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ASSIGNMENT OF RENTS AND LEASES

- BY THIS ASSIGNMENT, DANIEL PROPERTIES XV, a Virginia limited partnership duly qualified to do business under the laws of the State of Alabama (hereinafter referred to as "Owner"), for value received, hereby assigns to AMSOUTH BANK, N.A. (hereinafter referred to as "Lender"), all of Owner's right, title, privileges and interest which Owner has and may have in the leases, operating agreements, management agreements, concession agreements, licenses, and all similar agreements, now existing or hereafter made and affecting the real property and the improvements thereon described in Exhibit A attached hereto and incorporated herein by reference (collectively referred to as the "Property"), together with all extensions, renewals, modifications or replacements of said leases and agreements, and together with any and all guarantees of the obligations of the lessees and other obligors thereunder, whether now existing or hereafter executed, and all extensions and renewals of said guarantees. All said leases and all other said agreements described in this Paragraph 1, together with any and all guarantees, modifications, extensions and renewals thereof, are hereinafter collectively and severally referred to as the "Lease".
- OWNER'S PURPOSE in making this assignment is to relinquish to Lender its right to collect and enjoy the rents, royalties, issues, profits, income and other benefits at any time accruing by virtue of the Lease (hereinafter sometimes called "Rents and Profits") as additional security for the outstanding indebtedness to Lender as evidenced by the Promissory Note in favor of Lender (hereinafter called the "Obligation" or the "Note") dated this same date, in the aggregate original principal sum of \$5,600,000 or so much thereof as may have been advanced from time to time thereunder, executed by Owner, and as additional security for the Owner's obligations under the Additional Interest Agreement, Construction Loan Agreement, Term Loan Agreement, and the Mortgage and Security Agreement ("Mortgage"). The Obligation, the instruments and agreements described in this Paragraph, and all other documents executed in connection with this loan are sometimes referred to as the "Loan Documents".
- THE PARTIES INTEND that this Assignment shall be a present, absolute 3. and unconditional assignment and shall, immediately upon execution, give Lender the right to collect the rents and profits and to apply them in payment of the principal and interest and all other sums payable on Owner's Obligation, as well as all other sums payable under the Loan Documents. However, Lender hereby grants to Owner a license to collect, subject to the provisions set forth in the aforesaid Additional Interest Agreement, this Agreement, and in the Loan Documents, the rents and profits as they respectively become due and to enforce the Lease, so long as there is no default by Owner in performance of the terms, covenants or provisions of the Obligation, the other Loan Documents or this Assignment. Nothing contained herein or in any other Loan Document, nor any collection of rents and profits by Lender or by a receiver, shall be construed to make Lender a "mortgagee-inpossession" of the Property so long as Lender has not itself entered into actual possession of the Property.
- UPON THE OCCURRENCE OF ANY DEFAULT under the terms and conditions of this Assignment or any of the Loan Documents, this Assignment shall constitute a direction to and full authority to any and all obligors under the Lease and any guarantor of the Lease to pay all rents and profits to Lender without proof of the default relied upon. Owner hereby irrevocably authorizes any and all obligors under the Lease and any guarantor to rely upon and comply with any notice or demand by Lender for the payment to Lender of any rents and profits due or to become due. Any and all obligors under the Lease and any guarantor shall have no right or duty to inquire whether a default has actually occurred and Owner shall have no claim against any obligor under the Lease or any guarantor for any rents and profits paid by such Obligor Lessee or such guarantor to Lender pursuant to Lender's demand or notice.

OWNER WARRANTS:

Please return this limits ment to GUY Y. MALERY TH NORTH HASKELL SLADERFER VEG 1 & LEWIS 800 First National - Spothson Matural Sidg-BIRMINGHAM, ALADAMA 35203

/ This instrument was prepared by GUY V. MARTIN, JR. 800 First National - Southern Natural Bidg. BIRMINGHAM, ALABAMA 35203

- (a) that no default exists or will exist on the part of Owner under any Lease;
- (b) that no rent or other payment has been or will be collected under any Lease more than three months in advance;
 - (c) that neither the Lease nor any interest therein has been previously or will be assigned or pledged except as provided in the Mortgage;

All the foregoing warranties shall be deemed to be reaffirmed on and as of the time of each Lease executed by Owner on the Property.

6. OWNER AGREES:

- (a) if the Lease provides for a security deposit paid by Lessee to Owner, this Assignment transfers to the Lender all of Owner's right, title and interest in and to the security deposit, provided that Owner shall have the right to retain said security deposit so long as Owner is not in default under this Assignment or the Loan Documents; and provided further that Lender shall have no obligation to any obligor under the Lease with respect to such security deposit unless and until Lender comes into actual possession and control of said deposit;
- (b) to present to Lender, before any Lease is executed on the Property, (other than Leases approved in writing as of this date) a copy of the form of same and obtain Lender's approval of the same. Owner shall provide executed originals and/or copies of all Leases to Lender upon demand;
- (c) Owner shall not grant any set-off's or concessions in connection with any Lease, affecting more than three month's rent;
- (d) Owner shall not collect any Rents and Profits more than three months in advance of the date on which they become due under the terms of the Lease;
 - (e) Owner shall not discount any future accruing Rents and Profits;
- (f) Owner shall not execute any further assignment of any of the Rents and Profits or any interest therein or suffer or permit any such assignment to occur by operation of law except as provided in the Mortgage;
- (g) Owner shall not request, consent to, agree to or accept a subordination of the Lease to any mortgage or other encumbrance, or any other lease, now or hereafter affecting the Property or any part thereof, except as provided in the Mortgage;
- (h) Owner shall faithfully perform and discharge its obligations under the Lease, and shall give prompt written notice to Lender of any notice of Owner's default received from any obligor under the Lease or any other person and furnish Lender with a complete copy of said notice, Owner shall appear in and defend, at no cost to Lender, any action or proceeding arising under or in any manner connected with the Lease; and if requested by Lender, Owner shall enforce the Lease and all remedies available to Owner against any obligor under the Lease in the case of default under the Lease by any Obligor under the Lease;
- (i) Owner, on request of Lender, upon entering into any lease or other agreement respecting any part of the Property, shall promptly provide to Lender a true and correct copy of the executed lease or other agreement; each such lease or agreement shall be deemed included in this Assignment automatically as though originally listed herein, and the term "Lease" as used herein shall include such lease or agreement;
- (j) Owner shall at all times contract to manage the Property through a qualified manager, and Owner shall obtain the Lender's prior written consent to and approval of the said management contract and manager before execution of and employing the same, respectively. After any default by Borrower under the Loan Documents, the said management contract and all of the management, leasing, or other fees under such management contract shall be subordinate to the lien of the Loan Documents;

- (k) Owner shall comply with all terms and provisions of the Additional Interest Agreement executed between Owner and Lender this date, the terms and provisions of which are expressly incorporated herein by reference; and
- (1) Nothing herein shall be construed to impose any liability or obligation on Lender under or with respect to the Lease; Owner shall indemnify and hold Lender harmless from and against any and all liabilities, losses and damages which Lender may incur under the Lease or by reason of this Assignment, and Owner shall immediately upon demand reimburse Lender for the amount thereof together with all costs and expenses and reasonable attorneys' fees incurred by Lender; all of the foregoing sums shall bear interest until paid at the rate set forth in the Obligation; and any Rents and Profits collected by Lender may be applied by Lender in its discretion in satisfaction of any such liability, loss, damage, claim, demand, costs, expense or fees.

7. OWNER HEREBY GRANTS TO LENDER THE FOLLOWING RIGHTS:

- (a) Lender shall be deemed to be the creditor of any obligor under the Lease in respect of any assignments for the benefit of creditors and any bankruptcy, arrangement, reorganization, insolvency, dissolution, receivership or other debtor-relief proceedings affecting such obligor (without obligation on the part of Lender, however, to file timely claims in such proceedings or otherwise pursue creditor's rights therein);
- (b) Lender shall have the right to assign Owner's right, title and interest in the Lease to any subsequent holder of the Mortgage or any participating interest therein or to any person acquiring title to all or any part of the Property through foreclosure or otherwise, and any subsequent assignee shall have all the rights and powers herein provided to Lender;
- (c) Lender shall have the right (but not the obligation), upon any failure of Owner to perform any of its agreements hereunder, to take any action as Lender may deem necessary or appropriate to protect its security, including but not limited to appearing in any action or proceeding and performing any obligations of the lessor under any Lease, and Owner agrees to pay, on demand, all costs and expenses (including without limitation reasonable attorneys' fees) incurred by Lender in connection therewith, together with interest thereon at the rate set forth in the Obligation;
- (d) upon default by Owner under any Lease, the Lender shall have the right, but not the obligation, to cure the same, upon failure of Owner to cure, and Lender shall have the right to add all costs necessary to cure such defaults, including reasonable attorney's fees, to the Note.
- (e) upon any default by Owner under this Assignment or under the Loan Documents, and without notice to or consent of Owner, Lender shall have the following rights (none of which shall be construed to be obligations of the Lender):
 - (i) Lender shall have the right under this Agreement to use and possess, without rental or charge, the furniture, appliances and all other personal property of the Owner located on the Property and used in the operation or occupancy thereof. Lender shall have the right to apply any of the Rents and Profits to pay installments due for personal property rented or purchased on credit, insurance premiums on personal property, or other charges relating to personal property on the Property. However, this Assignment shall not make Lender responsible for the control, care, management or repair of the Property or any personal property or for the carrying out of any of the terms or provisions of the Lease;
 - (ii) Lender shall have the right to apply the Rents and Profits and any sums recovered by Lender pursuant to Paragraphs 4 and/or 7(a) hereof to Owner's outstanding indebtedness to Lender secured hereby or by any of the Loan Documents, as well as to charges for taxes, insurance, improvements, maintenance and other items relating to the operation of the Property;

- (iii) Lender shall have the right to take possession of the Property, manage and operate the Property and Owner's business thereon, and to take possession of and use all books of account and financial records of Owner and its property managers or representatives relating to the Property;
- (iv) Lender shall have the right to execute new Leases of any part of the Property, including Leases that extend beyond the term of the Mortgage;
- (v) Lender shall have the right to cancel or alter any existing Lease; and
- (vi) Lender shall have the authority, as Owner's attorney-in-fact, such authority being coupled with an interest and irrevocable, to sign the name of Owner and to bind Owner on all papers and documents relating to the operation, leasing and maintenance of the Property.

All of the foregoing rights and remedies of Lender are cumulative, and Lender shall also have upon the occurrence of any such default all other rights and remedies provided under the Loan Documents or otherwise available at law or in equity or by statute.

- 8. This Assignment is intended to be supplementary to and not in substitution for or in derogation of any assignment of rents or other agreement contained in the other Loan Documents. Failure of the Lender to avail itself of any terms, covenants or conditions of this Assignment for any period of time or for any reason shall not constitute a waiver thereof.
- 9. Notwithstanding any future modification of the terms of the Loan Documents, this Assignment and the rights and benefits hereby assigned and granted shall continue in favor of Lender in accordance with the terms of this Assignment.
- 10. This Assignment shall be binding upon and inure to the benefit of the respective heirs, legal representatives, successors and assigns of the parties hereto (including without limitation, in the case of Lender, any third parties now or hereafter acquiring any interest in the Obligation or any part thereof, whether by virtue of assignment, participation or otherwise). The words "Owner", "Lender", "obligor under the Lease", and "guarantor", wherever used herein, shall include the persons and entities named herein or in the Lease or any guaranty and designated as such and their respective heirs, legal representatives, successors and assigns, provided that any action taken by the named Lender or any successor designated as such by an instrument recorded in the appropriate office of the County in which the Property is located referring to this Assignment shall be sufficient for all purposes notwithstanding that Lender may have theretofore assigned or participated any interest in the Obligation to a third party. All words and phrases shall be taken to include the singular or plural number, and the masculine, feminine, or neuter gender, as may fit the case.
- 11. Any change, amendment, modification, abridgement, cancellation, or discharge of this Assignment or any term or provision hereof shall be invalid without the written consent of Lender.
- 12. Upon payment to Lender of the full amount of all indebtedness and obligations secured hereby and by the Loan Documents, as evidenced by a recorded satisfaction or release or the Mortgage, Note, and guarantees, this Assignment shall be void and of no further effect.
- 13. All notices given hereunder shall be in writing and shall be personally served on the party to whom addressed or be sent by first-class or certified U.S. mail, postage prepaid, addressed to the parties at the addresses stated below, or at such other address as either party may hereafter notify the other in writing as aforesaid;

Owner:

Daniel Properties XV, a Virginia limited partnership 1900 Daniel Building Birmingham, Alabama 35223

Lender:

AmSouth Bank N.A.
P. O. Box 11007
Birmingham, Alabama 35288
Attn: Mr. Robert E. Nesbitt

- 14. Neither this Assignment nor any memorandum thereof shall be recorded without the prior written approval of Lender.
- 15. If any provision hereof is determined to be illegal or unenforceable for any reason, the remaining provisions hereof shall not be affected thereby.
- 16. This Assignment shall be governed by and construed in accordance with the laws of the State of Alabama.
- The provisions of this Paragraph shall apply only after the full execution and delivery of the Restated Note to be executed and delivered on the date of Conversion specified in the Term Loan Agreement, and shall be inoperable and ineffective prior to said date of Conversion and the execution and delivery of said Restated Note. Anything herein or in any other instrument referenced herein to the contrary notwthstanding (except for the last sentence of this Paragraph), the Lender agrees to look solely to the Property and/or to the other collateral encumbered hereby and by the other Loan Documents given in connection herewith for the payment of all sums due hereunder and under the Note and other Loan Documents, and neither the Borrower nor any general or limited partner of the Borrower shall be liable for any deficiency or other personal money judgment with respect to the payment of such sums. The foregoing exclusion of liability shall not apply if and to the extent Borrower misappropriates, wastes or converts any collateral serving as security for the Borrower's obligations to the holder of the Note, in which event the Borrower shall be liable to the holder of the Note only for the amount misappropriated, wasted or converted plus interest on said sum at the default rate of interest provided for in the Note and the cost of collection, including reasonable attorney's fees. Provided, however, and notwithstanding the foregoing, Borrower shall be personally liable to the extent of \$750,000 under the Note, together with any costs of collection of the same, including reasonable attorneys' fees and court costs; and Lender shall have the right to enforce Borrower's liability as aforesaid, including the liability for the said \$750,000, in accordance with all the provisions of the Note and the other Loan Documents, including but not being limited to, the right to proceed against other collateral and to exercise any other right or remedy available to Lender (prior to, simultaneously with, or after, at Lender's option, any action or proceeding by Lender to enforce the obligation of Borrower to pay the \$750,000), it being agreed that the recourse liability of Borrower to repay such \$750,000 (and any cost of collection therefor) shall not be decreased by amounts received by the Lender resulting from Lender's realization against other collateral, including its Mortgage on the Property and this Assignment, or by any payments made by Borrower under the Note, unless and until the Note is paid in full.

IN WITNESS WHEREOF, the undersigned Owner has executed this Assignment as of the 23-4 day of 25-1, 1984.

OWNER:

DANIEL PROPERTIES XV, a Virginia limited partnership
By The Fifteenth Daniel Realty Investment Corporation,

Its General Partner

Its

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ATTEST:

By

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STATE OF ALABAMA

,
Daniel Realty Investment Corporation whose operties XV, a Virginia limited partnership, is not who is known to me, acknowledged before of the contents of the agreement, he, as aniel Realty Investment Corporation, General ted the same voluntarily for and as the act of
day of October, 1984.
Notary Public My Commission Expires on: ///2/88

EXHIBIT A

A parcel of land situated in the east half of the northeast quarter of Section 1, Township 19 South, Range 2 West, Shelby County, Alabama, and being more particularly described as follows:

Begin at a capped iron pipe found at the northeast corner of said Section 1 and run thence in a southerly direction along the east line thereof for a distance of 436.03 feet to a point located in a curve to the right in the northwesterly right-of-way line of a proposed, public right-of-way leading from an existing, stubbed right-of-way lying between Lots 13 and 14 of Meadow Brook Third Sector, as recorded in the Office of the Judge of Probate, Shelby County, Alabama, in Map Book 7, Page 66, to a point in the westerly right-of-way line of Meadow Brook Road located 750.38 feet southwesterly of the intersection thereof with the southerly right-of-way line of U.S. Highway 280, said curve being concave to the northwest, having a radius of 1598.48 feet, a central angle of 4°-10'-47" and a chord which forms an interior or counterclockwise angle of 120°-10'-53" with the preceding course; thence turn an angle to the right and run in a southwesterly direction with said proposed right-of-way line and along the arc of said curve for a distance of 116.61 feet to the end of said curve; thence continue to run with said proposed right-of-way line in a southwesterly direction along a line tangent to said curve for a distance of 337.88 feet to the beginning of a curve to the left, said curve being concave to the southeast, having a radius of 827.77 feet and subtending a central angle of 33°-45'-00"; thence continue to run with said proposed right-of-way line in a southwesterly direction along the arc of said curve for a distance of 487.60 feet to a point of reverse curvature located at the beginning of a curve to the right; said curve being concave to the northwest, having a radius of 966.13 feet, and subtending a central angle of 18°-15'-00"; thence continue to run with said proposed right-of-way line in a southwesterly direction along the arc of said curve for a distance of 307.73 feet to the end of said curve; thence turn an angle to the right of 67°-07'-30", as measured from the chord of said curve and, leaving said proposed right-of-way line, run in a northwesterly direction for a distance of 415.95 feet to a point located in the west line of the northeast quarter of

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the northeast quarter of the aforesaid Section 1; thence turn an angle to the right of 75°-38'-10" and run in a northerly direction along said west line of said quarter-quarter section for a distance of 1187.54 feet to a capped iron pipe found at the northwest corner thereof; thence turn an angle to the right of 92°-17'-01" and run in an easterly direction along the north line of said quarter-quarter section for a distance of 1327.59 feet to the point of beginning;

TOGETHER WITH all of the right, title and interest of the Mortgagor in and to that certain Non-Exclusive Access Easement Agreement dated May 1, 1984, executed by Daniel U.S. Properties, Ltd. a Virginia limited partnership, and Daniel International Corporation, a South Carolina corporation, which has been recorded in Book 356, Page 288, in the Office of the Judge of Probate of Shelby County, Alabama, with respect to the following described real property (the "Easement Property"):

Description of 2 abutting strips or parcels of land to be dedicated for the purposes of a public right-of-way, said strips of land being situated in the east half of the northeast quarter of Section 1, Township 19 South, Range 2 West, and in the west half of the northwest quarter of Section 6, Township 19 South, Range 1 West and running from the northwesterly limit of an existing stubbed public right-of-way lying between Lots 13 and 14 of Meadow Brook - Third Sector as recorded in the Office of the Judge of Probate, Shelby County, Alabama, in Map Book 7, Page 66,

the westerly right-of-way line of Meadow Brook Road at a point located 750.88 feet southerly of the intersection thereof with the southerly right-of-way line of U.S Highway 280; said strips or parcels being more particularly described as follows:

Parcel No. 1

A strip of land 60.00 feet in perpendicular width lying 30.00 feet on either side of the following described centerline:

Commence at the southwesternmost corner of Lot 13 of the aforementioned Meadow Brook - Third Sector and run thence in a southwesterly direction along a projection of the northwesterly line thereof for a distance of 30.00 feet to the point of beginning of the centerline herein described; from the point of beginning thus obtained turn an angle to the right and run in a northwesterly direction along the arc of a curve to the right, said curve being concave to the northeast, having a radius of 257.31 feet, a central angle of 14°-00' and constituting an extension of the abutting curve alignment of the dedicated right-of-way, for a distance of 62.87 feet to the end of said curve; thence run in a northwesterly direction for a distance of

Page 2 of 4

413.09 feet to the beginning of a curve to the right, said curve being concave to the east, having a radius of 248.24 feet and subtending a central angle of 77°-30'-00", thence run in a northerly to northeasterly direction along the arc of said curve for a distance of 335.78 feet to a point of reverse curvature of a curve to the left, said curve being concave to the northwest, having a radius of 996.13 feet, and subtending a central angle of 18°-15'-00"; thence run in a northeasterly direction along the arc of said curve for a distance of 317.29 feet to a point of reverse curvature of a curve to the right, said curve being concave to the southeast, having a radius of 797.77 feet and subtending a central angle of 33°-45'-00"; thence run along the arc of said curve in a northeasterly direction for a distance of 469.92 feet to the end of said curve; thence run in a northeasterly direction tangent to said curve for a distance of 337.88 feet to the beginning of a curve to the left, said curve being concave to the northwest, having a radius of 1628.48 feet and subtending a central angle of 21°-53'-43"; thence run in a northeasterly direction along the arc of said curve for a distance of 622.31 feet to the end of said curve and the end of the centerline herein described.

Parcel No. 2

A strip of land of varying width abutting the northeasterly limit of the hereinabove described Parcel No. 1 and extending therefrom in a northerly and easterly direction to the northwesterly right-of-way line of Meadow Brook Road as shown on a map entitled Meadow Brook, Second Sector, First Phase and recorded in the aforesaid Office of said Judge of Probate in Map Book 7, Page 65 and being more particularly described as follows:

Begin at a point located at the end of the centerline of the hereinabove described Parcel 1 and run thence in a northwesterly direction with a portion of the northeasterly limit thereof for a distance of 30.00 feet to a point; thence turn an angle to the right of 90°-00'-00" and run in a northeasterly direction for a distance of 224.87 feet to the beginning of a curve to the right, said curve being concave to the southeast, having a radius of 330.00 feet, and subtending a central angle of 80°-14'-39"; thence run in a northeasterly to southeasterly direction along the arc of said curve for a distance of 462.17 feet to the end of said curve and the beginning of a reversed curve return to the left, said curve being concave to the northeast, having a radius of 20.00 feet and subtending

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a central angle of 81°-22'-31"; thence running in a southeasterly to easterly direction along the arc of said curve for a distance of 28.41 feet to a point located in a curve to the left in the aforementioned northwesterly right-of-way line of the Meadow Brook Road 750.88 feet south of the intersection thereof with the southerly right-of-way line of U.S. Highway 280; thence turn an angle to the right and run in a southwesterly direction along the arc of said curve in said Meadow Brook Road right-of-way line, said curve being concave to the southeast, having a radius of 479.54 feet, subtending a central angle of 13°-36'-42" and a chord which forms an interior or counter-clockwise angle of 47°-29'-37" with the chord of the last mentioned curve, for a distance of 137.70 feet to a point located at the beginning of return curve to the left, said return curve being concave to the west, having a radius of 20.00 feet, subtending a central angle of 86°-15'-20" and having a chord which forms an interior or counter-clockwise angle of 49°-56'-01" with the chord of the last mentioned curve; thence turn an angle to the right and leaving said right-of-way line of said Meadow Brook Road, run in a northeasterly to northwesterly direction along the arc of said curve for a distance of 30.11 feet to a point of compound curvature of a curve to the left, said curve being concave to the southwest, having a radius of 228.00 feet and subtending a central angle of 53°-50'-00"; thence run in a westerly direction along the arc of said curve for a distance of 214.22 feet to a point of compound curvature of a curve to the left, said curve being concave to the southeast, having a radius of 545.00 feet and subtending a central angle of 12°-00'-00"; thence run in a southwesterly direction along the arc of said curve for a distance of 114.14 feet to the end of said curve; thence run in a southwesterly direction tangent to said curve for a distance of 30.41 feet to the beginning of a curve to the left, said curve being concave to the southeast, having a radius of 734.27, and subtending a central angle of 13°-10'-06"; thence run in a southwesterly direction along the arc of said curve for a distance of 168.76 feet to the end of said curve; thence run in a southwesterly direction tangent to said curve for a distance of 17.33 feet to a point located normal to and 30.00 feet southeasterly of the aforesaid point at the northeasterly end of the hereinabove described centerline of Parcel 1; thence turn an angle to the right of 90°-00'-00" and run in a northwesterly direction with a portion of the aforesaid northeasterly limit of said Parcel 1 for a distance of 30.00 feet to the point of beginning.

RECORDING FEES

Recording Fee S 25.00

Index Fee

TOTAL 8 26.00

STATE OF ALA SHELBY CO.

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