


**RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:**

Alston & Bird LLP  
One Atlantic Center  
1201 West Peachtree Street  
Atlanta, Georgia 30309-3424  
Attn: Albert E. Bender, Jr.

**RE: Mortgage and Security  
Agreement Dated 3-17-03,  
from MB600 LLC  
to Fortis Benefits Ins Co  
recorded in Book 20030318000164480  
Page \_\_\_\_\_, Shelby County,  
Alabama records**

**STATE OF ALABAMA**

**COUNTY OF SHELBY**

  
20030318000164500 Pg 1/20 71.00  
Shelby Cnty Judge of Probate, AL  
03/18/2003 16:43:00 FILED/CERTIFIED

**SUBORDINATION AGREEMENT  
AND ASSIGNMENT OF CLAIMS AND RIGHTS**

**THIS SUBORDINATION AGREEMENT AND ASSIGNMENT OF  
CLAIMS AND RIGHTS**, is made and entered into as of March 17, 2003, by and among  
**MB600, LLC**, a Delaware limited liability company (hereinafter called "Borrower"),  
**SOUTHERN INDIANA PROPERTIES, INC.**, an Indiana corporation (hereinafter  
called "Subordinate Lender") and **FORTIS BENEFITS INSURANCE COMPANY**, a  
Minnesota corporation (hereinafter called "First Priority Lender").

**WITNESSETH:**

**WHEREAS**, Borrower desires to obtain a loan from First Priority Lender in the  
original principal sum of \$3,250,000.00 (together with any and all renewals,  
modifications, consolidations, replacements and extensions thereof, herein referred to as  
the "First Priority Loan"); and

**WHEREAS**, the First Priority Loan shall be evidenced by a note in the face  
principal amount of \$3,250,000.00 and shall be further evidenced and secured by certain  
other documents, including, but not limited to, the following documents:

- (a) a Mortgage and Security Agreement (the "First Priority Mortgage")  
conveying to First Priority Lender the property (the "Property") described  
on Exhibit A hereto, to be recorded in the real estate or mortgage records  
of Shelby County, Alabama;
- (b) an Assignment of Leases and Rents (the "First Priority Assignment of  
Leases"), to be recorded in the real estate or mortgage records of Shelby  
County, Alabama; and

- (c) U.C.C. Financing Statement between Borrower, as Debtor, and First Priority Lender, as Secured Party (the "First Priority U.C.C. Financing Statement").

(collectively with any and all other documents evidencing or securing the First Priority Loan, the "First Priority Loan Documents").

**WHEREAS**, pursuant to the First Priority Mortgage, Borrower is prohibited from incurring indebtedness for borrowed money and from permitting its members to grant a security interest in or lien on their membership interests of Borrower; and

**WHEREAS**, Subordinate Lender has made a loan to Borrower in the original principal amount of \$2,000,000.00 (together with any and all renewals, modifications, consolidations, replacements and extensions thereof or further advances or loans to Borrower from Subordinate Lender, herein referred to as the "Subordinate Loan"); and

**WHEREAS**, the Subordinate Loan is evidenced by an Amended and Restated Promissory Note dated December 31, 2002, as amended by that certain First Amendment thereto of even date herewith (as amended, the "Subordinate Note") in the face principal amount of \$2,000,000.00 and is further evidenced and secured by certain other documents, including, but not limited to, the following documents:

- (a) an Amended and Restated Alabama Mortgage, Security Agreement and Assignment of Leases and Rents (the "Subordinate Mortgage") conveying to Subordinate Lender the Property, recorded by instrument number 20030204000066380, Shelby County, Alabama records;
- (b) Amended and Restated Pledge Agreement (the "Subordinate Pledge Agreement") made by Daniel Properties I Limited Partnership, pledging to Subordinate Lender 100% of the membership interests in the Borrower (the "Membership Interests"); and
- (c) U.C.C. Financing Statements (the "Subordinate U.C.C. Financing Statements") relating to the Subordinate Mortgage and the Subordinate Pledge Agreement.

(collectively with any and all other documents evidencing or securing the Subordinate Loan, the "Subordinate Loan Documents").

**WHEREAS**, Borrower has requested that Subordinate Lender subordinate the security title, security interest and lien of the Subordinate Loan Documents to the First Priority Loan Documents; and

**WHEREAS**, First Priority Lender is willing to permit the Subordinate Loan evidenced by the Subordinate Loan Documents provided that the Subordinate Lender



evidences its subordination to the First Loan and the First Loan Documents as hereinafter set forth; and

**WHEREAS**, in addition, First Priority Lender is willing to permit the Subordinate Loan evidenced by the Subordinate Loan Documents only provided that the Subordinate Lender assigns to First Priority Lender (i) all claims of Subordinate Lender against Borrower arising out of such Subordinate Loan, and all rights and powers respecting such claims, in any judicial or non-judicial (including any receivership, assignment for the benefit of creditors, bankruptcy, insolvency, reorganization, liquidation, or similar) case or proceeding, or voluntary or involuntary debt restructure, or similar proceeding, judicial or otherwise, whether under state or federal law (collectively, "Proceedings"), directly or indirectly arising from, involving or relating to Borrower, First Priority Lender and/or the Subordinate Lender, including, without limitation, any such claims arising from or relating to the Subordinate Loan Documents (such claims, rights and powers being referred to collectively herein as the "Claims"), (ii) all voting rights arising from, involving or relating to any such Claims (the "Voting Rights"), and (iii) all rights of Subordinate Lender to the payment or distributions of sums, dividends or other assets to Subordinate Lender by Borrower (collectively, the "Monies"), all on the terms and conditions set forth hereinbelow; and

**WHEREAS**, Subordinate Lender is willing to execute and deliver this Agreement to induce First Priority Lender to make the First Priority Loan and consent to the continuing existence of the Subordinate Mortgage and Subordinate Pledge Agreement, which First Priority Loan will benefit Subordinate Lender, as a party (as a lender, not as a partner or venturer) sharing with Borrower in the economic performance of the Property by virtue of the payment of "Excess Cash Flow" (as defined in the Subordinate Note).

**NOW, THEREFORE**, incorporating the foregoing recital of facts, in consideration of TEN DOLLARS (\$10.00) in hand paid by each of the parties to the other and in further consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**I. Subordination.** Subordinate Lender subordinates, upon the terms and conditions contained herein, all its right, title and interest under the Subordinate Loan Documents in and to the Property as against the First Priority Loan to be made by First Priority Lender to Borrower, so that the First Priority Mortgage and the other First Priority Loan Documents shall convey security title to the Property superior to the security title, interest and lien of the Subordinate Loan Documents, as if the First Priority Loan Documents had been executed, delivered and recorded prior to the execution, delivery and recording of the Subordinate Loan Documents, and are and shall continue to be subject and subordinate to the liens and security interests created by the First Priority Loan Documents and to any and all amendments, modifications, extensions, replacements or renewals of the First Priority Loan Documents, and to any and all advances heretofore made or hereafter to be made under the First Priority Loan Documents pursuant to the terms thereof. Accordingly, the proceeds of any

repossession, foreclosure or other exercise of remedies with respect to the Property shall be applied first to all amounts owing to First Priority Lender with respect to the First Priority Loan and second to all amounts owing to Subordinate Lender with respect to the Subordinate Note. Without limiting the foregoing and without amending or waiving any terms of the Subordinate Loan Documents, Subordinate Lender acknowledges and agrees with First Priority Lender that so long as the First Priority Loan is outstanding (a) except as permitted by Section 3(h) hereof, Subordinate Lender shall take no action to enforce or exercise any remedies of Subordinate Lender under the Subordinate Loan Documents, and (b) in any event, any foreclosure under the Subordinate Mortgage shall not terminate the First Priority Mortgage.

2. **Warranty.** Subordinate Lender represents and warrants that (a) Subordinate Lender is the owner and holder of the Subordinate Loan Documents, (b) there is no assignment to any party of any of Subordinate Lender's rights under any of the Subordinate Loan Documents, and (c) Subordinate Lender has provided to First Priority Lender true, correct and complete copies of the Subordinate Loan Documents.

3. **Subordination and Assignment Covenants.**

(a) **Subordination of Payment Rights.** Without the prior written consent of First Priority Lender, Subordinate Lender hereby agrees that Subordinate Lender shall not accept any payment or distribution on account of the Subordinate Loan from the Borrower or the Property prior to the payment in full of the First Priority Loan, and that any such payment or distribution received by Subordinate Lender shall be held in trust for and immediately remitted to First Priority Lender as set forth below, except only for periodic payments of Excess Cash Flow pursuant to the current terms of the Subordinate Loan Documents (and no prepayment of any amounts thereunder shall be permitted at any time, and, accordingly, no payments shall be made thereunder prior to January 1, 2005), provided also that at the time of any such payment there is then no (i) Event of Default (as defined in the First Priority Mortgage) under any of the First Priority Loan Documents which does not require the giving of notice in order to give rise to a Default under the First Priority Mortgage, or (ii) Event of Default (as defined in the First Priority Mortgage) under any of the First Priority Loan Documents which requires the giving of notice (and the passage of time thereafter) in order to give rise to a Default under the First Priority Mortgage, provided that as to such Event of Default Subordinate Lender has on or prior to such date received a copy of the notice of Event of Default under the First Priority Loan Documents, and provided further that such periodic payments do not exceed the amount remaining after deducting from all income of the property for such period the payments for such applicable period due under the First Priority Loan, any escrows payable thereunder, reasonable reserves for taxes, insurance and other expenditures, and all expenses of the Property then due. In connection therewith, Borrower shall provide First Priority Lender with notice of any payment or distribution from Borrower to Subordinate Lender (and upon written request from First Priority Lender, Subordinate Lender shall provide such information, or confirmation of information delivered by Borrower), together with copies of all operating and financial statements and other reports required to be delivered to Subordinate Lender in connection



therewith or in calculating the amount due thereunder and the amount payable hereunder. Except with respect to payments which are permitted and documented as aforesaid, Subordinate Lender shall, without notice or demand from First Priority Lender, promptly assign, transfer and pay over to First Priority Lender, to be applied on the First Priority Loan, any Monies received by Subordinate Lender from Borrower on account of the Subordinate Loan, and any such Monies so received shall be held in trust by Subordinate Lender until such time as it is so delivered.

(b) **Assignment of Claims, Voting Rights and Monies.** Subordinate Lender hereby sells, transfers, assigns, delivers and conveys to First Priority Lender, and its successors and assigns, all right, title and interest of Subordinate Lender in, to and under the Claims, the Voting Rights, and the Monies, subject to the terms of this Agreement (and any rights which are exercisable only in connection with any Proceeding shall be exercisable only in connection therewith).

(c) **Bankruptcy Rights.** Subordinate Lender does hereby acknowledge and confirm that, as a result of this Agreement, First Priority Lender shall have the sole and exclusive right, during any Proceeding or during the continuance of any Event of Default (as defined in the First Priority Mortgage), to be heard and to speak on behalf of Subordinate Lender with respect to the Subordinate Loan and the Subordinate Loan Documents, the Claims, the Voting Rights, and/or the Monies. Subordinate Lender may assert or file any claim or proof of claim as a secured or unsecured creditor in any such Proceeding, provided that any such claim is filed with a copy of this Agreement attached thereto. If required by First Priority Lender (but without limiting any of the rights and privileges granted hereby), in the event of any Proceeding, Subordinate Lender will, at the request of First Priority Lender, file any claim, proof of claim, or other instrument of similar character necessary to enforce the obligations of Borrower in respect of the Subordinate Note and Subordinate Loan Documents. Without limiting the foregoing, Subordinate Lender further grants to First Priority Lender an irrevocable proxy to exercise any Voting Rights or to take any other action which Subordinate Lender may take or have with respect to the approval or disapproval of a plan of reorganization of Borrower proposed by any person or class of persons in any Proceeding or otherwise with respect to any Claim.

(d) **Permitted Actions; No Assumption of Liability.** Subordinate Lender acknowledges and agrees that with respect to the rights, title and interests assigned hereby to First Priority Lender, First Priority Lender may exercise any and all rights and take any and all actions with respect thereto that First Priority Lender may deem necessary, appropriate or desirable in First Priority Lender's sole and absolute discretion including, without limitation, waiving, relinquishing, or not receiving payment of any of the Monies (provided, however, that First Priority Lender shall not waive or relinquish the right to the Monies unless either (i) any Proceeding is then in existence, or (ii) Subordinate Lender is in default under this Agreement), and First Priority Lender shall have no duty, liability or fiduciary obligation of any kind to Subordinate Lender or to any other parties with respect to the rights, title and interests hereby assigned to First

Priority Lender. Nothing in this Agreement, however, shall be construed to obligate First Priority Lender to perform or discharge any obligation, duty or liability under or by reason of the Subordinate Loan Documents, the Property, the Claims, the Voting Rights, the Monies or any of the other rights or powers assigned hereby, and Subordinate Lender hereby acknowledges and agrees that First Priority Lender shall have no such obligation, duty or liability. In the exercise of the rights and powers herein granted First Priority Lender, no liability shall be asserted or enforced against First Priority Lender, all such liability being expressly waived and released by Subordinate Lender.

**(e) Consent to First Priority Loan; Consent to Subordinate Loan.**

Subordinate Lender hereby consents to the making of the First Priority Loan and other financial accommodations by First Priority Lender to the Borrower under the First Priority Loan Documents and hereby acknowledges that First Priority Lender, in entering into the First Priority Loan Documents and in making the First Priority Loan and other financial accommodations thereunder, has relied upon the terms of this Agreement. First Priority Lender agrees that the existence, subject to and in accordance with compliance with the terms and conditions of this Agreement, of the Subordinate Loan, the Subordinate Mortgage and the Subordinate Pledge Agreement do not constitute a Default or an Event of Default under the First Priority Loan Documents.

**(f) Continuing Effectiveness.** Subordinate Lender does hereby agree not to challenge the effectiveness of this Agreement, it being the intention of the parties to fully effectuate the full and complete subordination of the Subordinate Loan and the Subordinate Loan Documents to the First Priority Loan and the First Priority Loan Documents in accordance with the terms hereof, and Subordinate Lender does hereby expressly waive any right to object to the effectiveness of this Agreement which may arise under the laws of the State of Alabama, the laws of the United States of America or otherwise.

**(g) No Assignment of Subordinate Loan.** Subordinate Lender will not, without First Priority Lender's prior written consent, execute, grant or deliver any assignment, transfer, pledge, hypothecation or other conveyance of all or any part of or interest in the Subordinate Loan, the Subordinate Loan Documents, the collateral securing the Subordinate Loan, the Claims, the Voting Rights, the Monies or any of the other rights and powers assigned hereby, except to First Priority Lender; provided that Senior Lender agrees that it shall provide such consent in the event that Subordinate Lender proposes to assign, transfer or convey the Subordinate Loan to (a) any wholly-owned subsidiary of Vectren Corporation (which Subordinate Lender represents is the owner of Subordinate Lender), so long as Vectren Corporation is the owner of Subordinate Lender, or (b) any wholly-owned subsidiary of a wholly-owned subsidiary of Vectren Corporation, so long as Vectren Corporation is the owner of Subordinate Lender, provided that (i) Subordinate Lender is not then in default under this Agreement, and (ii) such transferee shall assume, in writing, the obligations of Subordinate Lender under this Agreement pursuant to documentation in form and substance satisfactory to the First Priority Lender, original counterparts of which shall be delivered to First Priority Lender



as a condition precedent to First Priority Lender's consent to such transfer, and  
(iii) Subordinate Lender or such transferee shall pay to the First Priority Lender all fees, costs and expenses incurred by the First Priority Lender arising in connection with such transfer, including, but not limited to, attorney's fees.

**(h) No Remedial Action under Subordinate Loan.** Except as set forth below, Subordinate Lender will not, without First Priority Lender's prior written consent, take any action to enforce or exercise any remedies of Subordinate Lender under the Subordinate Loan Documents, until after payment in full of the First Priority Loan. Notwithstanding the foregoing, and provided that at any time that an Event of Default (as defined in the Subordinate Loan Documents) has occurred and is continuing, First Priority Lender will, upon Subordinate Lender's satisfaction of the "Assumption Requirements" set forth below, give to Subordinate Lender consent to foreclose upon and otherwise exercise its rights and remedies against the Membership Interests under the Subordinate Pledge Agreement (but not under the Subordinate Mortgage or against the Property). As used herein, the "Assumption Requirements" which must be satisfied in order to obtain the consent of the First Priority Lender are as set forth below:

- (i) There must be no Event of Default under the First Priority Loan Documents, or Subordinate Lender must, at or prior to such assumption, cure any Event of Default or Default then existing under the First Priority Loan Documents;
- (ii) Subordinate Lender must complete and deliver to First Priority Lender the disclosures required by First Priority Lender regarding proposed transferee under the First Priority Lender's then existing underwriting criteria;
- (iii) Subordinate Lender shall confirm, in writing, that Borrower is bound by any and all of the Loan Documents pursuant to documentation in form and substance satisfactory to the First Priority Lender, original counterparts of which shall be delivered to First Priority Lender as a condition precedent to First Priority Lender's consent to such transfer;
- (iv) Subordinate Lender shall assume, in writing, the obligations of Responsible Party under any and all of the Loan Documents pursuant to documentation in form and substance satisfactory to the First Priority Lender, original counterparts of which shall be delivered to First Priority Lender as a condition precedent to First Priority Lender's consent to such transfer (it is anticipated that these will consist of execution and delivery of a Responsible Party Agreement and Hazardous Material Indemnification Agreement in the form executed in connection with the First Priority Loan, amended only to reflect the later execution and delivery thereof); and

- (v) Borrower shall pay to the First Priority Lender all fees, costs and expenses incurred by the First Priority Lender arising in connection with such transfer, including, but not limited to, an administrative fee of \$500, attorney's fees and the cost of endorsing and extending the First Priority Lender's policy of mortgage title insurance to reflect the date of such transfer hereinafter referred to (which written endorsement shall show no additional exceptions to such existing policy, and no subordinate matters which are not permitted by the First Priority Loan Documents).

(i) **First Priority Lender Debt.** First Priority Lender may, at any time and from time to time, without the consent of or notice to Subordinate Lender and without incurring any responsibility or liability to Subordinate Lender, and without impairing or releasing the obligations of Subordinate Lender hereunder:

- (i) Amend or modify the First Priority Loan in any manner required by Lender (subject to the approval of Borrower where applicable), including, but not limited to, making other advances or loans which will be secured by the First Priority Loan Documents, including but not limited to advances to pay taxes, assessments, insurance premiums, attorneys' fees and funds to repair, maintain or preserve the Property and improvements therein or thereon;
- (ii) Sell, exchange, release or otherwise deal with the Property or any other property by whomsoever at any time pledged or mortgaged to secure, or however securing, the First Priority Loan or any portion thereof;
- (iii) Release anyone liable in any manner for the payment or collection of the First Priority Loan or any portion thereof;
- (iv) Exercise or refrain from exercising any rights against the Borrower and others;
- (v) Apply any sums by whomsoever paid or however realized to the First Priority Loan or any portion thereof; and
- (vi) Change the manner, place or terms of payment or change or extend the time of payment of or renew or alter the First Priority Loan or any portion thereof or modify any First Priority Loan Documents.

(j) **Casualty/Condemnation.** Subordinate Lender agrees that in the event of a casualty to the buildings or improvements constructed on the Property or a condemnation or taking under a power of eminent domain of all or any portion of the Property, the buildings or improvements thereon, or a threat of such a condemnation or taking, all adjustments of insurance claims, condemnation claims and settlements in anticipation of such a condemnation taking shall be prosecuted, at First Priority Lender's



election, by First Priority Lender, and all payments and settlements of insurance claims or condemnation awards or payments in anticipation of condemnation or a taking shall be paid to First Priority Lender or at First Priority Lender's direction for use and application pursuant to the terms and provisions of the First Priority Loan Documents. Subordinate Lender irrevocably assigns to First Priority Lender all of its interest in any such claims, settlements or awards and irrevocably grants to First Priority Lender a power of attorney, coupled with an interest, to execute any and all documents on Subordinate Lender's behalf necessary in connection with the prosecution or settlement of such claims, awards and payments. First Priority Lender shall promptly notify Subordinate Lender of any documents executed under the aforesaid power of attorney. In addition, without limiting the foregoing, the Subordinate Lender agrees that all rights of the Subordinate Lender under the Subordinate Mortgage or under the Subordinate Loan Documents in and to the Property and the proceeds thereof (including assignments of leases and rents, issues and profits) expressly subject and subordinate to the rights of the First Priority Lender in and to the Property and the proceeds thereof (including assignments of leases and rents, issues and profits) on the terms set forth in the First Priority Mortgage and the First Priority Loan Documents.

**(k) Subrogation Rights.** Until such time as the indebtedness evidenced by the First Priority Loan Documents is paid and satisfied in full, Subordinate Lender waives and releases any and all rights of subrogation which it may have against the Property which subrogation would result in Subordinate Lender obtaining a priority equal or superior to the priority of the First Priority Loan Documents for any funds which Subordinate Lender may advance either to cure defaults under the First Priority Loan Documents or pay liens encumbering the Property or otherwise protect the lien of the Subordinate Loan Documents. If the Subordinate Lender shall acquire by indemnification, subrogation or otherwise, any lien, estate, right or other interest in the Property, that lien, estate, right or other interest shall be subordinate to the First Priority Mortgage as provided herein, and the Subordinate Lender hereby waives, until such time as the indebtedness evidenced by the First Priority Loan Documents is paid and satisfied in full, any and all rights it may acquire by subrogation or otherwise to the lien of the First Priority Mortgage or any portion thereof.

**(l) Tenants and Leases.** As to all leases now or hereafter in effect with respect to the property, the Subordinate Lender agrees to approve all leases which are approved by the First Priority Lender. The Subordinate Lender shall also enter into recognition and non-disturbance agreements with any tenants to whom the First Priority Lender has granted recognition and non-disturbance, on the same terms and conditions given by the First Priority Lender. No tenant under any lease of any portion of the Property will be made a party defendant in any foreclosure of the Subordinate Mortgage nor will any enforcement action under the Subordinate Loan Documents or any other action be taken that would terminate any lease or other rights held by or granted to or by third parties with respect to the Property.

(m) **Escrows.** Subordinate Lender shall not collect payments for the purpose of escrowing taxes, assessments or other charges imposed on the Property or insurance premiums due on the insurance policies required under the First Priority Mortgage or the Subordinate Mortgage if the First Priority Lender is collecting payments for such purposes, however, the Subordinate Lender may collect payments for such purposes if the First Priority Lender is not collecting the same, provided such payments shall be held in trust by the Subordinate Lender to be applied only for such purposes.

(n) **Notices of Default.**

- (i) First Priority Lender shall use reasonable efforts to send Subordinate Lender copies of any notices of default under the First Priority Loan Documents required to be delivered to Borrower pursuant to the terms of the First Priority Loan Documents; provided, however, that First Priority Lender shall not be liable in any respect to Subordinate Lender for the failure to give such notice, nor shall First Priority Lender's rights hereunder or under the First Priority Loan Documents be abrogated or impaired by such failure.
- (ii) Subordinate Lender shall use reasonable efforts to send First Priority Lender copies of any notices of an Event of Default under the Subordinate Loan Documents required to be delivered to Borrower or any member of Borrower pursuant to the terms of the Subordinate Loan Documents; provided, however, that Subordinate Lender shall not be liable in any respect to First Priority Lender for the failure to give such notice, nor shall Subordinate Lender's rights hereunder or under the Subordinate Loan Documents be abrogated or impaired by such failure (but Subordinate Lender's rights hereunder and under the Subordinate Loan Documents are and shall continue to be abrogated and impaired by the terms of this Agreement with respect to any such remedial action whether or not any notice of an Event of Default is sent as aforesaid).

(o) **Right to Cure.** First Priority Lender hereby agrees that Subordinate Lender shall have the right, but shall not have any obligation whatsoever, to cure any Event of Default (as defined in the First Priority Loan Documents) within the period provided to Borrower for cure of any such Event of Default before such Event of Default becomes a Default (as defined in the First Priority Loan Documents).

(p) **Right to Buy First Priority Note.** Subordinate Lender shall have the right, at its sole option, to purchase the First Priority Note and First Priority Loan Documents, by assignment from First Priority Lender without warranty or recourse, upon payment in full of the Principal Balance (as defined in the First Priority Note) of the First Priority Note in whole, but not in part, together with all accrued and unpaid interest thereon and all other charges and fees due hereunder and under the First Priority Loan Documents, in accordance with the terms, conditions and restrictions governing the



permitted prepayment in whole, but not in part, of the First Priority Note, and subject to the payment of the Prepayment Premium (as defined in the First Priority Note) contemporaneously with the amount otherwise required to prepay the Debt (as defined in the First Priority Note) in full. In the event of any such purchase of the First Priority Loan, Subordinate Lender shall pay to the First Priority Lender all fees, costs and expenses incurred by the First Priority Lender arising in connection with such transfer, including, but not limited to, attorney's fees.

4. **Notices.** Any and all notices, elections, demands, requests and responses thereto permitted or required to be given under this Agreement shall be in writing, signed by or on behalf of the party giving the same, and shall be deemed to have been properly given and shall be effective upon being either (i) personally delivered or delivered by courier or messenger, (ii) delivered by recognized air courier (such as Overnight Delivery, UPS or Airborne), or (iii) deposited in the United States mail, certified with return receipt requested, in each case with all postage or delivery charges prepaid, addressed to the other party at the address of such other party set forth below or at such other address within the continental United States as such other party may designate by notice specifically designated as a notice of change of address and given in accordance herewith; provided, however, that the time period in which a response to any such notice, election, demand or request must be given shall commence on the date of receipt thereof; and provided further that no notice of change of address shall be effective until the date of receipt thereof. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice has been received shall also constitute receipt.

Any such notice, election, demand, request or response, if given to First Priority Lender, shall be addressed as follows:

Fortis Benefits Insurance Company  
c/o Fortis Asset Management  
One Chase Manhattan Plaza  
New York, NY 10005  
Attn: General Counsel; Loan No. 16215

With a copy to:

Fortis Asset Management  
One Chase Manhattan Plaza  
New York, New York 10005  
Attn: Senior Vice President - Mortgages; Loan No. 16215

and, if given to Subordinate Lender, shall be addressed as follows:

Southern Indiana Properties, Inc.  
20 N.W. Fourth Street  
Evansville, Indiana 47708  
Attn: President

With a copy to:

Hunton & Williams  
Riverfront Plaza, East Tower  
951 East Byrd Street  
Richmond, Virginia 23219  
Attn: J. Waverly Pulley, III

and, if given to Borrower, shall be addressed as follows:

MB600, LLC  
c/o Daniel Corporation  
3595 Grandview Parkway, Suite 400  
Birmingham, AL 35243  
Attn: Brian D. Parker

Any notice, demand or request which shall be served upon either of the parties in the manner aforesaid shall be deemed sufficiently given for all purposes hereunder (a) at the time such notices, demands or requests are hand-delivered in person or (b) five (5) days after the date of the mailing of such notices, demands or requests in accordance with the preceding portion of this paragraph.

**5. Further Actions.** This Agreement is absolute and is effective immediately and Subordinate Lender shall, upon request by First Priority Lender, make, execute and deliver, or cause to be made, executed and delivered to First Priority Lender and, where appropriate, cause to be recorded and/or filed and from time to time thereafter to be re-recorded and/or refiled at such time and in such offices and places as shall be deemed desirable by First Priority Lender, any and all such other and further assignments, instruments of further assurance, certificates and other documents as may, in the reasonable opinion of First Priority Lender, be necessary or desirable in order to effectuate, complete, or perfect, or to continue and preserve the obligations of Subordinate Lender and/or the rights of First Priority Lender under this Agreement. Upon any failure by Subordinate Lender so to do, First Priority Lender may make, execute, record, file, re-record and/or refile any and all such assignments, instruments, certificates, and documents for and in the name of Subordinate Lender, and Subordinate Lender hereby irrevocably appoint First Priority Lender the agent and attorney-in-fact of Subordinate Lender so to do.



6. **Governing Law.** This Agreement shall be governed by the laws of the State of Alabama.

7. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be considered an original for all purposes.

8. **No Waiver.** No waiver by any party of the compliance of any other party with any term, condition, provision, obligation, or requirement under this Agreement shall constitute a waiver of such party's right to require full compliance therewith.

9. **Expenses.** Borrower will pay all costs and expenses required to satisfy the conditions of this Agreement, including but not limited to, all taxes and recording expenses and all legal fees and expenses of First Priority Lender's and Subordinate Lender's counsel.

10. **Successors and Assigns.** This Agreement shall be binding upon Borrower, Subordinate Lender, First Priority Lender and their respective heirs, successors, personal representatives and assigns and shall inure to the benefit of Subordinate Lender and First Priority Lender and its successors and assigns.

11. **Conflicts Among Documents.** In the event of conflicts between or among the Subordinate Loan Documents, the First Priority Loan Documents and this Agreement, this Agreement shall control for all purposes.

12. **Termination.** This Agreement shall terminate upon payment in full of all amounts owing under the First Priority Loan Documents.

**IN WITNESS WHEREOF**, the parties hereto have hereunto set their hands and seals the day and year first above written.

**SUBORDINATE LENDER:**

**SOUTHERN INDIANA  
PROPERTIES, INC.**, an Indiana  
corporation

By: \_\_\_\_\_  
Name: Carl Chapman  
Title: President

(ATTACH ACKNOWLEDGMENT)

**IN WITNESS WHEREOF**, the parties hereto have hereunto set their hands and seals the day and year first above written.

**SUBORDINATE LENDER:**

**SOUTHERN INDIANA  
PROPERTIES, INC.**, an Indiana  
corporation

By: Carl Chapman  
Name: Carl Chapman  
Title: President

(ATTACH ACKNOWLEDGMENT)



## ACKNOWLEDGMENT

STATE OF Indiana

COUNTY OF Vanderburgh

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Carl Chapman, whose name as President of SOUTHERN INDIANA PROPERTIES, INC., an Indiana corporation, 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 said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand and official seal, this the 13th day of March, 2003.

My Commission Expires:

March 2, 2008

Debra A. Somers  
Notary Public, Debra A. Somers

[NOTARIAL SEAL]

**BORROWER:**

**MB600, LLC**, a Delaware limited liability company

By: **DANIEL PROPERTIES I LIMITED PARTNERSHIP**, a Virginia limited partnership, as the duly authorized manager thereof

By: Daniel Realty Investment Corporation of Virginia, Inc., a Virginia corporation, as the duly authorized general partner thereof

By: 

Name: Brian D. Parker

Title: Corporate Controller

(ATTACH ACKNOWLEDGMENT)



# ACKNOWLEDGMENT

STATE OF ALABAMA

COUNTY OF Jefferson

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Brian D. Parker, whose name as Corporate Controller of Daniel Realty Investment Corporation of Virginia, Inc., a Virginia corporation, which is the duly authorized general partner of DANIEL PROPERTIES I LIMITED PARTNERSHIP, a Virginia limited partnership, which is the duly authorized manager of MB600, LLC, a Delaware limited liability company, 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 said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand and official seal, this the 17<sup>th</sup> day of March, 2003.

My Commission Expires:

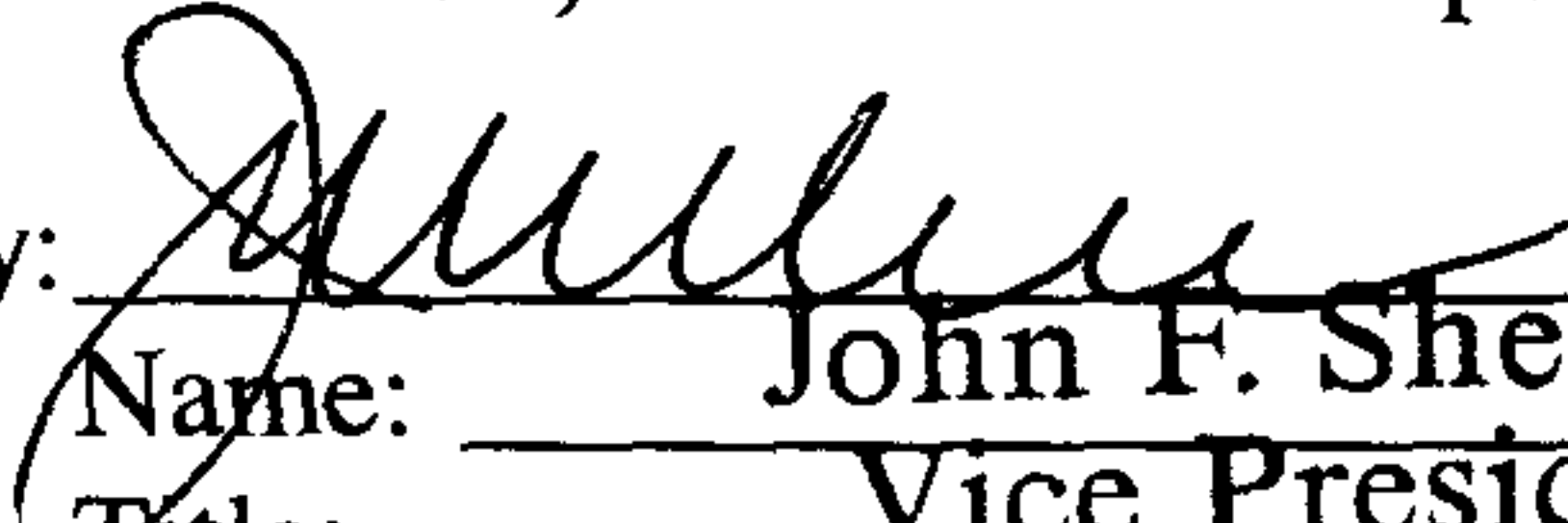
6/8/2006

[Signature]  
Notary Public

[NOTARIAL SEAL]

**FIRST PRIORITY LENDER:**

**FORTIS BENEFITS INSURANCE  
COMPANY**, a Minnesota corporation

By:   
Name: John F. Sheehan  
Title: Vice President

**ACKNOWLEDGMENT**

STATE OF NEW YORK

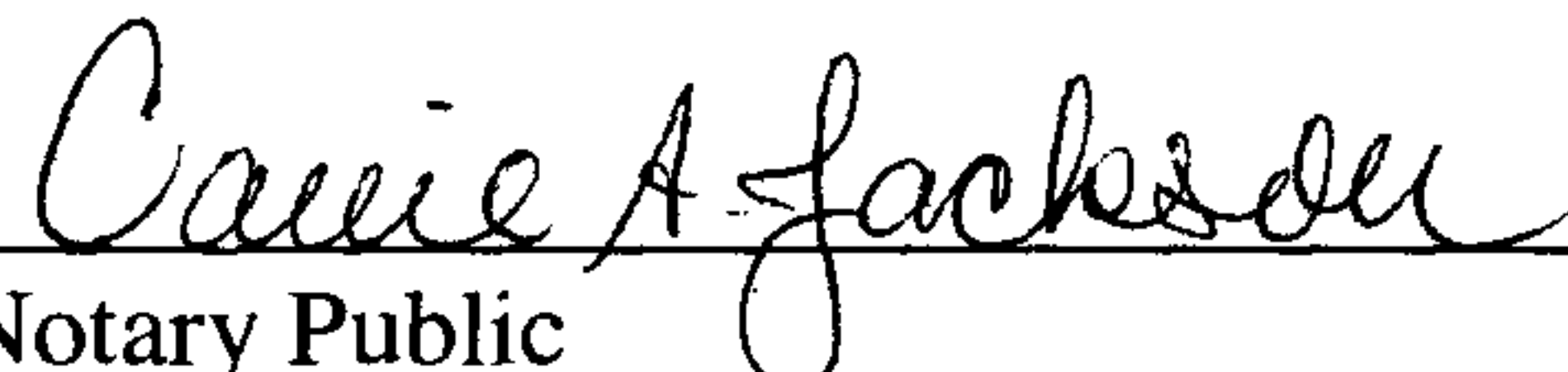
COUNTY OF New York

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that John F. Sheehan, whose name as Vice President of FORTIS BENEFITS INSURANCE COMPANY, a Minnesota corporation, 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 said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand and official seal, this the 17 day of March, 2003.

My Commission Expires:

\_\_\_\_\_

  
Notary Public

[NOTARIAL SEAL]

CARRIE A. JACKSON  
Notary Public, State of New York  
No. 01JA6036297  
Qualified in New York County  
Commission Expires Jan. 24, 2006

## SCHEDULE A

### PARCEL I:

ALL THAT TRACT OR PARCEL OF LAND lying and being in Shelby County, Alabama, and known as Lot 11B-1, Meadow Brook Corporate Park South, Phase II, resurvey of Lot 11A and 11B, as per plat recorded in Map Book 13, Page 84, in the Probate Office of Shelby County, Alabama, and being more particularly described as follows:

Commence at the point formed by the intersection of the southeastern margin of the right of way of Meadow Brook Road with the southwestern margin of the right of way of Corporate Parkway (right of way width varies) and thence run South 51 deg. 47 min. 47 sec. East along the southwestern margin of the aforesaid right of way of Corporate Parkway a distance of 97.80 feet to a point; thence running in a southeasterly direction along the southwestern margin of the aforesaid right of way of Corporate Parkway and along the arc of a curve an arc distance of 323.95 feet to a point, said point being the POINT OF BEGINNING (said arc being subtended by a chord having a bearing of South 79 deg. 09 min. 10 sec. East and a radius of 339.25 feet) ; FROM THE POINT OF BEGINNING AS THUS ESTABLISHED, run South 73 deg. 29 min. 28 sec. East along the southwestern margin of the aforesaid right of way of Corporate Parkway a distance of 109.47 feet to a point; thence running in a southeasterly direction along the southwestern margin of the right of way of Corporate Parkway and along the arc of a curve an arc distance of 403.50 feet to a point (said arc being subtended by a chord having a bearing of South 80 deg. 14 min. 14 sec. East and a radius of 440.00 feet) ; thence running South 53 deg. 58 min. 00 sec. East along the southwestern margin of the aforesaid right of way of Corporate Parkway a distance of 359.44 feet to a point; thence leaving the southwestern margin of the aforesaid right of way of Corporate Parkway and running South 36 deg. 39 min. 53 sec. West a distance 99.01 feet to a point; thence running South 73 deg. 24 min. 59 sec. West a distance of 489.96 feet to a point; thence running North 89 deg. 15 min. 39 sec. West a distance of 50.92 feet to a point; thence running North 23 deg. 15 min. 35 sec. West a distance of 506.13 feet to the POINT OF BEGINNING; being situated in Shelby County, Alabama.

### PARCEL II:

Beneficial easement rights appurtenant to Parcel I as set out in Declaration of Covenants, Conditions, Restrictions for Meadow Brook Corporate Park South as set out in Real Book 64 page 91, with 1<sup>st</sup> Amendment in Real 95 page 826, with 2<sup>nd</sup> Amendment in Real 141 page 784, with 3<sup>rd</sup> Amendment in Real 177 page 244, with 4<sup>th</sup> Amendment in Real 243 page 453, with 5<sup>th</sup> Amendment in Real 245 page 89, with 6<sup>th</sup> Amendment by Inst. No. 1992-23529, with 7<sup>th</sup> Amendment by Inst. No. 1995-03028, with 8<sup>th</sup> Amendment by Inst. No. 1995-04188 and with 9<sup>th</sup> Amendment by Inst. No. 1996-5491, with 10<sup>th</sup> Amendment recorded as Inst. No.



1996-32318, 11<sup>th</sup> Amendment recorded as Inst. No. 1997-30077, with 12<sup>th</sup> Amendment recorded as Inst. No. 1997-37856, with 13<sup>th</sup> Amendment recorded as Inst. No. 1998-5588, with 14<sup>th</sup> Amendment recorded as Inst. No. 1998-41655 and 15<sup>th</sup> Amendment recorded as Inst. No. 1998-46243 in the Probate Office.

20030318000164500 Pg 20/20 71.00  
Shelby Cnty Judge of Probate, AL  
03/18/2003 16:43:00 FILED/CERTIFIED