



STATE OF ALABAMA )  
SHELBY COUNTY )

1258

ASSIGNMENT OF RENTS AND LEASES

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To secure its rental obligations under the Lease Agreement hereinafter referred to, and to induce AmSouth Bank, National Association, a national banking association (the "Bank") to lend to Valleydale Business Center (the "Assignor"), through The Industrial Development Board of the Town of Pelham (the "Lessor"), the principal sum of \$4,200,000 (the "Debt"), which Debt is evidenced by a bond in said principal amount (the "Bond") and which Debt is to be made available to the Assignor in accordance with the terms of a lease agreement entered into by and between the Lessor and the Assignor (the "Lease Agreement"), the Assignor hereby conveys, transfers and assigns unto the Lessor, and the Lessor assigns to the Bank, all the rights, interests and privileges which the Assignor, as lessor or sublessor, has or may have hereafter in the leases (the "Leases") now existing or hereafter made and affecting the real property described in Exhibit A (the "Real Estate") attached hereto and made a part hereof, as the Leases may be from time to time hereafter modified, extended and renewed, with all rents, income and profits due and to become due from the Leases (hereinafter collectively called the "Rents"). The Assignor will, at the request of the Bank, execute individual assignments of any future Leases.

The Debt is also secured by a mortgage and indenture executed by the Lessor in favor of the Bank as mortgagee on the Real Estate and certain personal property (the "Mortgage") and the acceptance of this assignment by the Bank and the collection of the Rents under the Leases shall not constitute a waiver of any rights of the Bank or the Lessor under the terms of the Bond, the Mortgage or the Lease Agreement. Before default occurs under the terms of the Bond or the Mortgage or the Lease Agreement, the Assignor shall have the right to collect the Rents and to use them; provided, however, that even before default occurs, no rent more than one month in advance shall be collected or accepted by the Assignor without the prior written consent of the Bank. The Assignor hereby assigns to the Lessor, and the Lessor assigns to the Bank, any award, dividend or other payment made hereafter to the

*Palanis Johnston*

Assignor in any court procedure involving any of the lessees under the Leases in any bankruptcy, insolvency or reorganization proceedings in any state or federal court and any and all payments made by lessees in lieu of rent. The Assignor and the Lessor each hereby appoint the Bank as their irrevocable attorney in fact to appear in any action and/or to collect any such award, dividend or other payment.

The Assignor and the Lessor, in the event of default in the performance of any of the terms and conditions of the Bond, the Lease Agreement or the Mortgage, hereby authorize the Bank, at the Bank's option, to enter and take possession of the Real Estate and to manage and operate the same, to collect all or any of the Rents, to let or re-let the Real Estate, or any part thereof, to cancel and modify Leases, evict tenants, bring or defend any suits in connection with the possession of the Real Estate in its own name or in the Assignor's name, make repairs as the Bank deems appropriate, and perform such other acts in connection with the management and operation of the Real Estate as the Bank, in its discretion, may deem proper.

The receipt by the Bank of any Rents pursuant to this instrument after the institution of foreclosure proceedings under the Mortgage shall not cure such default nor affect such proceedings or any sale pursuant thereto. The net proceeds collected by the Bank under the terms of this instrument shall be applied in reduction of the Debt as determined by the Bank.

The Assignor hereby covenants and warrants that it will perform all its duties and obligations under the Leases in a timely manner and in accordance with the terms of the Leases. The Bank shall not be obligated to perform or to discharge any obligation or duty to be performed or to be discharged by the Assignor under any of the Leases, and the Assignor hereby agrees to indemnify the Bank for, and to save it harmless from, any and all liability arising from any of the Leases or from this assignment, and this assignment shall not place responsibility for the control, care, management or repair of the Real Estate, or any improvements thereon, upon the Bank, or make the Bank responsible or liable for any negligence in the management, operation, maintenance, repair or control of the Real Estate resulting in loss, injury or death to any tenant or other person.

The Assignor represents and warrants that: (a) the Assignor has full right and title to assign the Leases

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and the Rents; and (b) no other assignment of any interest in any of the Leases has been made or will be made until the Debt has been paid in full. The Assignor warrants that until the Debt is paid in full it will not, without the prior written consent of the Bank: (1) cancel, surrender or terminate any of the Leases; (2) exercise any option which might lead to the termination of any of the Leases; (3) change, alter or modify any of the Leases; (4) consent to the release of any party liable under any of the Leases; or (5) consent to the assignment or mortgage of the lessee's interest in any of the Leases.

The Assignor and the Lessor hereby authorize the Bank to give notice in writing of this assignment at any time to any or all of the tenants under any of the Leases.

The violation by the Assignor of any of the covenants, representations, warranties or other provisions contained herein shall be a default in the Bond, the Mortgage and the Lease Agreement.

The default by the Assignor under any of the terms of any of the Leases shall be deemed a default in this instrument, the Bond, the Mortgage and the Lease Agreement, unless the Assignor cures such default within seven days of the day the Bank mails to the Assignor, by United States certified mail or registered mail, a notice of such default. Any expenditures made by the Bank in curing any such default on the Assignor's behalf, with interest thereon at a rate equal to the Prime Rate, as defined in the Indenture, plus 4% per annum, shall become immediately due and payable to the Bank; provided, however, the Bank shall have no obligation to cure any such default.

The full payment of the Debt and the performance of all of the Assignor's other obligations under the Bond, the Mortgage and the Lease Agreement and the duly recorded satisfaction of the Mortgage shall render this assignment void.

This assignment applies to, and binds, the parties hereto and their respective heirs, administrators, executors, successors and assigns, including all subsequent owners of the Real Estate and any assignee of the Mortgage.

In witness whereof, the four partners of the Assignor have executed this instrument and the Lessor has

VALLEYDALE BUSINESS CENTER  
1900 FIRST NATIONAL-SOUTHERN  
NATURAL BUILDING  
PELHAM, ALABAMA 35203  
(205) 252-8800

caused this instrument to be signed and sealed by its duly authorized officers, as of October 1, 1988.

VALLEYDALE BUSINESS CENTER

By *[Signature]*  
A Partner

By *[Signature]*  
A Partner

By *[Signature]*  
A Partner

By *[Signature]*  
A Partner

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THE INDUSTRIAL DEVELOPMENT BOARD OF THE TOWN OF PELHAM

By *[Signature]*  
Its Chairman

(Seal)

Attest:

*[Signature]*  
Its Secretary

This instrument prepared by:

Robert H. Walston  
Cabaniss, Johnston, Gardner,  
Dumas & O'Neal  
1900 First National-Southern  
Natural Building  
Pelham, Alabama 35203  
(205) 252-8800

STATE OF ALABAMA )  
COUNTY OF JEFFERSON )

I, Carol S. Crenshaw, a Notary Public in and for said County in said State, do hereby certify that Daniel M. Spitler, whose name as Chairman of the Board of Directors of The Industrial Development Board of the Town of Pelham, a public 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 corporation.

Given under my hand this the 14 day of December, 1988.

Carol S. Crenshaw  
Notary Public

NOTARIAL SEAL

My commission expires: 2-10-92

STATE OF ALABAMA  
JEFFERSON COUNTY

I, Linda Dail Ashe, a Notary Public in and for said County in said State, hereby certify that Charles H. Stephens, whose name as general partner in Valleydale Business Center, an Alabama general 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 partner and with full authority, executed the same voluntarily for and as the act of said partnership.

Given under my hand this the 12<sup>th</sup> day of December, 1988.

Linda Dail Ashe  
Notary Public

NOTARIAL SEAL

My commission expires: 7-6-89

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STATE OF ALABAMA  
JEFFERSON COUNTY

I, Carol S. Greenbow, a Notary Public in and for said County in said State, hereby certify that Marvin R. Engel, whose name as general partner in Valleydale Business Center, an Alabama general 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 partner and with full authority, executed the same voluntarily for and as the act of said partnership.

Given under my hand this the 8<sup>th</sup> day of December, 1988.

Carol S. Greenbow  
Notary Public

NOTARIAL SEAL

My commission expires: 2-10-92

STATE OF ALABAMA  
JEFFERSON COUNTY

I, Linda Dail Ashe, a Notary Public in and for said County in said State, hereby certify that Marc A. Eason, whose name as general partner in Valleydale Business Park, an Alabama general 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 partner and with full authority, executed the same voluntarily for and as the act of said partnership.

Given under my hand this the 12<sup>th</sup> day of December, 1988.

Linda Dail Ashe  
Notary Public

NOTARIAL SEAL

My commission expires: 7-6-89

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STATE OF ALABAMA  
JEFFERSON COUNTY

I, Linda Gail Ashe, a Notary Public in and for said County in said State, hereby certify that David Bunkin, whose name as general partner in Valleydale Business Center, an Alabama general 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 partner and with full authority, executed the same voluntarily for and as the act of said partnership.

Given under my hand this the 12<sup>th</sup> day of December, 1988.

Linda Gail Ashe  
Notary Public

NOTARIAL SEAL

My commission expires: 7-6-89

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Part of the East 1/2 of Southwest 1/4 of Section 30, Township 19 South, Range 2 West, Shelby County, Alabama, more particularly described as follows:  
 Begin at the Northwest corner of the East 1/2 of Southwest 1/4 of Section 30, Township 19 South, Range 2 West; thence run South along the West line of said East 1/2 of the Southwest 1/4 for 719.63 feet to a point; thence turn an angle to the left of 87 degrees 44 seconds and run 280.97 feet to point on the West right of way line of Business Center Drive, dedicated on map of Valleydale Business Center as recorded in Map Book 8, Page 170, in the Office of Probate Court, Shelby County, Alabama; thence turn an angle to the left of 92 degrees 16 minutes and run North along the West right of way line of Business Center Drive for 57.45 feet to a point on a curve to the left, said curve having a central angle of 42 degrees 50 minutes and a radius of 25 feet; thence run along the arc of said curve and right of way for 18.69 feet to the end of said curve and the beginning of a curve to the right having a radius of 50 feet and a central angle of 265 degrees 40 minutes 06 seconds; thence run along the arc of said curve and right of way for 231.83 feet to a point; thence at tangent to said curve 132 degrees 53 minutes left and run 316.61 feet to a point; thence turn an angle to the left of 90 degrees 00 minutes and run 629.76 feet to a point on the North line of said East 1/2 of Southwest 1/4; thence turn an angle to the left of 87 degrees 41 minutes and run West along the North line of said East 1/2 of said Southwest 1/4 for 663.97 feet to the point of beginning.  
 Situated in Shelby County, Alabama.

According to survey of Miller, Triplett & Miller Engineers, Inc.

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STATE OF ALABAMA  
 I CERTIFY THIS INSTRUMENT WAS FILED

88 DEC 20 AM 8:42

*Thomas W. [Signature]*  
 JUDGE OF PROBATE

1. Deed Tax	\$ _____
2. Mtg. Tax	_____
3. Recording Fee	<u>20.00</u>
4. Indexing Fee	<u>1.00</u>
TOTAL	<u>21.00</u>

EXHIBIT A

