



08-07-2000

REC  
TR

09-14-2000



101456184

Docket No.:

3204/15

Tab setting

U.S. Patent & TMO/TM Mail Rpt Dt. #11

To the Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies): **MED 8.7.00**  
**Dreamland Holding Company, LLC**

- Individual(s)
- General Partnership
- Corporation-State
- Other **limited liability company**
- Association
- Limited Partnership

Additional names(s) of conveying party(ies)  Yes  No

2. Name and address of receiving party(ies):

Name: **First Commercial Bank**

Internal Address: **Attention: Fred R. Elliott**

Street Address: **800 Shades Creek Parkway**

City: **Birmingham** State: **AL** ZIP: **35209**

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation-State **Alabama banking corporation**
- Other

If assignee is not domiciled in the United States, a domestic designation is  Yes  N  
(Designations must be a separate document from  
Additional name(s) & address(es)  Yes  N

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other
- Merger
- Change of Name

Execution Date: **August 1, 2000**

4. Application number(s) or registration numbers(s):

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

**1585981**

Additional numbers

Yes  No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: **Jeff Baker**

Internal Address: **BURR & FORMAN, LLP**

**Post Office Box 830719**

Street Address: **420 N. 20th Street, Suite 3100**

City: **Birmingham** State: **AL** ZIP: **35283**

6. Total number of applications and registrations involved: **1**

7. Total fee (37 CFR 3.41): \$ **40.00**

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

09/13/2000 MTHAI1 00000218 1585981

01 FC:481 40.00 DP

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

**FRED R. ELLIOTT**

Name of Person Signing

Signature

**8/1/00**

Date

Total number of pages including cover sheet, attachments, and



TRADEMARK

REEL: 002134 FRAME: 0924

## LOAN AND SECURITY AGREEMENT

**THIS LOAN AND SECURITY AGREEMENT**, made as of the 1<sup>st</sup> day of August, 2000, is by **DREAMLAND HOLDING COMPANY, LLC**, a Delaware limited liability company (the "Borrower"), in favor of **FIRST COMMERCIAL BANK**, an Alabama banking corporation (the "Lender").

### RECITALS:

Borrower is indebted to Lender pursuant to that certain Promissory Note of even date herewith payable by Borrower to Lender in the principal amount of up to \$3,000,000.00, which note was executed and delivered by Borrower in order to evidence a loan from Lender in said principal amount. As security for said loan, Lender has required that Borrower execute and deliver this Loan and Security Agreement.

### AGREEMENT

**NOW, THEREFORE**, in consideration of the foregoing Recitals, and to induce Lender to extend credit to Borrower, Borrower hereby covenants and agrees with Lender, and represents and warrants to Lender, as follows:

**1. Definitions.** The following terms that are defined in the Uniform Commercial Code as in effect in the State of Alabama on the date hereof are used herein as so defined: **Accounts, Chattel Paper, Documents, General Intangibles, Instruments** and **Proceeds**. In addition, the following terms shall have the meanings thereafter ascribed:

**"Collateral"** means all Accounts, Chattel Paper, Documents, General Intangibles, Instruments, Intellectual Property, Money, License Agreements, and Royalties, and all Proceeds of any of the foregoing, all whether now owned or hereafter at any time acquired and wherever located, and including all replacements, additions, accessions, substitutions, and products relating thereto.

**"Event of Default"** shall have the meaning set forth in Section 5 hereof. An Event of Default shall "exist" if an Event of Default shall have occurred and is continuing.

**"Guarantors"** shall collectively mean Bobby T. Underwood, E. A. Drummond, Robert W. Moore and Dreamland Restaurants of Tuscaloosa, LLC (individually, a "Guarantor"), pursuant to the terms of the Guaranty.

**"Guaranty"** shall mean that certain Limited Guaranty Agreement of even date herewith from the Guarantors in favor of Lender.

**"Intellectual Property"** shall mean all trade names, trademarks, service marks, or other intellectual property rights pertaining to the operation of the Borrower's business, whether now existing or hereafter put into service, and whether or not the same have been registered for protection under applicable state or federal statutes, including, without limitation the "Dreamland" trade name and the trademarks more particularly described in Schedule II attached hereto and made a part hereof.

**"License Agreement"** means any franchise, license or similar agreement granting to any party the right to make use of the Borrower's Intellectual Property, whether now existing or hereafter entered into by Borrower and any franchisee or licensee, including all rights and services pursuant to any such agreement, and all subsequent modifications and amendments thereto. The License Agreements in effect as of the date of this Agreement are set forth in Schedule I attached hereto and made a part hereof.

**"Loan"** shall mean the extension of credit from Lender to Borrower evidenced by the Note in a principal amount not exceeding the sum of \$3,000,000.00.

**"Loan Agreement"** shall mean this Loan and Security Agreement.

**"Loan Documents"** shall collectively mean the Note, this Loan Agreement, the Guaranty and all other documents or instruments evidencing or securing the Loan, as any of the same may be amended, extended, renewed or modified from time to time.

**"Money"** means all monies, cash, rights to deposit or savings accounts or other items of legal tender obtained from or for use in connection with the operation of the Borrower's business.

**"Obligations"** shall collectively mean all indebtedness or other liabilities and obligations of the Borrower to the Lender arising out of or secured by the Loan Documents, including, without limitation (i) the Borrower's obligation to repay the principal amount of the Loan with interest thereon as set forth in the Note, and (ii) the Borrower's obligation to pay all other agreed charges in connection with the Loan, and (iii) the Borrower's obligation to pay certain legal fees, court costs and other costs of collection as set forth herein and in the other Loan Documents, and (iv) the Borrower's obligation to pay and discharge any and all liens or encumbrances upon or tax liabilities with respect to the Collateral, and (v) any and all indemnity obligations of the Borrower in favor of the Lender set forth in any of the Loan Documents, and (vi) the Borrower's obligation fully and timely to comply with all other covenants and agreements set forth in the Loan Documents.

**"Person"** means any natural person, firm, corporation, partnership, limited liability company, trust or other legal entity.

**"Royalties"** shall mean any and all royalties, commissions, licensing fees or other similar payments made or to be made to Borrower from time to time pursuant to the terms of any License Agreement or otherwise with respect to the use of Borrower's Intellectual Property.

Singular terms shall include the plural forms and *vice versa*, as applicable. All references herein to the Loan Documents or any other documents or instruments shall be deemed to refer to such documents or instruments as they may hereafter be extended, renewed, modified, or amended, and such references shall include all replacements and substitutions therefor; except that any amendment to any License Agreement made without Lender's prior written consent will be void.

**2. Loan Disbursements.** During the period commencing on the date hereof and ending on July 31, 2001, so long as no Potential Default or Event of Default then exists, Borrower shall be entitled to borrow, repay and reborrow the principal amount of the Loan upon written application to Lender; provided, however, that Lender shall be under no obligation to make any such future disbursement of Loan proceeds to Borrower (other than the amount initially disbursed to Borrower as of the date hereof) except in its sole and absolute discretion.

**3. Grant of Security Interest.** In order to secure the full and timely payment and performance of the Obligations, Borrower hereby assigns and pledges to Lender, and grants to Lender a continuing security interest in, all right, title and interest of Borrower in and to the Collateral. Until the occurrence of an Event of Default, however, Borrower shall have the right to possess and utilize the Collateral and to take such other action with respect to the Collateral as may be necessary in connection with the operation of the Borrower's business, subject to the provisions of this Agreement.

**4. Representations, Warranties and Covenants.**

(a) Except for the security interest created by this Agreement, Borrower owns each item of the Collateral free and clear of any and all liens or claims of other Persons. To the best of Borrower's knowledge, no security agreement, financing statement, or other public notice with respect to all or any part of the Collateral is on file or of record in any public office, except such as has been filed in favor of Lender pursuant to this Agreement or which is in the process of being satisfied pursuant to the Purchase Agreement. Borrower will defend the Collateral against all claims and demands of all Persons at any time claiming the Collateral, or any portion thereof or interest therein.

(b) Borrower will, at the request of Lender and at the sole expense of Borrower, (i) join with Lender in executing one or more financing statements or other documents necessary or appropriate to evidence or secure the Obligations and other obligations secured hereby, or perfect

the security interest in the Collateral created by this Agreement, in form and content satisfactory to Lender; (ii) mark any chattel paper to reflect Lender's interest therein; and (iii) take any other action or execute any other instrument deemed necessary or appropriate in the judgment of Lender to perfect or continue the perfection of the security interest of Lender in the Collateral and to protect the Collateral against the rights, claims or interests of all other Persons.

(c) Borrower will not, without the express prior written approval of Lender, in any way encumber, hypothecate, create or permit to exist any lien, security interest, encumbrance, or other interest in the Collateral except the security interest in favor of Lender created by this Agreement; provided, however, that Borrower may grant licenses of the Intellectual Property to franchisees or licensees pursuant to one or more License Agreement, and nothing herein shall be deemed to prohibit Borrower from entering into leases for equipment or from otherwise granting purchase-money liens upon any inventory, equipment or other assets hereafter acquired by Borrower in the ordinary course of business and not included within the definition of "Collateral" herein set forth.

(d) Borrower will keep and maintain the Collateral in good condition and repair, and will not misuse or abuse the Collateral, or waste or allow the Collateral to deteriorate except for ordinary wear and tear caused by the normal and expected use thereof in the operation of the Borrower's business. Borrower will comply with all laws, statutes, and regulations pertaining to the use or ownership of the Collateral.

(e) Borrower will diligently and in accordance with good business practices pursue collection of all portions of the Collateral which consist of obligations or indebtedness owed to it, and Borrower will in a timely manner and in accordance with good business practices file (and assign to Lender) any liens available to protect the rights of Borrower to payment of such obligations or indebtedness and will give all prior notices thereof required by law.

(f) Borrower will promptly advise Lender by written notice if Borrower should change the location of its principal place of business or chief executive office from the address listed in Section 10 hereof, which Borrower hereby represents to be its present principal place of business and chief executive office, and Borrower will promptly execute and file at Borrower's sole expense such additional UCC filings or filings with the United States Patent and Trademark Office as Lender may request to perfect, or continue the perfection and priority of, Lender's security interest in the Collateral. Borrower will advise Lender of any information which may adversely affect the value of the Collateral or the rights or remedies of Lender with respect to the Collateral.

(g) Borrower will maintain complete and accurate account books and records with respect to the operation of the Borrower's business and the status, condition, and location of the Collateral, which books and records shall reflect the consistent application of recognized accounting principles, and will make such books and records available at reasonable times for inspection and copying by Lender or its agents. Borrower will, in addition, allow Lender to inspect the Collateral at such times as Lender shall reasonably request, and will cause its officers and employees to meet

with Lender or its designated agents at such times as Lender shall request to discuss matters relating to the Project.

(h) This Agreement and the other Loan Documents, and all of the transactions contemplated hereby or thereby, have been duly authorized, executed and delivered pursuant to all requisite action by the Borrower, and constitute the legal, valid, and binding obligations of the Borrower, enforceable in accordance with their respective terms, and do not violate, conflict with or constitute any default under any law, government regulation, decree, judgment, the Borrower's organizational documents or any other agreement or instrument binding upon the Borrower.

(i) All License Agreements have been (or will be) duly authorized, executed and delivered pursuant to all requisite action by the Borrower, and constitute (or will constitute) the legal, valid, and binding obligations of the Borrower, enforceable in accordance with their respective terms. Borrower will not materially modify or terminate any License Agreement without the prior written consent of Lender except as may be required by law.

## **5. Events of Default.**

(a) The occurrence of any one or more of the following events shall constitute an "Event of Default" hereunder:

(1) The occurrence of any "Event of Default" under, and as defined in, any of the other Loan Documents.

(2) Failure by Borrower to perform any term, condition or covenant herein (other than any term, condition or covenant with respect to which a notice or cure period is expressly stated), which failure is not cured within thirty (30) days after written notice thereof from Lender to Borrower; provided that if such default is not reasonably susceptible to being cured within such thirty (30) day period, but Borrower commences and diligently pursues cure efforts within the initial thirty (30) days, no Event of Default will occur until the expiration of a total of sixty (60) days after the date of such written notice.

(3) Failure to notify Lender within thirty (30) days of any termination or cancellation of any License Agreement.

(4) The creation of or suffering to exist by Borrower of any lien or encumbrance upon the Collateral, other than the lien of the Loan Documents and other permitted encumbrances thereunder, without the prior written consent of Lender, which consent may be granted or refused by Lender in its sole discretion.

(b) Notwithstanding the foregoing, no notice of default shall be required if Lender is prevented from giving notice by Bankruptcy or other applicable law, and the cure period, if any,

specified with respect to such event shall commence on the date thereof rather than from the date of notice. Nothing herein shall require any notice to Borrower except as expressly set forth above or in the other Loan Documents.

## 6. Remedies.

(a) In addition to all other remedies available under the Loan Documents and as otherwise may be available at law or in equity, Lender may, upon the occurrence of an Event of Default hereunder, pursue any, all or any combination of the following remedies:

(1) Exercise any and all of the rights and remedies for which provision is made by the applicable Uniform Commercial Code, together with the right to recover the reasonable attorneys' fees and legal expenses incurred by Lender in the enforcement of this Agreement or in connection with any redemption of the Collateral, including fees and expenses on appeal and in any Bankruptcy proceedings.

(2) Require Borrower to assemble the Collateral, or any portion thereof, and make such available at one or more places as Lender may designate, and to deliver possession of the Collateral to Lender, which shall have full right to enter upon any or all of the Project to exercise Lender's rights hereunder.

(3) Use, operate, and control the Collateral to preserve the Collateral or the value thereof, including, without limitation, making repairs, replacements, alterations, additions, and improvements to the Collateral.

(4) Lender may require that Borrower cause its Accounts, including all Royalties, to be paid to Lender for application against the Obligations in such order as Lender may elect. Borrower agrees to promptly notify all of its account debtors, to the extent permitted by applicable law, to make payments to one or more deposit accounts specified by Lender upon Lender's request and as designated by Lender, and Borrower agrees to provide any necessary endorsements to checks, drafts and other forms of payment so that such payments will be properly deposited in such accounts. Lender may cause moneys to be withdrawn from such deposit accounts and applied to the Obligations in such order as Lender may elect, whether or not then due. Borrower appoints Lender as its attorney-in-fact, which appointment is coupled with an interest and irrevocable, to provide any notice, endorse Borrower's name upon any check, draft, or other payment for deposit, or take any other action which Borrower agrees to take herein. Lender shall not be liable for failure to collect or to enforce any Accounts or for any action or omission on the part of Lender, its officers, agents and employees in collecting or enforcing such Accounts.

(b) Lender may enforce one or more remedies hereunder, successively or concurrently, and such action shall not operate to estop or prevent Lender from pursuing any other

or further remedy which Lender may have. In connection with any public or private sale under the applicable Uniform Commercial Code, Lender shall give Borrower ten (10) days' notice of the time and place of any public sale of the Collateral or of the time after which any private sale or other intended disposition thereof is to be made, which notice shall be deemed to be reasonable notice of such sale or other disposition. Such notice may be delivered to Borrower in accordance with the provisions of this Loan Agreement.

(c) In the event Lender recovers possession of all or any part of the Collateral pursuant to a writ of possession or other judicial process, whether prejudgment or otherwise, Lender may thereafter retain, sell or otherwise dispose of such Collateral in accordance with this Agreement or the applicable Uniform Commercial Code, and following such retention, sale or other disposition, Lender may voluntarily dismiss without prejudice the judicial action in which such writ of possession or other judicial process was issued. Subject to the provisions of applicable law, Borrower hereby consents to the voluntary dismissal by Lender of such judicial action, and Borrower further consents to the exoneration of any bond which Lender may have filed in such action.

7. **Waiver of Certain Laws.** Borrower agrees that in case of any Event of Default, neither Borrower nor anyone claiming through or under Borrower will set up, claim or seek to take advantage of any appraisalment, valuation, stay, extension, homestead, exemption or redemption laws now or hereafter in force, or otherwise seek to prevent or hinder the enforcement of this Agreement, or the final and absolute realization by Lender upon the security interests created by this Agreement, and Borrower, for itself and all who may at any time claim through or under Borrower, hereby waives to the fullest extent that it lawfully may the benefit of all such laws, and any and all right to have the Collateral and any other collateral pursuant to the Loan Documents marshaled upon any exercise of the remedies provided herein.

8. **Waiver of Jury Trial. BORROWER, AND BY ACCEPTANCE HEREOF LENDER, HEREBY MUTUALLY WAIVE ANY RIGHT TO TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SETOFF, DEMAND, ACTION OR CAUSE OF ACTION (A) ARISING OUT OF OR IN ANY WAY PERTAINING OR RELATING TO THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith, OR (B) IN ANY WAY CONNECTED WITH OR PERTAINING OR RELATED TO OR INCIDENTAL TO ANY DEALINGS OF THE PARTIES WITH RESPECT TO THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith OR IN CONNECTION WITH THE TRANSACTIONS RELATED HERETO OR CONTEMPLATED HEREBY OR THE EXERCISE OF ANY PARTY'S RIGHTS AND REMEDIES HEREUNDER, IN ALL OF THE FOREGOING CASES WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. THE PARTIES AGREE THAT ANY OF THEM MAY FILE A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED AGREEMENT AMONG THE PARTIES IRREVOCABLY TO WAIVE TRIAL BY JURY,**



**AND THAT ANY DISPUTE OR CONTROVERSY WHATSOEVER BETWEEN THEM SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.**

**9. Governing Law.** The validity, interpretation, enforcement and effect of this Agreement shall be governed by, and construed according to the laws of, the State of Alabama. The Lender's principal place of business is located in Jefferson County, Alabama, and the Borrower agrees that this Agreement has been made and delivered to Lender, and shall be held by Lender, at such principal place of business. By execution and delivery of this Agreement, Borrower expressly and irrevocably assents and submits to the personal jurisdiction of the state and federal courts presiding in and over Jefferson County, Alabama, in any legal action or proceeding arising under, out of, or in any manner relating to this Agreement, and acknowledges that the negotiation, execution and delivery of this Agreement constitute sufficient contacts with the State of Alabama for purposes of independently conferring such jurisdiction. The Borrower further agrees that the exclusive venue of any such legal action or proceeding arising out of or in any manner relating to this Note shall be in the state and/or federal courts presiding in and over Jefferson County, Alabama, unless the Lender shall, at its sole option, elect to bring or permit the maintenance of any such action in another venue, and the Borrower hereby waives any and all rights under any state or federal law to object to such venue on grounds of *forum non conveniens* or otherwise.

**10. Notices.** Any notice required herein or by applicable law shall be deemed properly given (a) when personally delivered (to the person or department if one is designated below), (b) as of the delivery date shown on the return receipt when sent by United States Mail, certified or registered, postage prepaid, return receipt requested, or (c) one (1) day after the date sent by Federal Express or overnight United States Mail or other national overnight carrier, and addressed in each such case as set forth below:

*If to the Borrower:* Dreamland Holding Company, LLC  
1427 14<sup>th</sup> Avenue South  
Birmingham, Alabama 35205  
Attn: Bobby T. Underwood

*with a copy to:* Robert W. Moore  
Route 1  
Catherine, Alabama 36728

E. A. Drummond  
120 North Walston Bridge Road  
Jasper, Alabama 35504

*If to the Lender:*

First Commercial Bank  
P.O. Box 11746  
Birmingham, Alabama 35202-1746  
Attn: Fred R. Elliott

Any party may by notice given as herein provided change its address to another single address.

## **11. Miscellaneous Provisions.**

(a) *Recordation or Filing.* A counterpart of this Agreement may be filed and/or recorded, and from time to time thereafter to be refiled and/or rerecorded at the option of Lender, in any local, state or federal filing offices where Lender deems advisable in order to perfect or continue the perfection of Lender's security interest in the Collateral or any part thereof, and Borrower agrees to pay (or reimburse the Lender if Lender pays) the fees and taxes for such filing or recording.

(b) *Further Assurances.* Borrower agrees that the security interests created herein are irrevocable, and that Borrower will not, while this Agreement is in effect or thereafter until Lender has terminated this Agreement, take any action which is inconsistent with this Agreement, or make any other assignment, designation or direction inconsistent with this Agreement, and that any assignment, designation or direction inconsistent with this Agreement shall be void. Borrower will from time to time, upon request of Lender, execute all instruments of further assurance and all such supplemental instruments as Lender may specify.

(c) *No Waiver.* No consent or waiver, express or implied, by any party to this Agreement to or of any breach or default by any other party to this Agreement in the performance by such other party of the obligations thereof under this Agreement shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance by such other party of the same or any other obligations of such other party under this Agreement. Failure on the part of any party to this Agreement to complain of any act or failure to act of any other party to this Agreement or to declare such other party in default, irrespective of how long such failure continues, shall not constitute a waiver by such party of the rights thereof under this Agreement.

(d) *Severability, Complete Agreement.* If any provision of this Agreement or the application thereof to any Person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to any other Person or circumstance shall not be affected thereby, and such provision shall be enforced to the greatest extent permitted by law. This Agreement and the Loan Documents, and the instruments executed in connection therewith, constitute the full and complete agreement of the parties and supersede all prior negotiations, correspondence, and memoranda relating to the subject matter hereof.

(e) *Status Reports.* Borrower agrees, upon the written request of Lender, to furnish promptly a written statement (in recordable form, if requested) of the status of any matter pertaining to this Agreement.

(f) *Amendment.* Neither this Agreement nor any provision hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

(g) *Headings; Number and Gender.* The headings of the sections, paragraphs and subdivisions of this Agreement are for convenience of reference only, are not to be considered a part hereof and shall not limit or otherwise affect any of the terms hereof. As used herein, the singular shall be deemed to include the plural, and *vice versa*, and the masculine gender shall be deemed to include the feminine gender, and *vice versa*.

(h) *Counterparts.* This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall comprise but a single instrument. It shall not be necessary that all parties execute the same counterpart hereof, so long as all such counterparts, in the aggregate, evidence the execution of all parties.

(i) *Binding Agreement.* The provisions of this Agreement shall apply to, inure to the benefit of, and bind Borrower and Lender and their respective successors and assigns. The term "Lender" shall expressly include any subsequent holder of the Note.

(j) *Interpretation.* No provisions of this Agreement shall be construed against or interpreted to the disadvantage of any party to this Agreement by any court or other governmental or judicial authority by reason of such party's having or being deemed to have structured or dictated such provision.

(k) *Relationship of Parties.* No express or implied term, provision or condition of this Agreement, considered without reference to any other or external agreement, shall or shall be deemed to constitute the parties to this Agreement as partners or joint venturers.

(l) *Subsequent Activities.* Unless otherwise expressly approved in writing by Lender, the obligations, covenants, agreements and duties of Borrower under this Agreement shall not be affected or impaired by reason of any modification or amendment (whether material or otherwise) of any Loan Documents, or any other cause, whether similar or dissimilar to the foregoing.

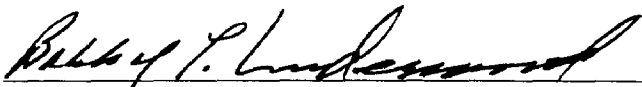
(m) *Costs and Expenses.* Borrower will bear all reasonable expenses (including legal fees and expenses of Lender's counsel and including fees and expenses on appeal and in Bankruptcy) actually incurred by Lender in connection with any legal representation obtained by Lender with respect to this Agreement, or to collect the Obligations or other obligations secured

hereby, or any part thereof, or to take any action with respect to any suit or proceeding relating to this Agreement or the Collateral, or to protect, collect, or liquidate any of the Collateral or to attempt to enforce any security interest or lien granted to Lender by the Borrower.

**IN WITNESS WHEREOF**, Borrower has caused this Agreement to be properly executed and delivered as of the day and year first above written.

**BORROWER:**

DREAMLAND HOLDING COMPANY, LLC, a Delaware limited liability company

By:   
Bobby T. Underwood, Its Manager

**LENDER:**

FIRST COMMERCIAL BANK, an Alabama banking corporation

By:   
Its: Vice President

## SCHEDULE I

### *The License Agreements*

1. Franchise and License Agreement dated May 11, 1993, by and between Dreamland Drive-In Bar-B-Que, Inc. and Dreamland of Birmingham, Inc.
2. Franchise and License Agreement dated January, 1995, between Dreamland Drive-In Bar-B-Que, Inc. and Dreamland of Mobile, LLC.
3. Developmental Option Agreement dated May 11, 1993, between Dreamland Drive-In Bar-B-Que, Inc. and Bobby T. Underwood.
4. Any and all franchise and/or license agreements, whether oral or written, with respect to the operation by Dreamland Restaurants of Atlanta, LLC of a restaurant known as "Dreamland" and located in Roswell, Georgia.
5. That certain Packaging Agreement dated March 22, 1993, by and between Dreamland Drive-In Bar-B-Que, Inc. and D&D Foods, Inc.

## SCHEDULE II

### *The Intellectual Property*

1. United States Trade Mark Service Mark Registration No. 1,585,981 registered in the United States Patent and Trademark Office March 6, 1990.

The Debtor is a transmitting utility as defined in ALA CODE 7-9-105(n).

No. of Additional Sheets Presented: 2

This FINANCING STATEMENT is presented to a Filing Officer for filing pursuant to the Uniform Commercial Code.

1. Return copy or recorded original to:

Damon P. Denney, Esq.  
Burr & Forman LLP  
P.O. Box 830719  
Birmingham, AL 35283-0719

THIS SPACE FOR USE OF FILING OFFICER  
Date, Time, Number & Filing Office

Pre-paid Acct # \_\_\_\_\_

2. Name and Address of Debtor (Last Name First if a Person)

Dreamland Holding Company, LLC  
Attn: Bobby T. Underwood  
1427 14th Avenue South  
BIRMINGHAM, AL 35205

Social Security/Tax ID # \_\_\_\_\_

2A. Name and Address of Debtor (IF ANY) (Last Name First if a Person)

Social Security/Tax ID # \_\_\_\_\_

Additional debtors on attached UCC-E

FILED WITH  
AL-SOS

3. NAME AND ADDRESS OF SECURED PARTY (Last Name First if a Person)

First Commercial Bank  
Attn: Fred R. Elliott  
P.O. Box 11746  
BIRMINGHAM, AL 35202-1746

Social Security/Tax ID # \_\_\_\_\_

Additional secured parties on attached UCC-E

4. ASSIGNEE OF SECURED PARTY (IF ANY) (Last Name First if a Person)

5. The Financing Statement Covers the Following Types (or items) of Property

See Exhibit "A" attached hereto

5A. Enter Code(s) From Back of Form That Best Describes The Collateral Covered By This Filing

0	0	0	---	---
1	0	0	---	---
1	0	1	---	---
2	0	0	---	---
7	0	0	---	---
---	---	---	---	---
---	---	---	---	---

Check X if covered:  Products of Collateral are also covered.

6. This statement is filed without the debtor's signature to perfect a security interest in collateral (check X, if so)

already subject to a security interest in another jurisdiction when it was brought into this state.

already subject to a security interest in another jurisdiction when debtor's location changed to this state.

which is proceeds of the original collateral described above in which a security interest is perfected.

acquired after a change of name, identity or corporate structure of debtor

as to which the filing has lapsed.

7. Complete only when filing with the Judge of Probate

The initial indebtedness secured by this financing statement is \$ \_\_\_\_\_

Mortgage tax due (15¢ per \$100.00 or fraction thereof) \$ \_\_\_\_\_

8.  This financing statement covers timber to be cut, crops, or fixtures and is to be cross indexed in the real estate mortgage records (Describe real estate and if debtor does not have an interest of record, give name of record owner in Box 5)

Signature(s) of Secured Party(ies)  
(Required only if filed without debtor's Signature -- see Box 6)

Signature(s) of Debtor(s)

Signature(s) of Secured Party(ies) or Assignee

Signature(s) of Debtor(s)

Signature(s) of Secured Party(ies) or Assignee

See attached Schedule J

Type Name of Individual or Business

Type Name of Individual or Business

(1) FILING OFFICER COPY - ALPHABETICAL  
(2) FILING OFFICER COPY - NUMERICAL

(3) FILING OFFICER COPY - ACKNOWLEDGEMENT  
(4) FILE COPY - SECURED


(5) FILE COPY DEBTOR(S)

STANDARD FORM -- UNIFORM COMMERCIAL CODE -- FORM UCC 1  
Approved by The Secretary of State of Alabama

**SCHEDULE I  
TO UCC-1 FINANCING STATEMENT BETWEEN  
DREAMLAND HOLDING COMPANY, LLC, AS DEBTOR  
AND FIRST COMMERCIAL BANK, AS SECURED PARTY**

**DEBTOR:**

DREAMLAND HOLDING COMPANY, LLC, a Delaware  
limited liability company

By:   
Bobby T. Underwood, Its Manager



**EXHIBIT A**  
**TO UCC-1 FINANCING STATEMENT BETWEEN**  
**DREAMLAND HOLDING COMPANY, LLC, AS DEBTOR**  
**AND FIRST COMMERCIAL BANK, AS SECURED PARTY**

PROPERTY COVERED. This Financing Statement covers all of Debtor's right, title and interest in and to all "Accounts," "Chattel Paper," "Documents," "General Intangibles," "Instruments," "Intellectual Property," "Money," "License Agreements," and "Royalties," and all "Proceeds" (as such terms are hereinafter defined) of any of the foregoing, all whether now owned or hereafter at any time acquired and wherever located, and including all replacements, additions, accessions, substitutions, and products relating thereto.

As used herein,

(i) The terms "**Accounts**," "**Chattel Paper**," "**Documents**," "**General Intangibles**," "**Instruments**" and "**Proceeds**" shall have the meanings ascribed to such terms in the Uniform Commercial Code as in effect in the State of Alabama on the 1<sup>st</sup> day of August, 2000;

(ii) The term "**Intellectual Property**" shall mean all trade names, trademarks, service marks, or other intellectual property rights pertaining to the operation of the Debtor's business, whether now existing or hereafter put into service, and whether or not the same have been registered for protection under applicable state or federal statutes, including, without limitation the "Dreamland" trade name and the trademarks more particularly described in Schedule II to that certain Loan and Security Agreement between Debtor and Secured Party dated the 1<sup>st</sup> day of August, 2000 (the "Loan Agreement");

(iii) The term "**License Agreement**" shall mean any franchise, license or similar agreement granting to any party the right to make use of the Debtor's Intellectual Property, whether now existing or hereafter entered into by Debtor and any franchisee or licensee, including all rights and services pursuant to any such agreement, and all subsequent modifications and amendments thereto. The License Agreements in effect as of the date of this Agreement are set forth in Schedule I to the Loan Agreement; and

(iv) The term "**Money**" means all monies, cash, rights to deposit or savings accounts or other items of legal tender obtained from or for use in connection with the operation of the Debtor's business.



08-07-2000

U.S. Patent & TMOrc/TM Mail Rcpt Dt. #11

# BURR & FORMAN LLP

ATTORNEYS AND COUNSELORS

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**Birmingham, Alabama 35283-0719**

(205) 251-3000

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MARY FRASER ROYALL

LEGAL ASSISTANT

DIRECT DIAL (205) 458-5218

MFROYALL@BURR.COM

August 4, 2000

**VIA FEDERAL EXPRESS**

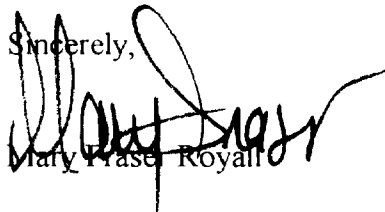
Assistant Commissioner of Trademarks  
Assignment Division  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

**Re: *Dreamland Holding Company, LLC***

Dear Sir or Madam:

Please find enclosed one (1) Assignment to be recorded in your records together with our firm's check for the applicable filing fee (\$40.00). If there is *any* problem with recording the enclosed document, **PLEASE DO NOT RETURN THE DOCUMENTS, BUT CALL ME COLLECT AT THE NUMBER ABOVE** and I will forward any necessary funds or correct any errors.

Thank you for your assistance in this matter.

Sincerely,  
  
Mary Fraser Royall

Enclosures

cc: Jeffrey T. Baker, Esq.

761883.1

**Birmingham**  
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420 North Twentieth Street, Suite 3100  
Birmingham, Alabama 35203  
(205) 251-3000

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Huntsville, Alabama 35801  
(256) 551-0010

**Atlanta**  
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600 West Peachtree Street, Suite 1200  
Atlanta, Georgia 30308  
(404) 815-3000

**RECORDED: 08/07/2000**

**TRADEMARK**  
**REEL: 002134 FRAME: 0941**