

THIS INSTRUMENT IS ALSO A FINANCING STATEMENT FILED AS A FIXTURE FILING, PURSUANT TO CODE OF ALABAMA (1975) SECTION 7-9-402(6), AND IS ALSO TO BE INDEXED IN THE INDEX OF FINANCING STATEMENTS UNDER THE NAMES OF ASSIGNOR, AS DEBTOR, AND LENDER, AS SECURED PARTY.

STATE OF ALABAMA       )  
SHELBY COUNTY       )

### ASSIGNMENT OF LEASEHOLD INTEREST

THIS ASSIGNMENT OF LEASEHOLD INTEREST is made the 28th day of August 2000, by **SPECTRUM ENTERPRISES, INC.** an Alabama corporation, dba Schlotzsky's Deli of Pelham, whose mailing address is P.O. Box 8605, Dothan, Alabama 36304 (the "Assignor"), to **SOUTHERN DEVELOPMENT COUNCIL, INC.**, whose address is 8132 Old Federal Road, Montgomery, Alabama, 36117 (hereafter, along with its successors and assigns the "Lender"), to secure an indebtedness (the "Indebtedness") owing by the Assignor to the Lender, as evidenced by that certain promissory note (the "Note") dated this date in the principal sum of Two Hundred Seventy Thousand and 00/100 dollars (\$270,000.00), payable to the order of the Lender and executed by the Assignor, along with all amendments, renewals, and modifications thereto. This Assignment of Leasehold Interest and all other instruments executed by the Assignor further securing the Indebtedness are hereinafter collectively referred to as the "Security Documents."

### RECITALS

A. Under the terms of a lease dated December 5, 1997, Birmingham Realty Company, an Alabama corporation (hereinafter "Landlord") as Lessor leased unto Spectrum Enterprises, Inc., an Alabama corporation (hereinafter Lessee), as Lessee the following described property (hereinafter "Project"), to wit:

Lot 4, according to the Survey of Oak Mountain Commerce Place, as recorded in Map Book 18, Page 58, in the Probate Office of Shelby County, Alabama.

B. A Memorandum of Lease dated August 11, 1998 is filed for record on August 12, 1998 and recorded in Instrument 1998-31161, in the Probate Office of Shelby County, Alabama.

C. The Assignor desires to secure the Note by granting, transferring and assigning to the Lender the Assignor's leasehold interest in the Lease.

NOW, THEREFORE, in consideration of the premises and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Assignor agrees as follows:

1. The Assignor does hereby grant, transfer and assign to the Lender the leasehold interests of the Assignor in the Lease, including, but not limited to:

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- a. All options in favor of Lessee in the Lease and in particular the Assignor's option to purchase the Project.
- b. The Assignor's right to any and all equity in the Project.

These rights are assigned as security and this assignment shall be null and void if the Indebtedness is paid in full.

2. The Assignor represents and warrants to the Lender that:

- a. The Assignor has good title to the Lease and good right to assign its leasehold interest and the options in favor of Lessee as provided in Lease;
- b. No other person, corporation or entity has any right, title or interest in the Lease (as Lessee) or in the options (as optionee) hereby assigned;
- c. All and singular the terms, covenants, conditions and warranties of the Lease on the part of the Assignor thereunder have been duly and punctually performed, kept, and observed by the Assignor;
- d. No previous sale, assignment, transfer, mortgage or pledge of the Lease or the options hereby assigned is superior to the assignment of the options in the Lease hereunder (except for those assigned to Regions Bank);
- e. All of the terms and conditions of the Lease are in full force and effect and the Assignor is not in default under the Lease.

3. To protect the security of this Assignment, the Assignor covenants and agrees:

- a. To observe, perform and discharge all obligations, covenants and warranties provided for under the terms of this Lease to be kept, observed and performed by the Assignor thereunder and to give prompt notice to the Lender in the event Assignor fails to observe, perform and discharge the same;
- b. To enforce or secure the performance of each and every obligation, term, covenant, condition and agreement to be performed by the Lessor under the terms of the Lease;
- c. To appear in and defend any action or proceeding arising under, or occurring out of, or in any manner connected with the Lease or the obligations, duties or liabilities of the Assignor thereunder, and, upon request by the Lender, to do so in the name and on behalf of the Lender but at the expense of the Assignor, and to pay all costs and expenses of the Lender, including reasonable attorney's fees, in any action or proceeding in which the Lender may appear with regard to the Lease or the rights granted herein;

- d. Not to pledge, transfer, mortgage or otherwise encumber or assign the rights granted to the Lender hereunder during the term hereof;
- e. To indemnify the Lender for, and to save the Lender harmless from, any and all liability, loss, or damage, which the Lender might incur under the Lease by virtue of this Assignment, and from any and all claims and demands whatsoever which may be asserted against the Lender thereunder or hereunder.

4. It is a condition of the granting of these powers, benefits and privileges, and of the making of the Assignment, and the Lender by the acceptance of this Assignment so agrees that, until an act of default shall be made by the Assignor in the performance of any of the agreements, covenants and promises in the Note, or any part of the Security Documents, including the making of the payments as set out in said Note, the Assignor may, with the prior written consent of the Lender, exercise the options of the Lease; provided, however, if any portion of the Indebtedness evidenced by the Note is unpaid, the Assignor shall immediately upon exercise of the option to purchase the Project execute a Mortgage in favor of Lender.

5. It is further covenanted and agreed by the Assignor, for the consideration aforesaid, upon or at any time after default in the payment of any Indebtedness secured hereby or in the observance or performance of any obligation, covenant or warranty set forth herein, or in any Security Document, or the occurrence of any event of default under the terms of any of the Note, or any Security Document, the Lender, at its option, shall have the right, power and authority to exercise and enforce any or all of the following rights and remedies:

- a. to require the Assignor to exercise any Option to Purchase as set forth in the Lease in favor of the Lender and to execute such documents as might be required in order to vest fee simple title to the Project in the Lender's name;
- b. to give proper receipts, releases and acquittance therefor, after deducting all necessary and reasonable costs and expenses of collection, including reasonable attorney's fees;
- c. to apply the net proceeds from the sale of the Project, together with any balance in the Bond Fund and any funds of the Assignor deposited with the Lender, upon any Indebtedness secured hereby, or by the Security Documents and in such order as the Lender may determine;
- d. and to declare all sums secured hereby immediately due and payable and, at its option, to exercise all of the rights and remedies provided for in the Note, in the Security Documents, or under the terms hereof.

6. Notwithstanding, the foregoing, Assignor may not terminate the Lease without the express written consent of Lender, or upon payment in full of the Indebtedness.

7. This assignment shall remain in effect as long as any part of the Indebtedness remains unpaid and upon the payment in full of said Indebtedness the Lender shall execute a



release of this assignment upon the written request and at the expense of the Assignor. This assignment shall run with the land described in Paragraph A. of the recitals herein and shall inure to the benefit of and bind the parties hereto and their respective heirs, successors and assigns.

IN WITNESS WHEREOF, the Assignor has caused this Assignment to be executed, sealed and witnessed, all by the Assignor's duly authorized officers, and has caused this document to be dated this the 4th day of August, 2000.

**SPECTRUM ENTERPRISES, INC.**

By: *Larry L. Rister*  
Larry L. Rister, Its President

Attest: *Sara B. Rister*  
Sara B. Rister, Its Secretary

STATE OF ALABAMA  
SHELBY COUNTY

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Larry L. Rister and Sara B. Rister, whose names as President and Secretary, respectively, of **SPECTRUM ENTERPRISES, INC.**, an Alabama corporation, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of said instrument, they, as such officers, and with full authority, executed the same voluntarily, as an act of said corporation.

Given under my hand and official seal, this the 4th day of August, 2000.

*Andrie Burney*  
NOTARY PUBLIC  
My Commission Expires: 7/26/01

THIS INSTRUMENT PREPARED BY AND AFTER  
RECORDATION SHOULD BE RETURNED TO  
Tamara Y. Lee, Attorney  
SOUTHERN DEVELOPMENT COUNCIL, INC.  
8132 Old Federal Road  
Montgomery, Alabama, 36117  
(800) 499-3034

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