

**THIS INSTRUMENT PREPARED BY:
JAMES E. VANN, ESQUIRE
SIROTE & PERMUTT, P.C.
2311 HIGHLAND AVENUE SOUTH
BIRMINGHAM, ALABAMA 35205
(205) 930-5484**

Note to Probate Office: Mortgage tax on \$1,550,000.00 was paid on recording of a mortgage recorded at 20041230000708680. Pursuant to this Amendment, the principal indebtedness secured by said mortgage has been increased by \$300,000.00 and mortgage tax is due on said amount. The Maturity Date has not been extended.


**FIRST AMENDMENT AND ADDENDUM TO PROMISSORY NOTE,
MORTGAGE AND SECURITY AGREEMENT
AND OTHER LOAN DOCUMENTS**

THIS FIRST AMENDMENT AND ADDENDUM TO PROMISSORY NOTE, MORTGAGE AND SECURITY AGREEMENT and OTHER LOAN DOCUMENTS (this "Amendment") is entered into as of September 13, 2006 by and between **280 Station, LLC** (hereinafter sometimes referred to for convenience as the "Mortgagor" or the "Borrower"), **Jack W. Kidd** (hereinafter referred to for convenience as the "Guarantor") and **First Commercial Bank** (hereinafter sometimes referred to for convenience as the "Mortgagee" or the "Bank").

WITNESSETH:

WHEREAS, the Borrower executed to the order of the Bank that certain Promissory Note in the principal amount of \$1,550,000.00 dated December 15, 2004 (the "Note"); and

WHEREAS, as security for the Note the Mortgagor executed in favor of the Mortgagee (i) that certain Future Advance Mortgage and Security Agreement (the "Mortgage") dated December 15, 2004 covering the property described in Exhibit A attached hereto, which Mortgage is recorded in the Office of the Judge of Probate of Shelby County, Alabama in Instrument No. 20041230000708680, (ii) that certain Assignment of Rents and Leases (the "Assignment") dated December 15, 2004 covering the property described in Exhibit A attached hereto, which Assignment is recorded in the Office of the Judge of Probate of Shelby County, Alabama in Instrument No. 20041230000708690, and (iii) that certain UCC Financing Statement (the "UCC") recorded in the Office of the Judge of Probate of Shelby County, Alabama in Instrument No. 20041230000708700; and


20070205000052970 1/6 \$478.00
Shelby Cnty Judge of Probate, AL
02/05/2007 02:05:07PM FILED/CERT

WHEREAS, at the time of execution of the Note, the Mortgage, the Assignment and the UCC (i) the Borrower also executed a Loan Agreement (Construction and Term Financing) (the "Loan Agreement") and various other agreements, documents, instruments and (ii) the Guarantor executed a Guaranty Agreement (for convenience the Note, the Mortgage, the Assignment, the UCC, the Loan Agreement, the Guaranty Agreement executed by the Guarantor, and the other agreements, documents and instruments executed in connection with the Loan are hereinafter referred to collectively as the "Loan Documents"); and

WHEREAS, Borrower has previously made principal payments in the amount of \$19,158.84, thereby reducing the unpaid principal balance of the Loan and the Note to \$1,530,841.16.

WHEREAS, Borrower and Guarantor have requested that the Lender advance to Borrower the sum of \$300,000.00 by (i) readvancing a portion of the Loan proceeds in the amount of \$19,158.84, and (ii) increasing the maximum amount of the Loan (as defined in the Note, the Mortgage, the Assignment, the Loan Agreement, the Guaranty Agreement and the other Loan Documents) by \$280,841.16 to \$1,830,841.16. Lender has agreed to such request provided the Borrower and the Guarantor execute this Amendment and the other documents to be executed in connection herewith.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the parties hereto hereby amend the Loan Documents as follows:

1. The amount of the Loan (as defined in the Note, the Mortgage, the Assignment, the Loan Agreement, the Guaranty Agreement executed by the Guarantor, and all of the other Loan Documents), the principal amount of the Note, and the Principal Amount as defined in the Loan Agreement are increased by \$280,841.16 from \$1,550,000.00 to \$1,830,841.16. All references in all of the Loan Documents to \$1,550,000.00, whether in words or in numbers, are hereby amended to be \$1,830,841.16, and all other provisions of the Loan Documents are amended, mutatis mutandis.

2. The Guarantor consents to this Amendment and the changes to the Loan Documents contemplated hereby. The Borrower and the Guarantor hereby represent, warrant, covenant and agree

that their joint and several obligations for repayment of the Note and all other amounts due under the Note and all other Loan Documents executed by the Borrower or the Guarantor are not diminished or in any way affected by the execution or performance of this Amendment or the transactions contemplated hereby.

3. It is the intention and agreement of the parties hereto that the \$19,158.84 readvance and the \$280,841.16 increase in the maximum of the Loan effectuated by this Amendment shall be secured by the Mortgaged Property (as defined in the Mortgage) and the liens and rights in favor of the Bank under the Mortgage and all other Loan Documents, as fully and completely and with the same priority as the \$1,550,000.00 Promissory Note initially secured thereby.

4. The Borrower and the Guarantor hereby (i) represent and warrant that the unpaid principal balance upon the date hereof, prior to the \$19,158.84 readvance and the \$280,841.16 increase in the Loan contemplated hereby, is \$1,530,841.16, (ii) ratifies and affirms the validity, effectiveness, and enforceability of each of the Loan Documents, as amended hereby, and (iii) confirms that neither the Borrower nor the Guarantor has any defenses or offsets to any of the Loan Documents or amounts due thereunder, as amended hereby.

5. Borrower acknowledges that the monthly payments provided for in section 2(b) of the Note will be \$15,323.58, but monthly payments remain subject to change as permitted in Section 2(b) of the Note.

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IN WITNESS WHEREOF, the undersigned have executed this Amendment as of the date first written above.

BORROWER:

280 Station, LLC

By: Alan D. Kidd
Name: Alan D. Kidd
Title Manager

GUARANTOR:

Jack W. Kidd
Jack W. Kidd

LENDER:

FIRST COMMERCIAL BANK

By: [Signature]
Name: John A. Nicks
Title: Senior Vice President

STATE OF ALABAMA)

COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that **Alan D. Kidd** whose name as the manager of **280 Station, LLC** is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such manager and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand this 8th day of September, 2006.

[Signature]
Notary Public
My Commission Expires: 10-07

NOTARIAL SEAL

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that **Jack W. Kidd** whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he executed the same voluntarily.

Given under my hand this 8th day of September, 2006.

A. Y. Oul
Notary Public
My commission expires: 10-07

NOTARIAL SEAL

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

John Marks I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that John Marks whose name as Sr. Vice Pres. of **First Commercial Bank** is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this 13th day of September, 2006.

Deatra A. Repley
Notary Public
My Commission Expires **NOTARY PUBLIC STATE OF ALABAMA AT LARGE**
MY COMMISSION EXPIRES: Feb 21, 2010
NOTED THAT NOTARY PUBLIC UNDERWRITES

NOTARIAL SEAL

EXHIBIT A
DESCRIPTION OF REAL PROPERTY

Begin at a point on the West line of SE $\frac{1}{4}$ of Section 5, Township 19, Range 1 West, which point is 170 feet South of the Northwest corner of said SE $\frac{1}{4}$, Section 5; run thence South along such quarter-section line 210 feet; thence East at a right angle to the Florida Short Route Highway right of way; thence North along such right of way to a point which is 170 feet South of the North line of such SE $\frac{1}{4}$, Section 5; thence West to the point of beginning, situated in NW $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 5, Township 19, Range 1 West in Shelby County, Alabama. According to the survey of Laurence D. Weygand, Reg. P.E. & L.S. #10373, dated October 18, 1994.