shall not be necessary to produce or account for more than one such counterpart, and counterpart pages may be combined into one single document.

*[ remainder of this page is blank – signature pages follow ]*

IN WITNESS WHEREOF, Borrower and Lender have caused this First Amendment to be executed effective as of the day and year first set forth above, although actually executed by each party on the date set forth below its respective signature.

LENDER:

COMPASS BANK,  
an Alabama banking corporation

By: [Signature]  
Its: Member SR Vice President

STATE OF ALABAMA  
COUNTY OF JEFFERSON

I, April C. Price, a notary public in and for said county in said state, hereby certify that Ben Hendrix, whose name as SR Vice President of COMPASS 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 such instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 21<sup>ST</sup> day of August, 2009.

April C. Price  
Notary Public

[ Notarial Seal ]

My Commission Expires: 11/20/2011





20090826000329920 3/5 \$24.00  
Shelby Cnty Judge of Probate, AL  
08/26/2009 02:39:05 PM FILED/CERT

**BORROWER (Mortgagor, Debtor):**

**CAHABA BEACH INVESTMENTS, LLC**, an  
Alabama limited liability company

By: *Dwight A Sandlin*  
Its: Member

STATE OF ALABAMA

COUNTY OF JEFFERSON

I, Kristi M Williams, a notary public in and for said county in said state, hereby  
certify that Dwight A Sandlin, whose name as Member  
of CAHABA BEACH INVESTMENTS, 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 such instrument, he, as such \_\_\_\_\_ and with full authority,  
executed the same voluntarily for and as the act of said company.

Given under my hand and official seal this 21 day of August, 2009.

*Kristi M Williams*

Notary Public

[ Notarial Seal ]

NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: Nov 30, 2011  
BONDED THRU NOTARY PUBLIC UNDERWRITERS

My Commission Expires: \_\_\_\_\_

**EXHIBIT A**

**DESCRIPTION OF MORTGAGED PROPERTY**

**Parcel 1:**

A parcel of land being the Southeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section 25, Township 18 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Begin at the Southeast Corner of the Southeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of said Section 25; thence West, along the South line of said  $\frac{1}{4}$  -  $\frac{1}{4}$  Section, a distance of 1314.65 feet to the Southwest corner of said  $\frac{1}{4}$  -  $\frac{1}{4}$  Section; thence 87 deg. 44 min. 56 sec. right, in a Northerly direction and along the West line of said  $\frac{1}{4}$  -  $\frac{1}{4}$  Section, a distance of 1315.03 feet to the Northwest corner of said  $\frac{1}{4}$  -  $\frac{1}{4}$  Section; thence 92 deg. 05 min. 18 sec. right, in an Easterly direction and along the North line of said  $\frac{1}{4}$  -  $\frac{1}{4}$  Section, a distance of 1317.26 feet to the Northeast corner of said  $\frac{1}{4}$  -  $\frac{1}{4}$  Section; thence 88 deg. 01 min. 52 sec. right, in a Southerly direction and along the East line of said  $\frac{1}{4}$  -  $\frac{1}{4}$  Section, a distance of 1318.67 feet to the Point of Beginning, in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama.

Mineral and mining rights excepted.

Less and except that portion lying within a public road right of way.

**Parcel 2:**

Beneficial rights to use of non-exclusive easement obtained by Easement Agreement dated October 14, 2005 as set out by instrument recorded in Inst. #20051024000550530 in the Probate Office of Shelby County, Alabama, more particularly described as follows:

A parcel of land situated in the Northeast  $\frac{1}{4}$  of Section 36, Township 18 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Begin at the Northeast corner of the Northeast  $\frac{1}{4}$  of Section 36, Township 18 South, Range 2 West, Shelby County, Alabama and run in a westerly direction along the North line of said  $\frac{1}{4}$  section thereof a distance of 110.77 feet; thence run in a southeasterly direction for a distance of 160.15 feet, more or less, to a point on the East line of said  $\frac{1}{4}$  section, said point being 115.67 feet South of the Northeast Corner of said Northeast  $\frac{1}{4}$ ; thence run in a northerly direction along the East line of said  $\frac{1}{4}$  section for a distance of 115.67 feet to the point of beginning, in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama.



**PLUS** that property known as 2<sup>nd</sup> Amended Condominium Plat of Edenton Office Condominium as recorded in Map Book 39 page 91; and 4<sup>th</sup> Amended Condominium Plat of Edenton, a Condominium as recorded in Map Book 40 page 54;

**LESS AND EXCEPT** the following parcel sold to Alexander W. Jones, Jr. by deed recorded in Inst. #20080616000243090, described as follows:

A parcel of land being in the SE 1/4 of the SE 1/4 of Section 25, Township 18 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the NE corner of the SE 1/4 of the SE 1/4 of said Section 25; thence South, along the East line of said 1/4 1/4 Section, a distance of 73.91 feet to the point of beginning; thence continue South along the East line of said 1/4 1/4 Section, a distance of 60.80 feet; thence 99 deg. 18 min. 15 sec. right in a Northwesterly direction a distance of 39.36 feet to the beginning of a curve to the right, said curve having a radius' of 1030.00 feet and a central angle of 13 deg. 15 min. 19 sec.; thence along arc of said curve, in a Northwesterly direction a distance of 238.29 feet to end of said curve; thence continue along tangent of curve, in a Northwesterly direction a distance of 205.35 feet to a point on the North line of said 1/4 1/4 Section; thence 159 deg. 24 min. 26 sec. right, in an Easterly direction along the North line of said 1/4 1/4 Section a distance of 170.59 feet to a point; thence leaving said North line 20 deg. 35 min. 34 sec. right, in a Southeasterly direction a distance of 45.66 feet to the beginning of a curve to the left, said curve having a radius of 970.00 feet and a central angle of 13 deg. 15 min. 19 sec.; thence along arc of said curve, in a Southeasterly direction, a distance of 224.41 feet to end of said curve; thence continue along tangent of curve, in a Southeasterly direction a distance of 29.53 feet to the point of beginning, less and except any part of the existing prescriptive right of way of Cahaba Beach Road.

**LESS AND EXCEPT** the following Lots sold:

Lot 911, Block 9, according to the Survey of Edenton Office Condominium recorded in Map Book 38 page 74,

Lot 87, Block 21, according to the Survey of Edenton A Condominium, 1<sup>st</sup> Amended as recorded in Map Book 39 page 4.

Lot 55, Block 14; Lot 56, Block 14; Lot 164, Block 40; Lot 83, Block 21, according to the Survey of Edenton A Condominium 3<sup>rd</sup> Amended recorded in Map Book 39 page 79.

Lot 73, Block 18; Lot 169, Block 42; Lot 160, Block 39; Lot 74, Block 18; Lot 167, Block 41; Lot 88, Block 22; Lot 163, Block 39; Lot 61, Block 15; Lot 89 page 22; Lot 94, Block 18; Lot 82, Block 21; Lot 96, Block 19; Lot 84, Block 21; Lot 97, Block 19; Lot 92, Block 22; Lot 22, Block 5; Lot 99, Block 19; Lot 98, Block 19; Lot 54, Block 14; Lot 57, Block 14; Lot 90 page 22; according to the Survey of Edenton Condominium 3<sup>rd</sup> Amended recorded in Map Book 39 page 137.

Lot 121, Block 25A; Lot 116, Block 25; Lot 68, Block 17; Lot 104, Block 24; Lot 171, Block 42; Lot 109, Block 24; Lot 59, Block 15; Lot 108, Block 24; Lot 161, Block 39; Lot 36, Block 10; Lot 132, Block 29; Lot 136, Block 29; Lot 106, Block 24; Lot 133, Block 29; Lot 70, Block 17A; Lot 138, Block 30; Lot 137, Block 30; Lot 141, Block 30; Lot 115, Block 25; Lot 120, Block 25A; Lot 119, Block 25A; Lot 140, Block 30; Lot 67, Block 17; Lot 69, Block 17; Lot 114, Block 25; Lot 66, Block 17; Lot 121, Block 25; Lot 35, Block 10; Lot 44, Block 12; Lot 65, Block 17; Lot 116, Block 25; Lot 165, Block 40; Lot 75, Block 18; Lot 22, Block 5; Lot 91, Block 22; Lot 71, Block 17A; Lot 85, Block 21; Lot 95, Block 19; according to the Survey of Edenton Condominium, 4<sup>th</sup> Amended recorded in Map Book 40 page 54.