

2458

THIS INSTRUMENT PREPARED BY AND UPON
RECORDING SHOULD BE RETURNED TO:

Stephen R. Monk, Esq.
c/o Daniel Realty Corporation
10 Inverness Parkway
P.O. Box 43250
Birmingham, Alabama 35243

DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION made as of the 29th day of
MARCH, 1988 by DANIEL U.S. PROPERTIES LIMITED
PARTNERSHIP, a Virginia limited partnership (the
"Developer").

R E C I T A L S:

WHEREAS, the Developer is the owner of that
certain real property (the "Property") described in Exhibit
A attached hereto and incorporated herein by reference; and

WHEREAS, the Developer desires to subject the
Property to certain covenants, conditions, restrictions and
rights which shall be binding upon the Property and shall
run with title to the Property.

NOW, THEREFORE, the Developer does hereby declare
that the Property is and shall hereafter be held,
transferred, sold, conveyed, leased, occupied and used
subject to the covenants, conditions and restrictions
hereinafter set forth in this Declaration, which shall be
binding upon the Developer and all parties acquiring or
having any right, title or interest in any part of the
Property and which shall be and are covenants running with
title to the Property.

1. Use. The Property shall be used and
occupied only for such uses which (a) comply at all times
with all applicable zoning, building and land use
regulations of the applicable governmental authorities, (b)
comply with the terms, provisions and conditions of this
Declaration and (c) are approved in advance by the Developer.

BOOK 177 PAGE 447

2. Nuisances and Offensive Activities. No rubbish or debris of any kind, lumber, metals, trash, snow, ice or water shall be permitted or allowed to be placed or remain on the Property and no obnoxious, offensive or illegal activity shall be carried on in, on or upon the Property or any Improvement, as hereinafter defined, thereon.

3. Underground Utilities. No pipe, conduit, cable or transmission line for water, public or private sewage and sewer service, storm drains, steam, gas, electricity, telephone, solar or any passive energy sources or any other utilities of any nature whatsoever (hereinafter collectively referred to as "Utility Service") shall be installed or maintained above the surface of the ground of the Property; provided, however, that street light standards, similar lighting equipment and temporary irrigation hoses, pipes and systems may be placed (and replaced) upon the surface of the Property with the prior written approval of the Developer. No owner or occupant of the Property will erect or grant any right, license or privilege to erect, use or permit the use of overhead or above ground wires, poles, pipes or other above ground machinery or equipment in connection with any Utility Service. Temporary above ground poles and lines for the transmission of any Utility Service during the construction of any Improvements, as hereinafter defined, may be erected on the Property only during construction of Improvements. All exterior machinery, equipment and facilities used or necessary to supply Utility Service to the Property shall be located and screened on the Property in the manner and upon such conditions as approved or required by the Developer.

4. Signs. The location, size, design, materials and construction of all signs to be erected or placed on the Property or any Improvements thereon must be approved in writing by the Developer.

5. Maintenance, Landscaping, Refuse and Trash.

(a) The Property and any Improvements, as hereinafter defined, shall at all times be kept and maintained in good order, repair and condition and in accordance with all applicable governmental requirements and regulations. All exterior paint or stain finishes of an Improvement, if any, shall at all times be well and properly painted. During the construction of any Improvements on the Property, the Property shall be kept and maintained in a neat, orderly and safe condition, free from unsightly accumulations of trash, rubbish, debris and construction materials.

(b) The Property shall be landscaped in accordance with plans and specifications submitted to and

approved by the Developer. Grass, hedges, shrubs, vines or any other vegetation of any type on the Property shall be kept and trimmed at regular intervals at all times in order to maintain the same in a neat, safe and attractive condition. Trees, shrubs, vines, plants and other vegetation which die shall be promptly removed and replaced with living plants of like kind and quantity.

(c) All outdoor refuse collection areas for the Property shall be approved in writing by the Developer, shall be visually screened so as not to be visible from any street or roadway or other property adjacent to the Property, and shall be maintained in such a manner to prevent unsightly, unsanitary or offensive accumulation of trash, garbage, debris, rubbish or refuse.

6. Animals. No animals (i.e., livestock, poultry, dogs, cats, birds, reptiles or household pets) of any type shall be raised, bred or kept on, in or upon the Property or any Improvement thereon.

7. Density and Building Height Requirements.

(a) The maximum building space density for any buildings to be erected or maintained on the Property shall not exceed 15,000 gross square feet of floor space (vertically or horizontally) per acre, prorated for fractional acreage; provided, however, that in computing the maximum building space density provided herein, a basement or other subsurface floor of any Improvement (not to exceed one subsurface or underground floor) shall not be included in such computation.

(b) The building height of any buildings to be erected or maintained on the Property shall be subject to the prior written approval of the Developer.

8. Temporary Improvements. No temporary building trailer, garage or building of any nature shall be erected, placed or maintained on the Property without the prior written approval of the Developer. Buildings and trailers necessary for construction of Improvements on the Property, not used or intended to be used for living accommodations, may be erected and maintained on the Property during the course of such construction.

9. Aerials. No radio, television or other aerial, antenna, tower or transmitting or receiving aerial or support equipment thereof shall be erected, installed, placed or maintained on the Property or the exterior portion of any Improvement without the prior written approval of the Developer.

BOOK 177 PAGE 449

BOOK 177 PAGE 450

10. Submission of Plans and Specifications. No Improvement shall be commenced, erected, placed, moved on to or permitted to remain on the Property or any part thereof, nor shall any approved Improvement be altered in any way which materially changes the exterior appearance thereof, nor shall any initial or subsequent use be commenced on the Property or any part thereof, unless plans and specifications (including a description of any proposed use) therefore have been submitted to an approved in writing by the Developer. Such plans and specifications shall be in such form and shall contain such information as may be required by the Developer, but in any event shall include (i) a site development plan showing the nature, grading scheme, kind, shape, materials and location of all Improvements to the Property and the number and location of all parking spaces, parking areas and driveways on the Property, (ii) a landscaping plan for the Property, including the design for appropriate screening or enclosures for trash and refuse containers, (iii) a signage and lighting plan and (iv) a building elevation plan showing dimensions, building plan showing dimensions, building height, materials exterior color scheme. As used herein, the term "Improvement" or "Improvements" shall mean any building, structure or device constructed, erected or placed upon the Property which in any way affects the physical appearance of the Property, including, by way of illustration and not limitation, buildings, sheds, foundations, covered patios, underground utilities, roads, driveways, paving and curbing, parking areas, trees, shrubbery, landscaping, fences, screening, walls, signs and any other artificial or man-made changes or alterations to the natural environment of the Property as the same exists as of the date hereof.

THE SCOPE OF REVIEW BY THE DEVELOPER SHALL BE LIMITED TO THE USES, EXTERIOR APPEARANCE AND COMPATIBILITY OF ANY IMPROVEMENT TO THE OVERALL DEVELOPMENT PLAN OF DEVELOPER FOR PROPERTY CURRENTLY BEING DEVELOPED BY THE DEVELOPER LYING CONTIGUOUS TO OR IN CLOSE PROXIMITY WITH THE PROPERTY AND SHALL NOT INCLUDE ANY RESPONSIBILITY OR AUTHORITY TO REVIEW OR EVALUATE THE STRUCTURAL SOUNDNESS OR INTEGRITY, COMPLIANCE WITH BUILDING, ZONING OR OTHER APPLICABLE REGULATIONS OF THE APPROPRIATE GOVERNMENTAL AUTHORITIES OR ANY OTHER DESIGN OR CONSTRUCTION ASPECTS OF ANY IMPROVEMENT. THE DEVELOPER, FOR ITSELF AND ITS SUCCESSORS AND ASSIGNS, DOES HEREBY DISCLAIM ANY RESPONSIBILITY OR LIABILITY, FOR ANY DESIGN OR STRUCTURAL DEFECTS IN OR TO ANY IMPROVEMENTS.

11. Construction Without Approval. If any Improvement shall be altered, erected, placed or maintained upon the Property, or any new use commenced on the Property, without the prior written approval of the Developer, such alteration, erection, maintenance or use

shall be deemed to have been undertaken in violation of the provisions of this Declaration and without the approval required herein; and, upon written notice from the Developer, any such Improvement so altered, erected, placed or maintained upon the Property in violation hereof shall, at the expense of the then record owner of the Property, be removed or altered, and any such use shall be terminated, so as to extinguish such violation.

12. Liability. Notwithstanding anything provided herein or by law to the contrary, the Developer, any agent or member thereof and its successors and assigns, shall have no liability of any nature whatsoever for any damage, loss or prejudice suffered or claimed by any person on account of (a) any defects in any plans or specifications submitted, reviewed or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications, (b) the approval or disapproval of any plans, drawings, and specifications, whether or not defective, (c) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications and (d) any other loss, claim, damage, liability or expense, including court costs and attorneys' fees, suffered, paid, or incurred by any person arising out of or in connection with the use or occupancy of the Property.

13. Violations of Declaration. In the event any of the provisions of this Declaration are violated and breached and such violation or breach is not cured within thirty (30) days after written notice thereof is given to the then record owner of the Property, then the Developer shall have the right to take all legal and equitable action which the Developer may deem necessary or appropriate to abate, remove or extinguish any violation or breach of this Declaration. All costs and expenses, including reasonable attorneys' fees, incurred by the Developer in enforcing any of the terms, provisions, covenants or conditions contained in this Declaration shall be paid by the record owner of the Property against or for whom such costs and expenses were incurred.

14. Severability. The determination by any court of competent jurisdiction that any provision of this Declaration is unlawful, void or unenforceable, either in whole or in part, shall not affect the validity of any other provision of this Declaration.

15. Captions and Headings. The captions and headings contained in this Declaration are for the convenience of reference only and shall not be used in the construction or interpretation of any provision of this Declaration.

BOOK 177 PAGE 452

16. Conflict or Ambiguity. In the event of any conflict or ambiguity in the terms and provisions of this Declaration, the general rules of construction relating to construction against the Developer are hereby waived by each owner of the Property.

17. Gender. Whenever and wherever applicable, the singular tense shall include the plural and the masculine shall include the feminine and neuter gender and vice versa.

18. Binding Effect and Amendment. The terms and provisions of this Declaration shall be binding upon each Owner, its heirs, successors and assigns and shall inure to the benefit of the Developer, its successors and assigns. This Declaration may not be amended except by a written instrument duly executed by the Developer and the then record owner of the Property.

19. Further Assurances. Each owner of the Property covenants and agrees to sign, execute and deliver, or cause to be signed, executed and delivered and to do or make, or cause to be done or made, any and all agreements, instruments, papers, deeds, acts or things, supplemental, confirmatory or otherwise, as may be reasonably requested by the Developer for the purpose of or in connection with clarifying, amending or otherwise consummating the transactions and matters set forth herein.

20. Duration. This Declaration shall remain in full force and effect until December 31, 2085, unless modified or amended as provided in Paragraph 18 above.

IN WITNESS WHEREOF, the Developer has caused this Declaration to be duly executed as of the day and year first above written.

DANIEL U.S. PROPERTIES LIMITED
PARTNERSHIP,
A Virginia limited partnership

By: Daniel Realty Investment
Corporation, a Virginia
corporation, as General
Partner

By:

Its:  Senior Vice President

STATE OF ALABAMA)

COUNTY OF SHELBY)

I, the undersigned, a Notary Public in and for said county, in said state, hereby certify that STEPHEN R. MONK whose name as SENIOR VICE PRESIDENT of DANIEL U.S. PROPERTIES INVESTMENT CORPORATION, a Virginia corporation, as General Partner of Daniel U.S. Properties Limited Partnership, a Virginia limited partnership, 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 corporation, in its capacity as General Partner as aforesaid.

Given under my hand and official seal, this the 29th day of MARCH, 1988.

BOOK 177 PAGE 453

Shirley D. Ellis
Notary Public
My Commission Expires: 2/5/90

BOOK 177 PAGE 453-A

EXHIBIT A

Lot 10-Meadow Brook Corporate Park South-Phase II as recorded in Map
Book 12 Page 10 in the office of the Judge of Probate, Shelby County,
Alabama

RECORDING FEES	
Recording Fee	\$20 ⁰⁰
Index Fee	1 ⁰⁰
TOTAL	\$21 ⁰⁰

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED
1988 MAR 30 AM 9:46
Thomas C. [Signature]
JUDGE OF PROBATE