

RECORDATION REQUESTED BY:


Pinnacle Bank
801 Broad Street
Chattanooga, TN 37402

WHEN RECORDED MAIL TO:

Mr. Gary R. Patrick
Patrick, Beard, Schulman & Jacoway
537 Market Street, Suite 202
Chattanooga, TN 37402

SEND TAX NOTICES TO:

High Point Birmingham LLC
219 Broad Street
Chattanooga, TN 37402



20160713000244020 1/3 \$9279.00
Shelby Cnty Judge of Probate, AL
07/13/2016 03:20:33 PM FILED/CERT

AMENDED MORTGAGE

THIS AMENDED MORTGAGE is made by and between High Point Birmingham LLC, whose address is 219 Broad Street, Chattanooga, TN 37402, a Tennessee Limited Liability Company (referred to herein as “Grantor”) and Pinnacle Bank, formerly known as and doing business as CapitalMark Bank & Trust, whose address is 801 Broad Street, Chattanooga, TN 37402 (referred to herein as “Lender”).

WHEREAS, Grantor and Lender entered into a Mortgage dated June 30, 2015, and recorded in Instrument #20150701000221950, in the Office of the Judge of Probate of Shelby County, Alabama (herein referred to as the “Mortgage”); and

WHEREAS, the Mortgage secured, among other things, a Note in the amount of One Million Nine Hundred Fifty-Five Thousand Dollars (\$1,955,000.00) payable to Lender by Grantor; and

WHEREAS, Grantor has requested and Lender has agreed to modify, extend, renew and restate the Promissory Note reflecting the debt of One Million Nine Hundred Fifty-Five Thousand Dollars (\$1,955,000.00), so that additional advances can be made under such Note; and

WHEREAS, the parties have executed, of even date herewith, the Amended, Extended, Renewed and Restated Promissory Note in the amount of Five Million Thirty-Two Thousand Dollars (\$5,032,000.00) (hereinafter referred to as the “Modified Note”); and

WHEREAS, Grantor has further requested an additional loan from Lender in the amount of One Million One Hundred Forty Thousand Dollars (\$1,140,000.00), dated of even date herewith (“hereinafter referred to as the “Second Note”); and

WHEREAS, Grantor and Lender desire to document that the Mortgage, as amended herein, shall secure any and all indebtedness owing under the Modified Note and owing under the Second Note;

In Consideration of the mutual terms, conditions, covenants and representations contained herein, and as contained in the Loan Documents as that term is defined in the Construction Loan Agreement (hereinafter the "Loan Agreement") the parties agree as follows:

1. Maximum Lien. The lien of this mortgage shall not exceed, at any one time, Six Million One Hundred and Seventy-Two Thousand Dollars (\$6,172,000.00).
2. Definition of Note. The definition of the word "Note" used in the Mortgage shall be amended to include the Modified, Extended, Renewed and Restated Promissory Note of even date herewith in the amount of Five Million Thirty-Two Thousand Dollars (\$5,032,000.00) and to include the Promissory Note dated of even date herewith in the amount of One Million One Hundred Forty Thousand Dollars (\$1,140,000.00) with both Notes executed and payable by Grantor to Lender. The maturity date, as set forth in the definition of "Note" in the Mortgage, is also amended so that the maturity date of this mortgage will now be May 1, 2021.
3. Definition of Indebtedness. The definition of "Indebtedness" shall be amended to include all principal, interest and other amounts, costs and expenses, payable under the "Note" as described above in this Amended Mortgage, and in the Related Documents, and all Obligations as defined in the Loan Agreement dated of even date herewith by and between Grantor and Lender, together with all renewals, extensions, modifications, consolidations, and substitutions for the Note as defined above in this Amended Mortgage and Related Documents and Loan Documents, and any amounts expended or advanced by Lender to discharge Grantor's Obligations or expenses incurred by Lender to enforce Grantor's Obligations under the Mortgage and this Amended Mortgage, together with interest on such amounts as provided in the Mortgage.
4. Default. The definition of default under the Mortgage and this Amended Mortgage shall be as follows after the expiration of applicable notice and cure periods: a default will occur if payment is not made under the Note as defined herein or if any of the Obligations are not met by Grantor, as the term Obligations is defined in the Loan Agreement by and between Grantor and Lender of even date herewith or if there occurs a default under any of the other terms of the Related Documents or a Default occurs under any of the terms of the Loan Documents as "Loan Documents" is defined in the Loan Agreement by and between Grantor and Lender dated of even date herewith. Without limiting the preceding definition, a Default will also include, but not be limited to, the failure of Grantor to make payments as required in the Note as defined herein.
5. Security. Grantor and Lender agree that this Amended Mortgage and the Mortgage shall secure the Note (as defined in this Amended Mortgage), and all other debts and obligations owing by Grantor to Lender, and the performance of any and all obligations under the Note (as defined in this Amended Mortgage), the Related Documents, the Loan Documents as defined in the Loan Agreement by and between Grantor and Lender dated of even date herewith.

6. Confirmation. Except as specifically amended herein, all of the other remaining terms, conditions, obligations, covenants and agreements by and between Grantor and Lender as set forth in the Mortgage are hereby confirmed as if fully set forth herein. Grantor specifically and expressly agrees that, except as set forth in this Amended Mortgage, all of the terms of the Mortgage shall remain in full force and effect and binding on Grantor.

Grantor acknowledges having read all of the provisions of the Mortgage and this Amended Mortgage, and Grantor agrees to their terms. This Amended Mortgage is given under seal and it is intended that this Amended Mortgage is and shall constitute and have the effect of a sealed instrument according to law.

GRANTOR:

HIGH POINT BIRMINGHAM, LLC

By: _____

John P. O'Brien, Jr.,
Manager of High Point Birmingham LLC

This Amended Mortgage prepared by

Mr. Gary R. Patrick
Patrick, Beard, Schulman & Jacoway
537 Market Street, Suite 202
Chattanooga, TN 37402

STATE OF TENNESSEE)
)
COUNTY OF HAMILTON)

20160713000244020 3/3 \$9279.00
Shelby Cnty Judge of Probate, AL
07/13/2016 03:20:33 PM FILED/CERT

Before me personally appeared **John P. O'Brien, Jr.**, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be Manager of High Point Birmingham LLC, the within named bargainor, a limited liability company, and that he as such officer, executed the foregoing instrument for the purpose therein contained, by signing the name of the limited liability company by himself as such officer.

WITNESS my hand and seal, at office, this 25th day of May, 2016.

Notary Public

My commission expires: 4/5/2018

