

Upon recording, this instrument
Should be returned to:

DDC 9256 VOL 2349 PG 434

Kay K. Bains, Esq.
Walston, Wells, Anderson & Bains, LLP
1819 5th Avenue North, Suite 1100
Birmingham, Alabama 35203

Return to: **ND3**
Republic Title of Texas, Inc.
2626 Howell Street, 10th Floor
Dallas TX **75204**

**FIRST AMENDMENT TO
DEED OF TRUST AND SECURITY AGREEMENT**

THIS FIRST AMENDMENT TO DEED OF TRUST AND SECURITY AGREEMENT (this "**Amendment**"), is made as of the 30 day of April, 2004, by and between **AL INVESTORS MIDLAND LP**, a Washington limited partnership, doing business in Texas as Midland AL Investors LP, a Washington limited partnership, doing business in Texas as Lodge at Saddleridge Investors LLC, a Washington limited liability company having an address at AL Investors LLC, c/o Holiday Retirement Corporation, 2250 McGilchrist Street, S.E., Suite 200, Salem, Oregon 97302, Attention: Bruce Thorn (the "**Grantor**"), and **GMAC COMMERCIAL MORTGAGE CORPORATION**, a California corporation (together with its successors and assigns, the "**Beneficiary**"), whose address is 200 Witmer Road, Horsham, Pennsylvania 19044.

RECITALS

A. Grantor executed for the benefit of Beneficiary that certain Deed of Trust and Security Agreement dated as of December 30, 1998, as recorded in the office of the real property records of Midland County, Texas, in volume 1635, Page 459 (the "**Deed of Trust**"), to secure, among other obligations, a loan in the original principal amount of \$4,880,000.00 (the "**Loan**"), as originally evidenced by Promissory Note, dated December 30, 1998, as amended by that certain First Amendment to Promissory Note dated as of March 22, 2001, and as amended by that certain Second Amendment to Promissory Note dated as of August 14, 2003 (the "**Original Note**"). Unless otherwise defined herein, capitalized terms shall have the meanings assigned to them in the Deed of Trust.

B. Grantor and Beneficiary have agreed to amend, restate and bifurcate the Original Note into two separate notes, pursuant to that certain Restatement, Amendment and Bifurcation of Promissory Note (Floating Rate Note) in the principal amount of \$4,344,462.63 executed as of the date hereof by Grantor to the order of Beneficiary, and that certain Restatement, Amendment and Bifurcation of Promissory Note (Fixed Rate Note) executed as of the date hereof by Grantor to the order of Beneficiary, in the principal amount of \$480,337.37. **There has been no increase in the Indebtedness in connection with this Amendment.**

C. Grantor and Beneficiary agree that the maturity date referenced in Recital A of the Deed of Trust will be extended to April 1, 2005, as same may again be extended pursuant to Section 2.4 of the Loan Agreement.

D. Beneficiary has agreed to permit the bifurcation, restatement, amendment and extension of the Loan upon certain conditions, one of which is the execution of this Amendment.

AGREEMENT

NOW, WHEREFORE, in consideration of the Recitals, Grantor and Beneficiary hereby amend the Deed of Trust as follows:

1. Recital A is hereby deleted and replaced with the following:

"Grantor is indebted to Beneficiary for money loaned in the original principal sum of Four Million Eight Hundred Eighty Thousand and No/100 Dollars (\$4,880,000.00) (the "Loan"), originally evidenced by that certain promissory note dated as of December 30, 1998, from Grantor, payable to the order of Beneficiary, as amended by that certain First Amendment to Promissory Note dated as of March 22, 2001, as amended by that certain Second Amendment to Promissory Note dated as of August 14, 2003 (the "Original Note"), and as now evidenced by that certain Restatement, Amendment and Bifurcation of Promissory Note (Floating Rate Note) (the "Floating Rate Note"), dated as of April 30, 2004, in the principal amount of \$4,344,462.63, and that certain Restatement, Amendment and Bifurcation of Promissory Note (Fixed Rate Note) (the "Fixed Rate Note"), dated as of April 30, 2004, in the principal amount of \$480,337.37, from Grantor, payable to the order of Beneficiary in installments of principal and/or interest thereon, such final installment being due on April 1, 2005, unless the date of such final installment is extended pursuant to Section 2.4 of the Loan Agreement.

2. Section 1(e), the definition of "Collateral Agreements" is hereby amended by deleting the phrase "of even date herewith" and replacing it with " April 30, 2004."

3. Section 1(m), the definition of "Guaranty Agreement" is hereby amended by deleting the phrase "of even date herewith" and replacing it with " Apr 30, 2004."

4. Section 1(u), the definition of "Loan Agreement" is hereby deleted and replaced with the following:

"(u) "Loan Agreement" means that certain Amended and Restated Loan Agreement dated as of April 30, 2004 by and among Grantor, Beneficiary and other parties thereto, executed in restatement and amendment of that certain Loan Agreement by and among Grantor, Beneficiary and other parties thereto, dated as of December 30, 1998, as amended by that certain First Amendment to Loan

Agreement, dated as of March 22, 2001, as amended by that certain Second Amendment to Loan Agreement, dated as of March 31, 2002, as amended by that certain Third Amendment to Loan Agreement, dated as of August 14, 2003, and as amended by that certain Fourth Amendment to Loan Agreement dated as of March 12, 2004."

- 5. Section 1(y) the definition of "Note" is hereby deleted and replaced with the following:

"Note" means, jointly, the Floating Rate Note and the Fixed Rate Note, each executed in restatement, amendment and bifurcation of the Original Note, each jointly evidencing the Loan, including all schedules, riders, allonges, endorsements, addenda or amendments together with any renewals, replacements, substitutions, or extensions thereof."

- 6. Section 4(a) is hereby amended by deleting the first sentence and replacing it with the following two sentences:

"Grantor shall deposit with Beneficiary on the day monthly installments of principal and/or interest, or both, are due under the Note (or on another day designated in writing by Beneficiary), until the Indebtedness is paid in full, an additional amount sufficient to accumulate with Beneficiary the entire sum required to pay, when due, the yearly Taxes. Upon the occurrence of an Event of Default, Grantor shall deposit with Beneficiary on the day monthly installments of principal and/or interest, or both, are due under the Note (or on another day designated in writing by Beneficiary), until the Indebtedness is paid in full, an additional amount sufficient to accumulate with Beneficiary the entire sum required to pay, when due (1) to the extent applicable, the yearly water and sewer charges which may be levied on all or any part of the Security Property, (2) the premiums for fire and other hazard insurance, rent loss insurance and such other insurance as Beneficiary may require under the Loan Agreement, and (3) amounts for other charges and expenses which Beneficiary at any time reasonably deems necessary to protect the Security Property, to prevent the imposition of liens on the Security Property, or otherwise to protect Beneficiary's interests, all as reasonably estimated from time to time by Beneficiary, plus one-sixth of such estimate."

- 7. Section 24(d) is hereby amended by deleting and replacing the note addresses for the Beneficiary as follows:

"If to Beneficiary:

GMAC Commercial Mortgage Corporation
200 Witmer Road
Horsham, Pennsylvania 19044
Attn: Servicing Department

With a copy to:

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Kay K. Bains, Esq.
Walston, Wells, Anderson & Bains, LLP
1819 5th Avenue North, Suite 1100
Birmingham, Alabama 35203"

8. Section 2.1 hereby amended by adding the following sentence to the end of that section:

"All those claiming by, through, or under Grantor consent to any extensions or increases in the interest rate or principal amount of the Indebtedness agreed to by Beneficiary and Grantor, their successors and assigns."

Notwithstanding the execution of this Amendment, or any of the amendments to the Loan Documents as of the date hereof (collectively, the "**Modifications**"), the original indebtedness evidenced by the Original Note and by the other Loan Documents executed together with the Original Note, all security instruments executed in connection with such original indebtedness and all collateral given pursuant thereto, as well as the Guaranty Agreement, are intended to, and shall, continue in full force and effect, as modified (if at all) by the Modifications, and nothing contained in the Modifications is intended to, or shall, be interpreted or construed, to result in a novation of such original indebtedness or a discharge of the collateral given therefor or of the Guaranty Agreement. The parties acknowledge and agree that the aforesaid original indebtedness, all collateral and collateral instruments given therefor, and the Guaranty Agreement, remain in full force and effect, including, without limitation, as modified (if at all) by, and upon the terms set forth in, the Modifications, and are not intended to be, and have not been, novated by, the Modifications. This Amendment is intended only as an amendment of the Deed of Trust. In executing this Amendment, the Grantor acknowledges and reaffirms its obligations under the Deed of Trust, as amended by this Amendment, and it acknowledges and reaffirms the continuation in effect of the lien of the Deed of Trust, by this Amendment, and, as security for the Indebtedness, it reaffirms its grant, bargain, sale, conveyance, assignment, transfer, mortgage, pledge, and setting over unto the Trustee of the Security Property, and, as security of the Indebtedness, it further irrevocably re-grants, re-bargains, re-sells, re-conveys, re-assigns, re-transfers, re-mortgages, re-pledges and re-sets over unto the Trustee the Security Property with mortgage covenants. Except as expressly amended hereby, the Deed of Trust shall remain in full force and effect in accordance with its terms.

The Grantor acknowledges and agrees that there are no offsets or defenses to the obligations set forth in the Deed of Trust, as hereby amended, and represents that there are no Events of Default existing on the date hereof, nor are there any facts or consequences which will or would reasonably be expected as of the date hereof to lead to an Event of Default under the Deed of Trust.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, this Amendment has been duly executed by the undersigned as of the day and year first written above.

PLEASE BE ADVISED THAT ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, OR FOREBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE UNENFORCEABLE UNDER WASHINGTON LAW.

GRANTOR:

AL INVESTORS MIDLAND LP,
doing business in Texas as Midland AL Investors LP, a Washington limited liability company

By: Saddleridge Lodge Investors LLC,
doing business in Texas as Lodge at Saddleridge Investors LLC, a Washington limited liability company

Its: General Partner

By: AL Investors LLC,
a Delaware limited liability company
Its: Sole Member

By: [Signature] [Seal]
Name: Norman L. Brenden
Title: Manager

WITNESSES

[Signature]
Name: Mark T. Burnham

[Signature]
Name: Van R. Kuor

STATE OF Oregon
COUNTY OF Marion

I certify that I know or have satisfactory evidence that NORMAN L. BRENDEN is the person who appeared before me, and said person acknowledged that said person on oath stated that said person was authorized to execute the instrument and acknowledged it as the Manager of AL INVESTORS LLC, a limited liability company, which limited liability company is the Sole Member of SADDLERIDGE LODGE INVESTORS LLC (d/b in Texas as Lodge at Saddleridge Investors LLC), a limited liability company, which limited liability company is the General Partner of AL INVESTORS MIDLAND LP (d/b in Texas as Midland AL Investors LP), the limited partnership which executed the within and foregoing instrument to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

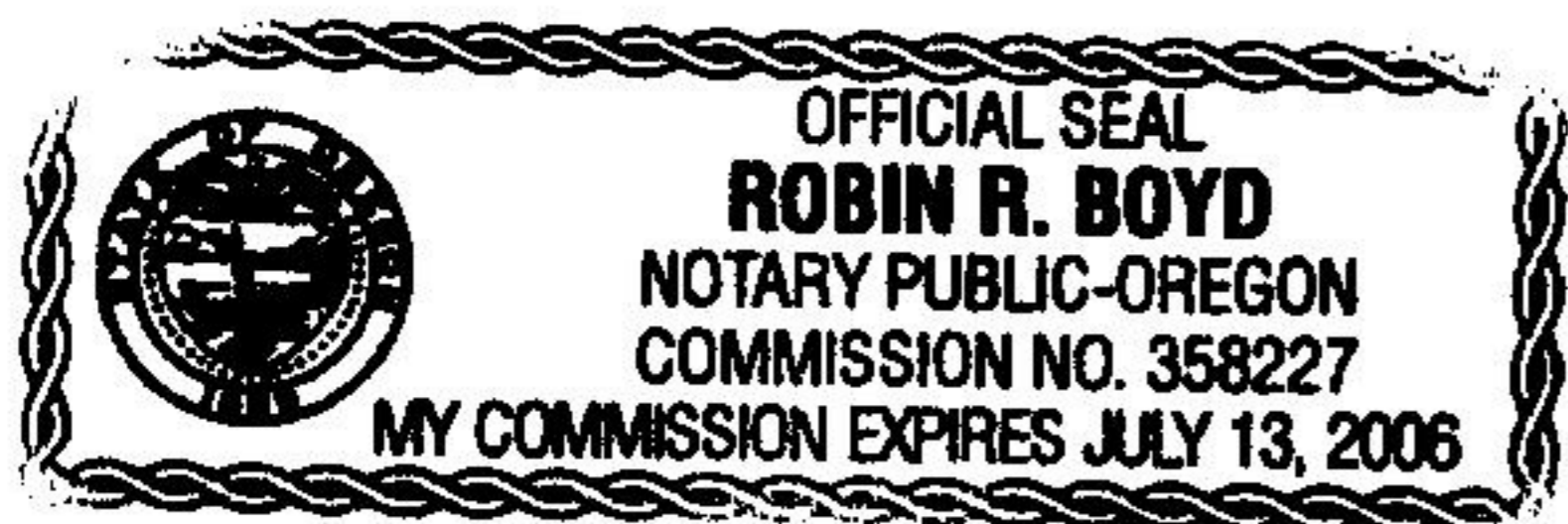
Dated this 16th day of April, 2004.

[Signature]
(Signature of Notary)

Robin R. Boyd
(Legibly Print or Stamp Name of Notary)

Notary public in and for the state of Oregon,
residing at Salem, Oregon

My appointment expires July 13, 2006



Copy

IN WITNESS WHEREOF, this Amendment has been duly executed by the undersigned as of the day and year first written above.

PLEASE BE ADVISED THAT ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR FOREBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE UNENFORCEABLE UNDER WASHINGTON LAW.

WITNESS:

Nicole D. Perrin
Name: Nicole D. Perrin

Crissa K. Randolph
Name: Crissa K. Randolph

BENEFICIARY:

GMAC COMMERCIAL MORTGAGE CORPORATION, a California corporation

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By: Laura Y. McDonald [Seal]
Name: Laura Y. McDonald
Title: Senior Vice President

STATE OF ALABAMA)

)ss:

COUNTY OF JEFFERSON)

I certify that I know or have satisfactory evidence that LAURA Y. MCDONALD is the person who appeared before me, and said person acknowledged that said person on oath stated that said person was authorized to execute the instrument and acknowledged it as the Senior Vice President of GMAC COMMERCIAL MORTGAGE CORPORATION, a California corporation, which executed the within and foregoing instrument, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 19th day of April, 2004.

Aimee L Simms
(Signature of Notary)

Aimee L Simms
(Legibly Print or Stamp Name of Notary)

Notary public in and for the state of Alabama,
residing in Birmingham, Alabama

My appointment expires _____



1 Copy

Exhibit A

SADDLERIDGE LODGE LEGAL DESCRIPTION

Being LOT THREE-A (3-A), BLOCK EIGHT (8), CORRECTED PLAT OF POLO PARK SECTION 12, an addition to the City of Midland, Midland County, Texas, according to the map or plat thereof, recorded in Cabinet F, Page 107, Plat Records, Midland County, Texas, and more particularly described on Exhibit A attached hereto and made a part hereof for all purposes.

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SADDLERIDGE LODGE LEGAL DESCRIPTION (Cont.)
EXHIBIT A

BEING LOT 3-A, BLOCK 8, CORRECTED PLAT OF POLO PARK, SECTION 12, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN CABINET "F", PAGE 107, PLAT RECORDS, MIDLAND COUNTY, TEXAS, AS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FIELD NOTES OF A 3.217 ACRE TRACT OF LAND OUT OF SECTION 3, BLOCK "X", H.P. HILLIARD SURVEY, MIDLAND COUNTY, TEXAS:

BEGINNING at a found Texas Department of Transportation concrete right-of-way monument in the northern boundary of Loop No. 250, located in Section 3, Block "X", H.P. Hilliard Survey, Midland County, Texas, and in the southwest corner of Lot 3A, Block 8, Corrected Plat of Section 12, as recorded in Cabinet "F", Page 107, Midland County Plat Records, for the southwest corner this tract; from which the southwest corner of said Section 3 bears S 74°53'08" W, 1338.61 feet and S 15°20'52" E, 311.49 feet;

THENCE N 15°06'52" W, along the common boundary of Lot 3A and 3B, Block 8 of said Corrected Plat of Polo Park, Section 12, 332.01 feet to a found ½ inch iron rod in the southern boundary of a 2.0 foot Common Area for the northwest corner this tract;

THENCE N 74°53'08" E, along the southern boundary of said 2.0 foot Common Area, 424.48 feet to a found ½-inch iron rod in the western boundary of Polo Parkway for the northeast corner this tract;

THENCE S 11°17'53" E, along the western boundary of Polo Parkway, 324.22 feet to a found ½-inch iron rod in the western boundary of Polo Parkway and the northern boundary of a Common Area, as recorded in Volume 1125, Page 88, Midland County Deed Records, for the most easterly southeast corner this tract;

THENCE S 74°53'08" W, along the northern boundary of a Common Area, 75.60 feet to a found ½-inch iron rod for a corner this tract;

THENCE S 11°18'58" E, along the western boundary of a Common Area, 30.35 feet to a found ½-inch iron rod in the northern boundary of Loop No. 250 for the most southern southeast corner this tract;

THENCE S 78°42'07" W, along the northern boundary of Loop No. 250, 325.92 feet to the Place of Beginning and containing 3.217 acres of land.

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Midland County Clerk

FILED FOR RECORD IN
Midland County
Shauna Brown
COUNTY CLERK

ON: May 06, 2004 AT 04:01P

as
Recording

Document Number: 9256
Total Fees : 28.00

Receipt Number - 159640
By:
Vansie Montemayor, Deputy

Midland County Clerk Unofficial Copy



STATE OF TEXAS
COUNTY OF MIDLAND
I hereby certify that this instrument was FILED on the date
and at the time stamped hereon by me and was duly RECORDED
in the volume and Page of the named RECORDS of Midland
County, Texas, as stamped hereon by me.

Shauna Brown
County clerk
Midland County, Texas

Midland County Clerk

Copy