

NOTE TO PROBATE JUDGE: This second modification is filed to amend that certain *Mortgage and Security Agreement* dated June 22, 2007, and recorded in Instrument No. 20070709000321620 and that certain *Assignment of Rents and Leases* dated June 22, 2007, and recorded in Instrument No. 20070709000321630, which were amended by that certain *Amendment to Mortgage and Security Agreement and Assignment of Rents and Leases* dated October 26, 2011 and recorded in Instrument No. 20111028000324130, to modify the definition of "Indebtedness" as defined in that certain Mortgage. Nothing contained herein changes the maturity date of the Note.

STATE OF ALABAMA
COUNTY OF SHELBY

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

THIS SECOND AMENDMENT amends that certain Mortgage and Security Agreement (hereinafter "Mortgage") executed on June 22, 2007 by **FOWL PLAY, INC.**, an Alabama corporation (hereinafter "Borrower") in favor of **RENASANT BANK** (hereinafter "Lender").

WHEREAS, the Mortgage is recorded as Instrument No. 20070709000321620 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 dated June 22, 2007 in the original principal amount of \$1,400,000.00 and all renewals and extensions thereof (hereinafter the "Original Note").

WHEREAS, upon the recordation of the Mortgage a mortgage tax and recording fee of \$2,129.00 was paid.

WHEREAS, in connection with the Mortgage, an Assignment of Rents and Leases was executed on June 22, 2007 by Borrower in favor of Lender (hereinafter the "Assignment")

WHEREAS, the Assignment is recorded as Instrument No. 20070709000321630 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 and Assignment were amended by that certain *Amendment to Mortgage and Security Agreement and Assignment of Rents and Leases* executed on October 26, 2011 by Borrower in favor of Lender (hereinafter the "First Amendment") evidencing an additional advance to be secured by the Mortgage and Assignment. The First Amendment is recorded as

Instrument No. 20111028000324130 in the Office of the Judge of Probate of Shelby County, Alabama.

WHEREAS, upon the recordation of the First Amendment a mortgage tax and recording fee of \$484.90 was paid.

WHEREAS, Borrower has requested Lender to enter into a Hedge Agreement (as that term is defined herein), and Lender is agreeable to do so, provided Borrower, among other things enters into this Amendment, and causes this Hedge Agreement to be secured by the Mortgage and Assignment.

NOW THEREFORE, in consideration of the terms and conditions contained herein, and to induce Lender to enter into the Hedge Agreement, the Mortgage and Assignment are hereby amended as follows:

- 1) Henceforth the Mortgage shall specifically secure not only the Original Note executed in connection therewith, and all renewals and extensions thereof, but also the additional advance made to Borrower in connection with the First Amendment, and the Hedge Agreement (as that term is defined herein), and all the interest thereon.
- 2) The term "Indebtedness" as used in the Mortgage shall be defined to mean not only the indebtedness evidenced by the Original Note executed on June 22, 2007, and all interest thereon, and all extensions and renewals thereof, the additional advance made in connection with the First Amendment, together with all interest and charges thereon and all obligations incurred by the Borrower under any agreement between Borrower and Lender or any affiliate of Lender, including but not limited to an ISDA Master Agreement, whether now existing or hereafter entered into, which provides for an interest rate, currency, equity, credit or commodity swap, cap, floor or collar, spot or foreign currency exchange transaction, cross currency rate swap, currency option, any combination of, or option with respect to, any of the foregoing or similar transactions, for the purpose of hedging the Borrower's exposure to fluctuations in interest rates, exchange rates, currency, stock, portfolio or loan valuations or commodity prices, along with all now existing or hereafter executed schedules attached thereto and all confirmations issued in connection therewith (hereinafter the "Hedge Agreement"), and all extensions, and renewals thereof.
- 3) Henceforth the Assignment shall specifically secure not only the Original Note executed in connection therewith, and all renewals and extensions thereof, the additional advance made to Borrower in connection with the First Amendment, and the Hedge Agreement, and all the interest thereon.
- 4) The term "Obligations" as used in the Assignment shall be defined to mean not only the indebtedness evidenced by the Original Note executed on June 22, 2007, and all interest thereon, and all extensions and renewals thereof, the additional

advance made to Borrower in connection with the First Amendment, together with all interest and charges thereon and all obligations incurred by the Borrower under any agreement between Borrower and Lender or any affiliate of Lender, including but not limited to an ISDA Master Agreement, whether now existing or hereafter entered into, which provides for an interest rate, currency, equity, credit or commodity swap, cap, floor or collar, spot or foreign currency exchange transaction, cross currency rate swap, currency option, any combination of, or option with respect to, any of the foregoing or similar transactions, for the purpose of hedging the Borrower's exposure to fluctuations in interest rates, exchange rates, currency, stock, portfolio or loan valuations or commodity prices, along with all now existing or hereafter executed schedules attached thereto and all confirmations issued in connection therewith, and all extensions, and renewals thereof.

5) Henceforth, the Mortgage shall be specifically amended to include the following miscellaneous provision:

Borrower further agrees that the Property (as defined in the Mortgage), shall be security for the payment and performance of all of the Borrower's obligations under the Hedge Agreement, and that the grant of the lien contained in the Mortgage is intended to be the grant of a lien against the Property to secure all of the Indebtedness which shall include the obligations of Borrower under the Hedge Agreement. Borrower further agrees that (i) a default under the Mortgage shall constitute an Event of Default (as that term is defined in the Hedge Agreement) under the Hedge Agreement, and (ii) the occurrence of an Event of Default under the Hedge Agreement shall constitute a default under the Mortgage, and Lender shall thereafter have all rights and remedies following a default under the Mortgage and the occurrence of an Event of Default under the Hedge Agreement.

In addition hereto, Borrower further amends all of the documents and agreements executed in connection with the Mortgage, Assignment and First Amendment, or pertaining to the Mortgage, Assignment and First Amendment (the "Agreements") to the terms as herein cited.

Borrower hereby agrees and directs Lender to take any action necessary to conform the Mortgage and Assignment and the Agreements to the terms as herein cited and by these presents accepts and confirms their liability under said Mortgage, Assignment, First Amendment and Agreements with the terms as herein modified.

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

IN WITNESS WHEREOF, we have hereunto set our hands and seals effective this 14th day of December, 2011.

FOWL PLAY, INC., an ~~Alabama~~ corporation

BY: _____
Name: Courtney H. Mason, Jr.
Title: President

STATE OF ALABAMA
COUNTY OF JEFFERSON

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Courtney H. Mason, Jr., whose name as President of FOWL PLAY, INC., an Alabama 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, as an act of said Corporation, acting in his capacity as aforesaid.

Given under my hand and official seal, this the 14th day of December, 2011.



NOTARY PUBLIC

My Commission Expires: 11/6/2013

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

Wendy N. Hardegree
ENGEL HAIRSTON & JOHANSON, P.C.
4th Floor, 109 North 20th Street
Birmingham, Alabama 35203
(205) 328-4600

EXHIBIT "A"

Parcel I:

Lot 4B, according to the re-subdivision of The Village at Lee Branch as recorded in Map Book 31, Page 130 A & B, in the Office of the Judge of Probate of Shelby County, Alabama.

Parcel II:

Together with all rights and easements that constitute a beneficial interest in real property as set out in the Reciprocal Easement Agreement with Covenants, Conditions and Restrictions as recorded in Inst. No. 20030701000412990 and amended in Inst. No. 20030827000569970 in the Office of the Judge of Probate of Shelby County, Alabama.

Parcel III:

Together with all rights and easements that constitute a beneficial interest in real property as set out in the Declaration of Covenants, Conditions and Restrictions and Declaration of Easements as recorded in Inst. No. 20061025000527560, in the Office of the Judge of Probate of Shelby County, Alabama.

SUBJECT TO:

i) taxes and assessments for the year 2011, a lien but not yet payable; ii) 40-foot building line on front of lot as shown on recorded map; 10-foot easement on front of lot as shown on recorded map; iii) Right-of-way granted to Alabama Power Company recorded in Deed Book 109, Page 496; Deed Book 183, Page 132 and Deed Book 109, Page 497; iv) Rights of others in and to the use of ingress and egress easements as recorded in Deed Book 174, Page 402 as amended by Deed Book 247, Page 645 as to Parcel I & II, and in Deed Book 314, Page 344 as to Parcel II; v) Easement(s)/Right(s) of Way granted to Alabama Power Company as recorded under Inst. No. 2004-00610; vi) That certain Reciprocal Easement Agreement between AIG Baker Brookstone, LLC and Lee Branch, LLC as recorded under Inst. No. 20030701000412990 as amended by Inst. No. 20030827000569970; vii) Terms and conditions of that certain settlement decree as recorded under Inst. No. 20030904000589000; viii) That certain Reciprocal Easement Agreement for the benefit of Compass Bank as recorded under Inst. No. 20030827000569990; ix) Easements, notes, conditions and building line as shown on recorded map; x) Restrictions as set out in Inst. No. 20020729000351020, amended in Inst. No. 20020826000405690 and Inst. No. 20040622000339810; xi) Terms, agreements and right of way to Alabama Power Company as recorded in Inst. No. 20040312000127270; xii) Right-of-way granted to Bellsouth recorded in Inst. No. 200060607000269310; xiii) Covenants, Conditions, restrictions and Declaration of Easements as set out in Inst. No. 20061025000527560; xiv) Assignment of Rents and Leases recorded in Instrument No. 20070709000321630; and xv) coal, oil, gas and mineral and mining rights which are not owned by Mortgagor.