

STATE OF ALABAMA)
COUNTY OF SHELBY)

TERM ASSIGNMENT OF RENTS AND LEASES

THIS TERM ASSIGNMENT OF RENTS AND LEASES made this 12th day of May, 1995, by SKATES 280, L.L.C., an Alabama limited liability company (the "Borrower") in favor of FIRST COMMERCIAL BANK, a state banking association (the "Lender").

RECITALS:

This assignment is made as additional security for the payment of indebtedness due by Borrower to Lender in the principal amount of Five Hundred Twenty-seven Thousand Seven Hundred Seventy-five and no/100 Dollars (\$527,775.00) (the "Loan"), or such portion thereof as has been disbursed from time to time under the provisions of a Construction Loan Agreement between Borrower and Lender of even date herewith (the "Loan Agreement"), with interest thereon as evidenced by a Term Note of even date herewith in said amount (the "Term Note") executed and delivered by Borrower to Lender, and as additional security for the full and faithful performance by Borrower of all the terms and conditions of the Loan Agreement and Term Note and of a certain Mortgage and Security Agreement of even date herewith (the "Mortgage") executed and delivered by Borrower to Lender on the property described in Exhibit "A" to secure the payment of the Term Note.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, and as an inducement to the Lender to make the Loan to Borrower, Borrower does hereby sell, assign, transfer and set over unto Lender, its successors and assigns, all of the Borrower's interest in and to all leases presently existing or hereafter made, whether written or verbal, or any letting of, or agreement for the use or occupancy of, any part of the property described in Exhibit "A" attached hereto, and the improvements located or to be located thereon, including, without limitation, all the rents, issues, and profits now due and which may hereafter become due under or by virtue of said leases and agreements.

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Borrower agrees to duly operate and maintain the aforesaid property and perform all requisites on its part to keep any and all leases of said property in full force and effect.

Borrower agrees that this Assignment shall cover all future leases, whether written or verbal, or any letting of, or any agreement for the use or occupancy of, any part of said property.

Borrower further agrees that it will not assign the rent or any part of the rent of said property, nor collect rents under any leases or other agreements relating to use of any part of the property, for a period further in advance than one (1) month without the written consent of the Lender, nor do any other act whereby the lien of the Mortgage and/or this Assignment may, in the opinion of the Lender, be impaired in value or quality.

Borrower agrees that it has not and will not enter into any fictitious lease or any lease for the purpose of avoiding creditors, and any attempt to do so will be void. Borrower represents and warrants that all leases, if any, presently in effect are, and all leases hereafter entered into will be, arms-length leases for a rental rate, which, in Borrower's best judgment, represents a fair market rental.

Borrower further agrees that this Assignment is to remain in full force and effect so long as the Term Note remains unpaid and that it may be enforced by Lender.

It is expressly understood and agreed by Borrower and Lender that said Borrower reserves, and is entitled to collect, said rents, income and profits upon, but not prior to, their accrual under the aforesaid leases, and to retain, use and enjoy the same unless and until the occurrence of an Event of Default pursuant to (and as defined in) the Loan Agreement, the Term Note, or the Mortgage, or until the violation of any term, condition or agreement of this Assignment, each of which shall constitute an "Event of Default" hereunder.

Borrower does hereby authorize and empower Lender to collect, upon demand, after any Event of Default hereunder, all of the rents, issues and profits now due or which may hereafter become due under or by virtue of any lease, whether written or verbal, or any letting of, or agreement for the use or occupancy of, any part of said property, and to take such action, legal or equitable, as may be deemed necessary to enforce payment of such rents, issues and profits. Any lessee making such payment to Lender

shall be under no obligation to inquire into or determine the actual existence of any Event of Default claimed by Lender.

Any amount received or collected by Lender by virtue of this Assignment shall be applied for the following purposes, but not necessarily in the order named, priority and application of such funds being within the sole discretion of Lender:

- (1) to the payment of all necessary expenses for the operation, protection and preservation of the property, including the usual and customary fees for management services;
- (2) to the payment of taxes and assessments levied and assessed against the property as said taxes and assessments become due and payable;
- (3) to the payment of premiums due and payable on any insurance policy related to the property;
- (4) to the payment of installments of principal and interest on the Term Note as and when they become due and payable pursuant to the terms of the Term Note, whether by acceleration or otherwise;
- (5) to the payment of any other sums due to Lender, including those due under the Mortgage and Loan Agreement; and
- (6) the balance remaining after payment of the above shall be paid to the then owner of record of said property.

Borrower hereby agrees to indemnify Lender for, and to save it harmless from, any and all liability, loss or damage which Lender might incur under said leases or by virtue of this Assignment, and from any and all claims and demands whatsoever which may be assessed against Lender thereunder or hereunder, and, without limiting the generality of the foregoing, covenants that this Assignment, prior to any such default by said Borrower and entry upon the property by said Lender by reason thereof, shall not operate to place responsibility for the control, care, management or repair of said property upon Lender, nor the carrying out of any of the terms and conditions of said leases; nor shall it operate to make Lender responsible or liable for any waste committed on the property by the tenants or any other party, or for any negligence in the management, upkeep, repair or control of said property resulting in loss or injury or death to any tenant, licensee, invitee, employee, stranger or other person.

The terms "Term Note", "Mortgage" and "Loan Agreement" shall refer to such instruments as they may hereafter be amended by Borrower and Lender. This Assignment shall be binding upon the Borrower,

its successors and assigns and subsequent owners of the property, or any part thereof, and shall inure to the benefit of Lender, its successors and assigns and any holder of the Term Note.

IN WITNESS WHEREOF, Borrower has caused these presents to be properly executed by its duly authorized Managing Member, as of the day and year first above written.

BORROWER:

SKATES 280, L.L.C.

By: William A. Moseley
Its Managing Member

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that **WILLIAM A. MOSELEY**, whose name as Managing Member of Skates 280, L.L.C., an Alabama limited liability, is signed to the foregoing Assignment, and who is known to me, acknowledged before me on this day that, being informed of the contents of said Assignment, he, as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal, this the 12th day of May, 1995.

[Signature]
NOTARY PUBLIC

My Commission Expires: 2-13-99

This instrument prepared by:
Timothy D. Davis, Esq.
Gordon, Silberman, Wiggins & Childs, P.C.
1400 SouthTrust Tower Birmingham, Alabama 35203
(205) 328-0640

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EXHIBIT "A"

Lot 1, according to the Jessica Ingram Survey, as recorded in Map Book 3, Page 54, in the Office of the Judge of Probate of Shelby County, Alabama, and a part of the NE 1/4 of the SE 1/4 of Section 31, Township 18 South, Range 1 West, being more particularly described as follows:

Begin at a crimped iron pipe marking the Southeast corner of the SE 1/4 of the NE 1/4 of Section 31, Township 18 South, Range 1 West, Shelby County, Alabama, and turning an interior angle of 89° 59' 53" from the Northerly projection of the East line of said 1/4-1/4 section run in a Westerly direction a distance of 165.68 feet to a point marked by a crimped iron pipe; thence turn an interior angle of 270° 00' 00" and run to the left in a Southerly direction a distance of 3.97 feet to a point marked by a Judicial corner; thence turn an interior angle of 90° 12' 25" and run to the right in a Westerly direction a distance of 105.64 feet to a point marked by a Judicial corner (said Judicial corners being concrete monuments with brass disks set by Shoal Engineering for Shelby County Case #CV83-184); thence turn an interior angle of 88° 32' 28" and run to the right in a Northerly direction a distance of 4.50 feet to a point marked by a 5/8 inch rebar, said point lying on the South line of the SE 1/4 of the NE 1/4 of said Section 31; thence turn an interior angle of 271° 12' 20" and run to the left in a Westerly direction along said South line a distance of 1080.06 feet to a point on the Easterly right of way of Meadowlark Drive, said point marked by a rebar and cap set by Paragon Engineering, Inc.; thence turn an interior angle of 92° 04' 21" and run to the right in a Northerly direction along said Easterly right of way a distance of 166.27 feet (165 feet map) to a point marked by a rebar and cap set by Paragon Engineering, Inc.; thence turn an interior angle of 87° 27' 55" and run to the right in an Easterly direction a distance of 1357.21 feet (1360 feet map) to a point on the East line of said section marked by a 5/8 inch rebar; thence turn an interior angle of 90° 30' 38" and run to the right in a Southerly direction along said East line a distance of 155.14 feet (165 feet map) to the point of beginning.

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