

ASSIGNMENT OF LEASES AND RENTS

DATE: December 23, 1996

Preparer and
Address for Notices:Sharon L. Sander
First Alabama Bank/RE
Birmingham, AL 35202

Assignor's name

INTERSTATE RESTAURANT INVESTORS

Co-Assignor's name

FRANK C ELLIS, JR

Social Security or Tax I.D. number

Social Security or Tax I.D. number

GENERAL

Definitions. In this Agreement, we, us and our mean Regions Bank. You and your mean the assignor(s) named above. You will be individually and together responsible for performance of this Agreement. This Agreement means this Assignment of Leases and Rents between you and us. Real Property means the real property described below or in an attachment to this Assignment, and all buildings and improvements on the Real Property.

Leases means every existing or future lease, sublease or agreement, whether written or oral, for the use or occupancy of any part of the Real Property, and all extensions and renewals. Rents means any and all of the rents, charges, fees, expenses, security deposits, reimbursements, and other sums now or hereafter due, or to which you may now or hereafter become entitled to make demand or claim, arising or issuing from the Leases.

DEBT SECURED

You agree that this Assignment applies to all debts and obligations owed to us by you. You agree that these debts and obligations include every loan and other extension of credit made by us to you, every future advance under such loan or credit, any extensions or renewals of such loan or credit, every note or other document evidencing an obligation to repay any such loan, credit, extension, or renewal, every guaranty of payment entered into by you with us, the payment and performance of all your obligations under this Assignment, and all other indebtedness and other

obligations of you to us, whether any of the foregoing debts and obligations are joint or several, primary or secondary, direct or indirect, otherwise secured or unsecured, now existing or not, and whether originally payable to us or acquired by us from another. You agree that these debts also include any losses, costs, and expenses, including deficiencies and attorneys' fees and expenses, that we incur as a result of your default.

ASSIGNMENT

By this Assignment, you sell, assign, transfer and set over to us all of your right, title and interest in and to all Leases and Rents, and all guaranties

of the Leases and Rents, relating to the Real Property described below or in an attached exhibit. (Insert address or legal description)

See Attached Exhibit A

12/27/1996-42368
11:40 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
DOUG NEL 13.50

This Assignment grants to us an absolute, immediate, and continuing right to receive and collect the Rents.

☒ [Check box if applicable] This Assignment is additional security for the full and faithful performance by you of all terms and conditions of that mortgage dated December 23, 1996, executed and delivered by you to us.

YOUR OBLIGATIONS

You covenant, represent and warrant to us as follows:

- You are the owner of the Leases and Rents, free and clear of all liens and encumbrances, and have the full right and power to assign the Leases and Rents to us. No other person, corporation or entity has any right, title or interest in the Leases and Rents. You will not pledge, transfer, mortgage or otherwise encumber or assign the Leases or the Rents during the term of this Assignment without our prior written consent. You have duly and punctually performed, kept, and observed all of the terms, covenants, conditions and warranties of the Leases applicable to you. No Rents due for any period more than 30 days subsequent to the date of this Assignment have been collected, and no payment of any of the Rents has been anticipated, waived, released, discounted, set-off or otherwise discharged or compromised. No lessee under any Lease is in default in the payment of Rents. You are the owner of the Real Property free and clear of any mortgages, liens, or encumbrances except as identified by you as follows:
- Upon our request, you agree to deliver a copy of the Leases to us at your expense. Each amount owing to you which is a part of the Rents and all names of all lessees and tenants, amounts owing, due dates, and other facts appearing on the Leases relating to such amounts, are true, correct and genuine and are what they purport to be, and each such amount arises out of a bona fide lease of all or part of the Real Property by you to the lessee so indicated. You agree to promptly

notify us in writing in the event of the bankruptcy, insolvency, or cessation of business of or by any such lessee, and of any claim asserted against you for credit allowance, adjustment, offset or counterclaim by any such lessee.

- You will (i) observe, perform and discharge all obligations, covenants and warranties provided for under the terms of the Leases to be kept, observed and performed by you and give prompt notice to us in the event you fail to observe, perform and discharge those terms; (ii) enforce or secure the performance of each and every obligation, term, covenant, condition and agreement to be performed by any lessee under the terms of the Leases; (iii) appear in and defend any action or proceeding arising under, or occurring out of, or in any manner connected with the Leases or the obligations, duties or liabilities of you and any lessee under the Leases and, upon request by us, to do so in our name and on our behalf, but at your expense, and to pay all of our costs and expenses, including reasonable attorney's fees and expenses, in any action or proceeding in which we may appear with regard to the Leases; (iv) not excuse or in any manner release or discharge any lessee of the Real Property of and from any obligations, covenants, conditions and agreements by said lessee to be kept, observed and performed, including the obligation to pay Rents in the manner and at the place and time specified in the Leases, without our prior written consent.
- You agree to the additional provisions on the reverse.

JURY WAIVER AND ARBITRATION

You and we irrevocably waive all right to trial by jury in any court in any action: (a) we bring against you to enforce our rights under this Assignment or any agreement modified by this Assignment; (b) alleging that (i) we have breached this Assignment or any agreement modified by this Assignment, (ii) we have breached any other agreement, express or implied, (iii) we or any of our officers, employees or agents have acted wrongfully, negligently or otherwise tortiously with respect to you; or (c) between the parties. This waiver of trial by jury does not waive your or our right to bring a lawsuit that a judge, without a jury, would decide. To the extent that any court of

competent jurisdiction determines that such jury waiver is inapplicable or unenforceable with respect to any claim or dispute, such claim or dispute shall be submitted to and settled by final and binding arbitration under the Federal Arbitration Act or other applicable law pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Such proceeding shall be held before a single arbitrator who is an active attorney or retired judge. The party against which the decision is rendered shall pay the costs and reasonable attorneys' fees and expenses of the prevailing party for any arbitration proceeding.

SIGNATURES

By signing this Assignment under seal, you acknowledge that you have read and understand and agree to all the terms of this Assignment, including the JURY WAIVER and ARBITRATION section above, and other terms on the reverse side. You also acknowledge that we've given you a completed copy of this Assignment.

Address for notices:

100 VESTAVIA PARKWAY STE 110

BIRMINGHAM, AL 35216

Assignor INTERSTATE RESTAURANT INVESTORS

X [Signature] L.S.
X [Signature] L.S.

Simple English. We've written this Assignment in language that we hope is easy for you to understand. You should read the entire document.

Insurance. You agree to keep the Real Property insured against fire, theft and any other risks. Upon our request, you agree to provide insurance against loss of Rents and business interruption. The insurance will be in the form and for any period we require. You may apply for insurance through any insurer you choose, or our requirements may be satisfied by insurance you already have in place. We have the right to reject an insurer for reasonable cause. Benefits under the insurance will be payable to you and to us according to our interest in the Rents. All policies of insurance must contain a lender's loss payable clause in favor of us and provide for at least 10 days written notice of cancellation to us at our address on the reverse side. At our request, you agree to deliver the policies, or certificates of the policies, to us. If you don't or can't insure the Real Property or Rents, we have the right to buy insurance that insures only our interest or insures both your and our interest, neither of which shall be deemed a waiver of your obligation to maintain such insurance or a cure of your default in failing to provide insurance. In either case, we may demand reimbursement from you or add the costs to the unpaid principal balance of any debt secured by this Assignment. We have no obligation, however, to acquire, maintain, or replace any insurance.

- You will deliver all ledger sheets, files, records, documents, instruments, computer programs, tapes, software, and other information retrieval or storage systems holding any of your records concerning the Real Property, Leases or Rents or any part specified by us, to us upon request. All such items shall be accurately maintained. You agree that we may enter the Real Property or any other location where such items are kept at any reasonable time to inspect, audit, or take possession of the Leases or such items, and that our entry will not constitute a trespass and our taking of the Leases or such items will not constitute a trespass or a conversion.

- Default.** You will be in default under this Assignment if:
- a default occurs in connection with a debt secured by this Assignment;

I, _____, a Notary Public in and for said County, in said State, hereby certify that _____, whose name(s) is (are) signed to the foregoing document and who is (are) known to me, acknowledged before me on this day that, being informed of the contents of the document, _____ executed the same voluntarily on the day the same bears date.

Notary Public
My commission expires _____

- Successors and assigns.** This Assignment shall bind you and your heirs, executors and administrators, successors, representatives, receivers, trustees, and assigns, but you may not assign or transfer your obligation under this Assignment without our prior written consent.

Sharon D. Stuchman
Notary Public
My commission expires 2-14-99

Exhibit A

A parcel of land situated in the NW 1/4 of the SE 1/4, the SW 1/4 of the NE 1/4 and the SE 1/4 of the NE 1/4 of Section 2, Township 21 South, Range 3 West, Shelby County, Alabama and being more particularly described as follows:

Commence at an iron pin found, purported to be the NE corner of the NW 1/4 of the SE 1/4 of said Section 2, Township 21 South, Range 3 West, Also being the point of beginning of said parcel; thence with a right interior angle of 33 deg. 07 min. 45 sec. from a point South on the East line of the NE 1/4 of the SE 1/4 of said Section 2, proceed in a Southwesterly direction, 180.57 feet to an iron pin set; thence with a left interior angle of 59 deg. 48 min. 13 sec., proceed in a Northwesterly direction 361.47 feet to a cross set in a concrete curb, said point being in a curve to the right, said curve having a central (delta) angle of 8 deg. 51 min. 53 sec., a radius of 1284.89 feet and an arc length of 198.80 feet; thence with left interior angle of 90 deg. to tangent of said curve, proceed in a Northeasterly direction along the arc of said curve, 198.80 feet to a cross set in a concrete curve; thence with a left interior angle of 129 deg. 01 min. 57 sec. from the tangent of said previous curve, proceed in a Southeasterly direction 199.57 feet to a point; thence with a left interior angle of 90 deg. 01 min. 43 sec., proceed in a Southwesterly direction 164.56 feet to the point of beginning of said parcel; being situated in Shelby County, Alabama.

Inst # 1996-42368

12/27/1996-42368
11:40 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
003 MEL 13.50