



20091022000398280 1/8 \$34.00
Shelby Cnty Judge of Probate, AL
10/22/2009 01:47:32 PM FILED/CERT

**AMENDMENT
TO
MORTGAGE
ASSIGNMENT OF RENTS AND LEASES
AND SECURITY AGREEMENT**

THIS AMENDMENT amends that certain Mortgage, Assignment of Rents and Leases and Security Agreement (hereinafter, along with all amendments thereto, the "Mortgage") executed on March 25, 2008 by **BUCK, LTD.**, an Alabama limited partnership (hereinafter "Borrower") in favor of **BRANCH BANKING AND TRUST COMPANY**, successor in interest to Colonial Bank by acquisition of assets from the FDIC as Receiver for Colonial Bank (formerly known as COLONIAL BANK, N.A.) (hereinafter "Bank").

WHEREAS, the Mortgage is recorded as Instrument 20080326000121690 in the Office of the Judge of Probate of Shelby County, Alabama and pertains to the property described on Exhibit "A" attached hereto.

WHEREAS, the Mortgage secured a Note in the original principal amount of \$1,002,500.00 and all renewals and extensions thereof.

WHEREAS, upon the recordation of the Mortgage a mortgage tax of \$1,503.75 was paid.

WHEREAS, Borrower and Bank desire that the Mortgage be amended to add thereto the property described as Exhibit "B" attached hereto (hereinafter the "New Property").

WHEREAS, FORESIGHT DEVELOPMENT, L.L.C. (also known as FORESIGHT DEVELOPMENT LLC), an Alabama limited liability company ("Additional Mortgagor"), the owner of the New property, is willing to enter into this amendment to cause the New Property to be added to the Mortgage.

NOW THEREFORE, in consideration of the terms and conditions contained herein, and the Mortgage is hereby amended as follows:

- 1) The New Property is hereby added to the Mortgage and to the property described in the Mortgage.
- 2) Borrower and Additional Mortgagor do hereby grant, bargain, sell convey and mortgage (in accordance with the terms of the Mortgage) to Bank the New Property.

In addition hereto, Borrower and Additional Mortgagor further amends all of the documents and agreements executed in connection with the Mortgage, or pertaining to the Mortgage (the "Agreements") to the terms as herein cited and to cover not only the property described therein but also the New Property.

Borrower and Additional Mortgagor hereby agrees and directs Bank to take any action necessary to conform the Mortgage and the Agreements to the terms as herein cited and by these presents accepts and confirms their liability under said Mortgage and Agreements with the terms as herein modified.

All of the terms and provisions of the Mortgage not specifically amended herein, are hereby reaffirmed, ratified and restated. This amendment amends the Mortgage and is not an novation thereof.

IN WITNESS WHEREOF, we have hereunto set our hands and seals effective this 14 day of ~~September~~, 2009.

October

BUCK, LTD., an Alabama limited partnership

By: Paul J. Spina, Jr.
Paul J. Spina, Jr. (Its General Partner)

FORESIGHT DEVELOPMENT, L.L.C. (also known as
FORESIGHT DEVELOPMENT LLC), an Alabama
limited liability company

By: Paul J. Spina, Jr.
Paul J. Spina, Jr. (Its Member)

By: Bobby L. Bynum
Bobby L. Bynum (Its Member)

STATE OF ALABAMA
COUNTY OF JEFFERSON

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Paul J. Spina, Jr., whose name as General Partner of BUCK, LTD., an Alabama limited partnership, 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, as an act of said partnership, acting in its capacity as aforesaid.

Given under my hand and official seal, this the 14 day of ~~September~~, 2009.

NOTARY PUBLIC

My Commission Expires: 4-22-10

STATE OF ALABAMA
COUNTY OF JEFFERSON

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Paul J. Spina, Jr. and Bobby L. Bynum, whose name as members of FORESIGHT DEVELOPMENT, L.L.C. (also known as FORESIGHT DEVELOPMENT LLC), an Alabama limited liability company, are 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, they, as such members, and with full authority, executed the same voluntarily, as an act of said company, acting in their capacity as aforesaid.

Given under my hand and official seal, this the 14 day of ~~September~~ ^{October}, 2009.

NOTARY PUBLIC

My Commission Expires: 4-28-10

**THIS INSTRUMENT PREPARED BY AND AFTER
RECORDATION SHOULD BE RETURNED TO:**

Haley D. Bozeman

ENGEL HAIRSTON & JOHANSON, P.C.

4th Floor, 109 North 20th Street

Birmingham, Alabama 35203

(205) 328-4600

EXHIBIT "A"

PARCEL I:

Lots 10 and 11, according to the Final Plat of Hayesbury Commercial Park, Phase I, as recorded in Map Book 30, page 71, in the Probate Office of Shelby County, Alabama.

PARCEL II:

Lot 3, according to the Survey of Lot 3 Hayes Commercial Park, as recorded in Map Book 33, page 120, in the Probate Office of Shelby County, Alabama.

PARCEL III:

TRACT 1:

A parcel of land situated in Lot 2 of Valley Dale Estates, as recorded in Map Book 4, page 90 in the Office of the Judge of Probate of Shelby County, Alabama, being more particularly described as follows:

Commence at the Northwest corner of said Lot 2; thence run in a Southeasterly direction along the North line of said Lot 2 for a distance of 83.04 feet to the point of beginning; thence continue along last described course for a distance of 296.05 feet; thence turn a deflection angle of 01 degree 22 minutes 15 seconds to the left and run in a Southeasterly direction along said Northern line for a distance of 449.87 feet to a point on the Western most right of way line of Alabama Highway No. 261 (80 foot right of way); thence turn a deflection angle of 95 degrees 37 minutes 15 seconds to the right and run in a Southwesterly direction along said right of way line for a distance of 145.59 feet; thence leaving said right of way line turn a deflection angle of 90 degrees 20 minutes 50 seconds to the right and run in a Northwesterly direction for a distance of 294.34 feet; thence turn a deflection angle of 90 degrees 08 minutes 12 seconds to the left and run in a Southwesterly direction for a distance of 295.78 feet; thence turn a deflection angle of 89 degrees 59 minutes 19 seconds to the left and run in a Southeasterly direction for a distance of 295.42 feet to a point on the said right of way line; thence turn a deflection angle of 89 degrees 46 minutes 41 seconds to the right and run in a Southwesterly direction along said right of way line for a distance of 574.77 feet to the point of beginning of a curve to the left, said curve having a radius of 1068.41 feet a central angle of 10 degrees 50 minutes 04 seconds a chord distance of 201.73 feet; thence run in a Southwesterly direction along the arc of said curve and along said right of way line for a distance of 202.03 feet to the intersection of the said Western right of way line of Alabama Highway 261 and the Eastern most right of way line of Indian Lake Way (30 feet right of way); thence turn a deflection angle right from chord of said curve 148 degrees 58 minutes 37 seconds and run in a Northerly direction along said Eastern most right of way line for a distance of 975.26 feet; thence leaving said right of way line turn a deflection angle of 90

degrees 00 minutes 00 seconds to the right and run in an Easterly direction for a distance of 125.00 feet; thence turn a deflection angle of 89 degrees 52 minutes 01 seconds to the left and run in a Northerly direction for a distance of 119.93 feet; thence turn a deflection angle of 90 degrees 03 minutes 42 seconds to the left and run in a Westerly direction for a distance of 125.00 feet to a point on the said right of way line; thence turn a deflection angle of 90 degrees 00 minutes 00 seconds to the right and run in a Northerly direction along said right of way for a distance of 234.53 feet; thence leaving said right of way line turn a deflection angle of 89 degrees 19 minutes 02 seconds to the right and run in an Easterly direction a distance of 70.28 feet; thence turn a deflection angle of 89 degrees 19 minutes 10 seconds to the left and run in a Northerly direction for a distance of 47.29 feet; to the Point of Beginning.

TRACT 2:

A parcel of land situated in Lot 2 of Valley Dale Estates as recorded in Map Book 4 page 90 in the Office of the Judge of Probate of Shelby County, Alabama, being more particularly described as follows:

Commence at the Northwest corner of said Lot 2, said point also being on the Eastern most right of way line of Indian Lake Way (30 foot right of way); thence run in a Southerly direction along the said right of way line for a distance of 326.90 feet to the point of beginning; thence continue along the last described course for a distance of 120.08 feet; thence leaving said right of way line turn a deflection angle of 90 degrees 00 minutes 00 seconds to the left and run in a Easterly direction for a distance of 125.00 feet; thence turn a deflection angle of 89 degrees 52 minutes 01 seconds to the left and run in a Northerly direction for a distance of 119.93 feet; thence turn a deflection angle of 90 degrees 03 minutes 42 seconds to the left and run in a Westerly direction for a distance of 125.10 feet to the point of beginning

TRACT 3:

A parcel of land situated in Lot 2 of Valley Dale Estates as recorded in Map Book 4, page 90 in the Office of the Judge of Probate of Shelby County, Alabama, being more particularly described as follows:

Commence at the Northeast corner of the said Lot 2, said point also being on the Western most right of way line of Alabama Highway 261 (80 foot right of way); thence run in a Southwesterly direction along said right of way line for a distance of 145.59 feet; thence continue along the last described course for a distance of 295.14 feet; thence leaving said right of way line turn a deflection angle of 90 degrees 13 minutes 19 seconds to the right and run in a Northeasterly direction for a distance of 295.42 feet; thence turn a deflection angle of 89 degrees 59 minutes 19 seconds to the right and run in a Northeasterly direction for a distance of 295.78 feet; thence turn a deflection angle of 90 degrees 08 minutes 12 seconds to the right and run in a Southeasterly direction for a distance of 294.34 feet; to the point of beginning.

ALL OF THE ABOVE TRACTS 1, 2 AND 3 MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Lot 2, according to the Survey of Valley Dale Estates, as recorded in Map Book 4, page 90 in the Probate Office of Shelby County, Alabama.

LESS AND EXCEPT FROM PARCEL III:

A parcel of land situated in the SE ¼ of the NW ¼ of Section 36, Township 19 South, Range 3 West, Huntsville Meridian, Shelby County, Alabama and also being a part of Lot 2, Valley Dale Estates, as recorded in Map Book 4, page 90 in the Office of the Judge of Probate and being more particularly described as follows: Begin at the Northwest corner of said Lot 2, Valley Dale Estates, and run South 57 degrees 40 minutes 07 seconds East along the Northeasterly line of said Lot 2, for a distance of 2.10 feet; thence angle right and run South 00 degrees 08 minutes 27 seconds West for a distance of 47.60 feet; thence angle right and run South 89 degrees 31 minutes 08 seconds West for a distance of 70.00 feet; thence angle right and run North 00 degrees 11 minutes 57 seconds East along the Westerly line of said Lot 2, said line also being the Westerly line of said SE ¼ of NW ¼ and also being the Easterly line of Indian Lake Way, for a distance of 91.86 feet to the point of beginning.

All being situated in Shelby County, Alabama.

ALSO LESS AND EXCEPT FROM PARCEL III:

The Final Plat of Hayesbury Commercial Park, Phase I, as recorded in Map Book 30, Page 71, in the Probate Office of Shelby County, Alabama.

ALSO LESS AND EXCEPT FROM PARCEL III:

The Final Plat of Lot 3, Hayesbury Commercial Park as recorded in Map Book 33, Page 120, in the Probate Office of Shelby County, Alabama.

SUBJECT TO: i) taxes and assessments for the year 2009, a lien but not yet payable; ii) restrictions as shown by recorded map (commercial); iii) easements as shown by recorded map; iv) easement to the City of Pelham recorded in Real 143, page 358 and Real 143, page 382; v) agreement with Nextel South Corp. recorded in Instrument 2000-45231; vi) license agreement with Nextel South Corp. recorded in Instrument 2002-362490; vii) right of way granted to Alabama Power Company by instrument recorded in Volume 1010, page 550, Volume 197, page 359, Volume 101, page 550, Volume 217, page 88 and Deed Volume 203, page 438; and viii) mineral and mining rights and rights incident thereto recorded in Deed Volume 203, page 438; and ix) restrictions appearing of record in Instrument 20021021000517410.

EXHIBIT "B"

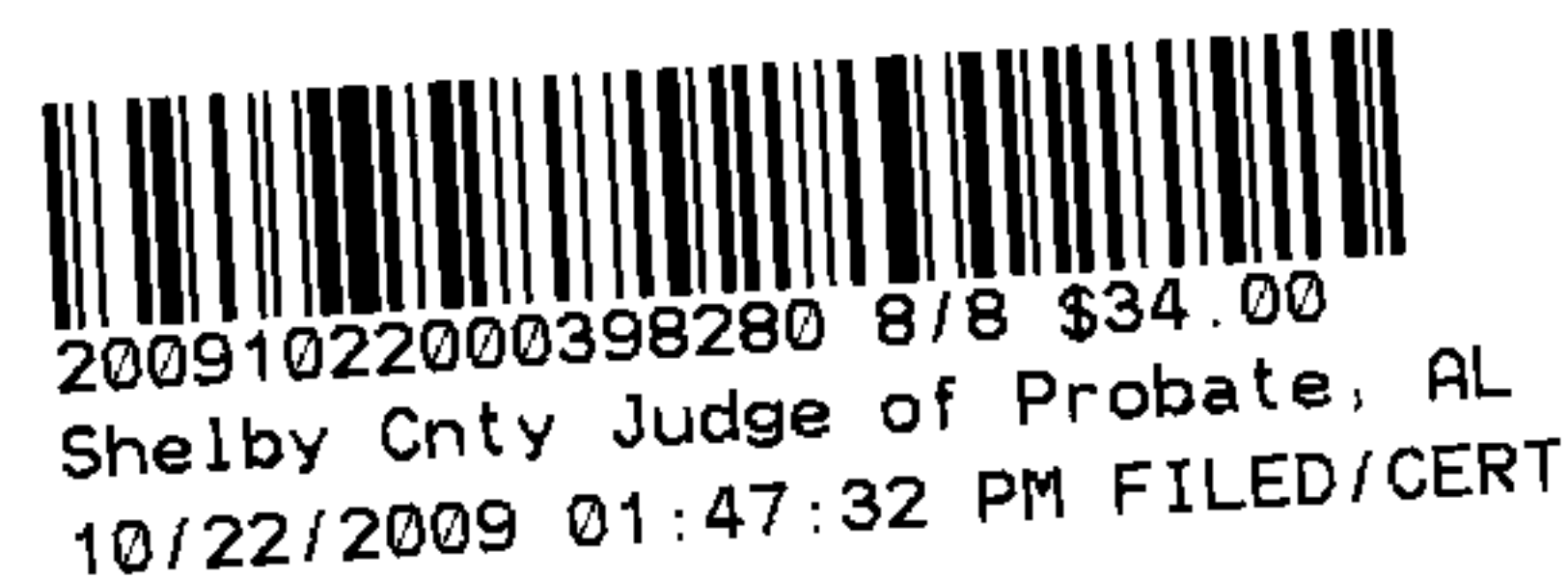
PARCEL I:

Commence at the Northwest corner of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 36, Township 19 South, Range 3 West, Huntsville Principal Meridian, Shelby County, Alabama; thence in an Easterly direction, along and with the North line of said quarter-quarter-section, 250.00 feet; thence with a deflection of 88 degrees 53 minutes 56 seconds right, 225.0 feet to the point of beginning of the land herein described; thence continue along and with the projection of the previous course 150.00 feet to a point; thence with a deflection of 88 degrees 53 minutes 56 seconds left 200.00 feet to a point; thence with a deflection of 91 degrees 06 minutes 04 seconds left, 150.00 feet to a point; thence with a deflection of 88 degrees 53 minutes 56 seconds left, 200.00 feet to the point of beginning.

PARCEL II:

A parcel of land being a part of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 36, Township 19 South, Range 3 West, Huntsville Principal Meridian, Shelby County, Alabama and being more particularly described as follows:

Commence at the Northwest corner of said quarter-quarter-quarter section; thence in a Southerly direction, along and with the West line of said quarter-quarter-quarter section, 125.00 feet to a capped rebar set by Goodwyn Mills & Cawood and the point of beginning; thence with a deflection of 88 degrees 53 minutes 06 seconds left, 199.96 feet (200.00 adjoiner deed) to a one-half inch rebar; thence with a deflection of 91 degrees 05 minutes 46 seconds left, 125.11 feet (125.00 adjoiner deed) to a capped rebar set by Goodwyn Mills & Cawood on the Southerly right of way margin of Mitoba Trail; thence with a deflection of 91 degrees 03 minutes 47 seconds right, along and with said Southerly right of way margin and the projection thereof, 50.00 feet to a $\frac{3}{8}$ inch rebar; thence with a deflection of 88 degrees 55 minutes 30 seconds right, 100.03 feet (100.00 feet adjoiner deed) to a $\frac{3}{8}$ inch rebar; thence with a deflection of 88 degrees 53 minutes 10 seconds left, 411.48 feet (411.84 feet adjoiner deed) to a capped iron set by Amos Corey on the East line of said quarter-quarter-quarter section and the West line of Wooddale Fourth Sector; thence with a deflection of 88 degrees 55 minutes 54 seconds right, along and with said East line, said West line of Wooddale Fourth Sector and the West line of Chaparral Second Sector, 554.65 feet to a one-half inch pipe at the Southeast corner of said quarter-quarter-quarter section and on the North line of Amended Map of Wildewood Village – Third Addition; thence with a deflection of 91 degrees 10 minutes 51 seconds right, along and with the South line of said quarter-quarter-quarter section and said North line and the projection thereof, 661.41 feet to a capped rebar set at the Southwest corner of said quarter-quarter-quarter section; thence with a deflection of 88 degrees 48 minutes 39 seconds right, along and with the West line of said quarter-quarter-quarter section, 528.40



feet to the point of beginning.

Less and except the following described parcel:

Commence at the Northwest corner of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 36, Township 19 South, Range 3 West, Huntsville Principal Meridian, Shelby County, Alabama; thence in an Easterly direction, along and with the North line of said $\frac{1}{4}$ - $\frac{1}{4}$ - $\frac{1}{4}$ section, 250.00 feet; thence with a deflection of $88^{\circ}53'56''$ right, 225.00 feet to the point of beginning of the land herein described; thence continue along and with the projection of the previous course 150.00 feet to a point; thence with a deflection of $88^{\circ}53'56''$ left 200.00 feet to a point; thence with a deflection of $91^{\circ}06'04''$ left, 150 feet to a point; thence with a deflection of $88^{\circ}53'56''$ left 200.00 feet to the point of beginning.

Less and except any portion of subject property lying within a road right of way.

SUBJECT TO: i) taxes and assessments for the year 2009, a lien but not yet payable; ii) restrictions or covenants recorded in Deed Volume 243, page 488; iii) Easement to BellSouth Telecommunications, as recorded in Instrument 20060607000269320; iv) mineral and mining rights not owned by Mortgagor; and v) mortgage in favor of BRANCH BANKING AND TRUST COMPANY, successor in interest to Colonial Bank by acquisition of assets from the FDIC as Receiver for Colonial Bank as recorded as Instrument 20050512000230220.