

STATE OF ALABAMA)

COUNTY OF SHELBY)

**CROSS-COLLATERALIZATION
AND CROSS-DEFAULT AGREEMENT**

THIS CROSS-COLLATERALIZATION AND CROSS-DEFAULT AGREEMENT (this "Agreement") dated as of March 29, 2011 is between **EDWIN B. LUMPKIN, JR.** ("Borrower") and **RBC BANK (USA)**, a North Carolina banking corporation, as successor by merger to First American Bank, formerly known as National Bank of Commerce of Birmingham, with a mailing address of 11011 Richmond Ave, Ste 850, Houston, TX 77042 ("Bank").

Recitals

Capitalized terms used in these Recitals have the meanings defined for them above or in Section 1.2. Bank has made the First Loan and the Second Loan to Borrower. Borrower has requested that Bank agree to certain modifications with respect to the each of the First Loan and the Second Loan. As a condition to making said modifications, Bank has required that the First Loan and the Second Loan, and all of the other Obligations, be cross-defaulted and cross-collateralized as provided in this Agreement. Borrower has entered into this Agreement in order to induce Bank to make said modifications.

Agreement

NOW, THEREFORE, in consideration of the foregoing recitals and in further consideration of the mutual agreements of the parties contained in this Agreement, Borrower and Bank hereby agree as follows:

ARTICLE 1

Rules of Construction and Definitions

SECTION 1.1 General Rules of Construction. For the purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) Words of masculine, feminine or neuter gender include the correlative words of other genders. Singular terms include the plural as well as the singular, and vice versa.

(b) All references herein to designated "Articles," "Sections" and other subdivisions or to lettered Exhibits are to the designated Articles, Sections and subdivisions hereof and the Exhibits annexed hereto unless expressly otherwise designated in context. All Article, Section, other

subdivision and Exhibit captions herein are used for reference only and do not limit or describe the scope or intent of, or in any way affect, this Agreement.

(c) The terms “include,” “including,” and similar terms shall be construed as if followed by the phrase “without being limited to.”

(d) The terms “herein,” “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, other subdivision or Exhibit.

(e) All Recitals set forth in, and all Exhibits to, this Agreement are hereby incorporated in this Agreement by reference.

(f) No inference in favor of or against any party shall be drawn from the fact that such party or such party’s counsel has drafted any portion hereof.

(g) All references in this Agreement to a separate instrument are to such separate instrument as the same may be amended or supplemented from time to time pursuant to the applicable provisions thereof.

SECTION 1.2 Definitions. As used in this Agreement, the following terms are defined as follows:

(a) **Credit Documents** means this Agreement, the First Loan Documents, the Second Loan Documents, and all other documents now or hereafter executed or delivered in connection with the Obligations.

(b) **First Loan** means those certain loans evidenced by those certain promissory notes described on Exhibit A attached hereto executed by Borrower in favor of Bank, which loans were made available by Bank to Borrower pursuant to the terms and conditions of that certain promissory note described on Exhibit A attached hereto.

(c) **First Loan Documents** means the documents described on Exhibit A attached hereto and all other documents now or hereafter executed or delivered in connection with the First Loan.

(d) **Governmental Authority** means any national, state, county, municipal or other government, domestic or foreign, and any agency, authority, department, commission, bureau, board, court or other instrumentality thereof.

(e) **Hedge Agreement** shall mean an agreement (including terms and conditions incorporated by reference therein and all schedules thereto and confirmations thereof) in any notional principal amount (which notional amount may reduce periodically under the agreement) from time to time and at any time executed and delivered by Borrower and Bank: (a) which provides for an interest rate, currency, equity, credit or commodity swap, cap, floor or collar, spot or foreign exchange transaction, cross-currency rate swap, currency option, any combination thereof, or option



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with respect to, any of the foregoing or any similar transactions, for the purpose of hedging Borrower's exposures to fluctuations in interest rates, exchange rates, currency, stock, portfolio or loan valuations or commodity prices (including any such or similar agreement or transaction entered into by Bank in connection with any other agreement or transaction between Borrower and Bank and (b) a master agreement for any of the foregoing agreements referenced in (a) together with all supplements.

(f) **Lien** means any mortgage, pledge, assignment, charge, encumbrance, lien, security title, security interest or other preferential arrangement.

(g) **Obligations** means (1) the payment of all amounts now or hereafter becoming due and payable under the Credit Documents, including the principal amount of the First Loan and the Second Loan, all interest (including interest that, but for the filing of a petition in bankruptcy, would accrue on any such principal) and all other fees, charges and costs (including attorneys' fees and disbursements) payable in connection therewith; (2) the observance and performance by Borrower of all of the provisions of the Credit Documents; (3) the payment of all sums advanced or paid by Bank in exercising any of its rights, powers or remedies under the Credit Documents, and all interest (including post-bankruptcy petition interest, as aforesaid) on such sums provided for herein or therein; (4) the payment and performance of all other indebtedness, obligations and liabilities of Borrowers to Bank (including obligations of performance) of every kind whatsoever, arising directly between Borrowers and Bank or acquired outright, as a participation or as collateral security from another person by Bank, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter incurred, contracted or arising, joint or several, liquidated or unliquidated, regardless of how they arise or by what agreement or instrument they may be evidenced or whether they are evidenced by agreement or instrument, and whether incurred as maker, endorser, surety, guarantor, general partner, drawer, tort-feasor, account party with respect to a letter of credit, indemnitor or otherwise; (5) all amounts becoming due and payable to Bank by an Obligor under or with respect to any Hedge Agreement and any and all renewals or extensions of any thereof, regardless of by what agreement or instrument any of the same may be evidenced or whether evidenced by any agreement or instrument; and (6) all renewals, extensions, modifications and amendments of any of the foregoing, whether or not any renewal, extension, modification or amendment agreement is executed in connection therewith.

(h) **Person** (whether or not capitalized) includes natural persons, sole proprietorships, corporations, trusts, unincorporated organizations, associations, companies, institutions, entities, joint ventures, partnerships, limited liability companies and Governmental Authorities.

(i) **Property** means all property, real and personal, that is now or hereafter conveyed or assigned to Bank, or in which Bank is now or hereafter granted a Lien, as security for any of the Obligations.

(j) **Second Loan** means those certain loans evidenced by those certain promissory notes described on Exhibit B attached hereto executed by Borrower in favor of Bank, which loans were

made available by Bank to Borrower pursuant to the terms and conditions of that certain promissory note described on Exhibit B attached hereto.

(k) **Second Loan Documents** means the documents described on Exhibit B and all other documents now or hereafter executed or delivered in connection with the Second Loan.

ARTICLE 2

Cross-Default and Cross-Collateralization

SECTION 2.1 Cross-Default. The occurrence of any Event of Default under any of the Credit Documents shall constitute, at the sole option of Bank, an Event of Default under each of the other Credit Documents, giving Bank the right, during the existence of such Event of Default, to exercise all of its rights, powers and remedies upon default under any or all of such other Credit Documents.

SECTION 2.2 Cross-Collateralization. Each of the Credit Documents that provides Property or other collateral as security for any of the Obligations shall, and is hereby made to, secure each of the other Obligations, it being the intention of Borrowers and Bank that all of the Obligations shall be fully cross-collateralized by all of the Credit Documents.

SECTION 2.3 Modification of Credit Documents. To the extent that any of the Credit Documents are inconsistent with the provisions of this Article 2, the inconsistent provisions of such other Credit Documents are hereby modified and amended to conform to the provisions of this Article 2. Except as expressly set forth in this Article 2, the other Credit Documents shall remain in full force and effect in accordance with their terms.

ARTICLE 3

Miscellaneous

SECTION 3.1 Independent Obligations. Borrower agrees that each of the obligations of Borrower to Bank under this Agreement may be enforced against Borrower without the necessity of joining any other maker, endorser, surety, guarantor or other person liable for the payment of any of the Obligations, any other owners of any Property or holders of Liens thereon, or any other person, as a party.

SECTION 3.2 Heirs, Successors and Assigns. Whenever in this Agreement any party hereto is referred to, such reference shall be deemed to include the heirs, successors and assigns of such party, except that Borrower may not assign or transfer this Agreement without the prior written consent of Bank; and all covenants and agreements of Borrower contained in this Agreement shall bind Borrower's heirs, successors and assigns and shall inure to the benefit of the successors and assigns of Bank.



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SECTION 3.3 Governing Law. This Agreement and the other Credit Documents shall be construed in accordance with and governed by the internal laws of the State of Alabama (without regard to conflict of law principles) except as required by mandatory provisions of law and except to the extent that the validity and perfection of the Liens on the Property are governed by the laws of any jurisdiction other than the State of Alabama.

SECTION 3.4 Date of Agreement. The date of this Agreement is intended as a date for the convenient identification of this Agreement and is not intended to indicate that this Agreement was executed and delivered on that date.

SECTION 3.5 Separability Clause. If any provision of the Credit Documents shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

SECTION 3.6 Counterparts. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed an original, but all such counterparts shall together constitute but one and the same agreement.

SECTION 3.7 No Oral Agreements. This Agreement is the final expression of the agreement between the parties hereto, and this Agreement may not be contradicted by evidence of any prior oral agreement between such parties. All previous oral agreements between the parties hereto have been incorporated into this Agreement and the other Credit Documents, and there is no unwritten oral agreement between the parties hereto in existence.

SECTION 3.8 Waiver and Election. The exercise by Bank of any option given under this Agreement shall not constitute a waiver of the right to exercise any other option. No failure or delay on the part of Bank in exercising any right, power or remedy under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any further exercise thereof or the exercise of any other right, power or remedy. No modification, termination or waiver of any provisions of the Credit Documents, nor consent to any departure by Borrower therefrom, shall be effective unless in writing and signed by an authorized officer of Bank, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No notice to or demand on Borrower in any case shall entitle Borrower to any other or further notice or demand in similar or other circumstances.

NEITHER THE PROPERTY SECURING THE FIRST LOAN DOCUMENTS NOR THE PROPERTY SECURING THE SECOND LOAN DOCUMENTS CONSTITUTES THE HOMESTEAD OF BORROWER OR BORROWER'S SPOUSE.

[signature page to follow]

IN WITNESS WHEREOF, Borrower, the Accommodation Mortgagor and Bank have caused this Agreement to be dated the date first written above and to be duly executed and delivered.

BORROWER:

Edwin B. Lumpkin Jr
EDWIN B. LUMPKIN, JR.

STATE OF ALABAMA)
COUNTY OF Jefferson)

I, the undersigned authority, a Notary Public in and for said county in said state, hereby certify that **EDWIN B. LUMPKIN, JR.**, an individual, whose name 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 executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 29th day of March, 2011.

Gina H. Williams
Notary Public



My commission expires: _____

NOTARY PUBLIC STATE OF ALABAMA
MY COMMISSION EXPIRES: Nov 16, 2012
BONDED TO THE NOTARY PUBLIC UNDERWRITERS

BANK:

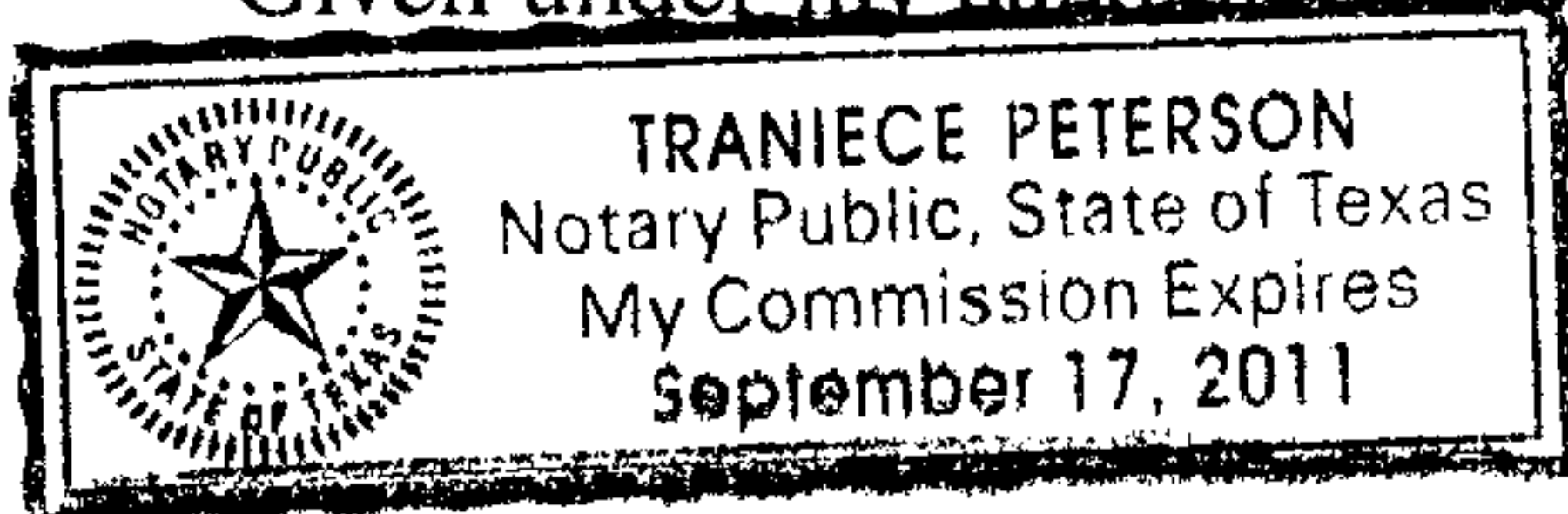
RBC BANK (USA),
a North Carolina banking corporation

By: *Seema Dawson*
Name: Seema Dawson
Its: Vice President

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STATE OF ~~ALABAMA~~)
COUNTY OF ~~JEFFERSON~~)
 HARRIS

I, the undersigned authority, a Notary Public in and for said county in said State, hereby certify that SEEMA DAWSON, whose name as the Vice President of **RBC BANK (USA)**, a North Carolina 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, (s)he, as such representative 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 29th day of March, 2011.



Traniece Peterson
Notary Public

AFFIX SEAL

My commission expires: 9-17-2011

This instrument prepared by:

Stephen W. Stallcup, Esq.
Maynard, Cooper & Gale, P.C.
2400 Regions Harbert Plaza
1901 Sixth Avenue North
Birmingham, Alabama 35203
205.254.1000



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EXHIBIT A

First Loan Documents

The "First Loan Documents" referred to in this Agreement include this Agreement and the following:

1. Master Note – Commercial Loans dated November 5, 1998 executed by Borrower in favor of Bank in the maximum principal amount of \$1,500,000.00, as renewed by that certain replacement Master Note – Commercial Loans dated November 25, 2003 executed by Borrower in favor of Bank in the principal amount of \$1,170,880.00, as modified by that certain Change in Terms Agreement dated December 24, 2008 in the principal amount of \$669,780.00, as modified by that certain letter dated December 8, 2010 from Bank to Borrower.
2. Mortgage dated November 5, 1998 executed by Edwin B. Lumpkin, Jr. in favor of RBC Bank (USA), a North Carolina banking corporation, as successor by merger to National Bank of Commerce of Birmingham and recorded in the Office of the Judge of Probate of Shelby County as Instrument No. 1998-45475.

EXHIBIT B

Second Loan Documents

The "Second Loan Documents" referred to in this Agreement include this Agreement and the following:

1. Amended, Restated and Consolidated Promissory Note dated December 29, 2005 executed by Borrower in favor of Bank in the maximum principal amount of \$3,900,000.00, as modified by that certain letter dated December 8, 2010 from Bank to Borrower..
2. Amended, Restated and Consolidated Mortgage dated December 29, 2005 executed by Eddie B. Lumpkin, Jr. in favor of RBC Bank (USA), a North Carolina banking corporation, as successor by merger to First American Bank and recorded in the Office of the Judge of Probate of Shelby County, Alabama as Instrument No. 20060113000022740.
3. Amended, Restated and Consolidated Assignments of Rents and Leases dated December 29, 2005 executed by Eddie B. Lumpkin, Jr. in favor of RBC Bank (USA), a North Carolina banking corporation, as successor by merger to First American Bank and recorded in the Office of the Judge of Probate of Shelby County, Alabama as Instrument No. 20060113000022750.