

STATE OF ALABAMA)

COUNTY OF SHELBY)

MORTGAGE ASSUMPTION AND MODIFICATION AGREEMENT

THIS MORTGAGE ASSUMPTION AND MODIFICATION AGREEMENT is made and entered into as of the 14th day of July, 1995 by and among DANIEL EQUITY PARTNERS LIMITED PARTNERSHIP, a Virginia limited partnership ("Daniel"), GREYSTONE DEVELOPMENT COMPANY, L.L.C., an Alabama limited liability company (the "Venture"), and DANTRACT, INC., an Alabama corporation ("Lender").

RECITALS:

Daniel and Lender have heretofore entered into a Mortgage and Security Agreement dated as of July 14, 1995 (the "Mortgage") which has been recorded as Instrument No. 1995-35671 in the Office of the Judge of Probate of Shelby County, Alabama. Capitalized terms not otherwise expressly defined herein shall have the same meanings given to them in the Mortgage.

Contemporaneously herewith, Daniel has transferred and conveyed to the Venture the Property. In connection with such transfer, Daniel, the Venture and Lender desire to (i) provide for the consent to such transfer by Lender, (ii) evidence the release by Lender of Daniel from, and the assumption by the Venture of, all of the obligations of Daniel under the Mortgage and (iii) modify and amend the Mortgage hereinafter provided.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Daniel, the Venture and Lender hereby agree as follows:

1. **Consent to Transfer of Property.** Lender hereby consents to the transfer and conveyance of the Property by Daniel to the Venture and acknowledges and agrees that such transfer shall not be deemed a violation of the Mortgage or otherwise constitute an Event of Default under the Mortgage.

2. **Assumption and Release.** The Venture hereby assumes all of the obligations of Daniel under the Mortgage and Lender hereby releases Daniel from all of such obligations. From and after the date hereof, all references in the Mortgage and in any of the Security Documents to "Borrower" shall mean and refer to the Venture.

3. **Modification of Mortgage.** The Mortgage is hereby modified and amended as follows:

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(a) Release of Property. The Mortgage is hereby amended by adding the following thereto as Section 6.20:

"6.20 Release of Property. So long as no Event of Default shall have occurred and be continuing, Lender agrees to release the Property, in whole or in part, from the Lien of this Mortgage and the other Security Documents on the following terms:

(a) Subject to the provisions of Section 6.20(c), (d), (e), (f) and (g) below and Section 6.21 below, with respect to any portion of the Property which is part of a recorded single-family residential subdivision plat, each lot shown on such subdivision plat shall be released upon the payment of a release price of \$20,000.00 per lot.

(b) Subject to the provisions of Sections 6.20(c), (d), (e), (f) and (g) below and Section 6.21 below, with respect to any portion of the Property which has not been submitted to a single-family residential subdivision plat, any portion thereof shall be released upon the payment of a release price of \$20,000.00 per acre.

(c) With respect to any portion of the Property which is part of a recorded single-family residential subdivision plat, any parks, roads, playgrounds, open areas, lakes or other common areas shown thereon shall be released upon Borrower's request without the payment of any additional consideration or release price.

(d) Lender agrees to release, without the payment of any additional consideration, (i) up to 185 acres of the Property which shall be developed as a Golf Course, as hereinafter defined, and (ii) either (1) 15 Golf Course Lots, as hereinafter defined, if Borrower or any Affiliate of Borrower is the developer of the Golf Course, or (2) up to but not more than 12 Golf Course Lots if the developer of the Golf Course is neither Borrower nor an Affiliate of Borrower (the exact number of lots to be released pursuant to this item (2) shall be determined by mutual agreement of Borrower and the developer of the Golf Course). As used herein, the term "Golf Course" shall mean and refer to a proposed 18-hole championship caliber golf course consistent with that which has been developed and is known as Greystone Golf Club, Inc., which may be constructed on any portion of the Property, together with any practice areas thereto, any clubhouse facility, locker room facilities and any other structures or improvements to be constructed with respect thereto. As used herein, the term "Golf Course Lots" shall mean any lots developed on the Golf Course by Borrower which shall (x) consist of a general average of all lots to

be developed by Borrower directly on the Golf Course, (y) be in the first phase of any single-family residential lots developed directly on the Golf Course and (z) be mutually agreed upon by Lender and Borrower.

(e) Lender agrees to release, without the payment of any additional consideration or release price, any three (3) single-family residential lots developed by Borrower within the Property.

(f) In the event the proceeds from the sale of any of the Property, after the payment of all amounts required to be paid to the holders of any Prior Mortgages and the costs of such sale, including sales commissions, prorations and closing costs (collectively, the "Prior Indebtedness and Closing Costs") are insufficient to pay any of the release prices specified in Sections 6.20(a) or 6.20(b) above, then Lender agrees to release the Lien of this Mortgage on the property sold by Borrower and the unpaid portion of the release price shall accrue, without interest, and be paid from the next sale of any portion of the Property to the extent the proceeds from such sale, after the payment of the Prior Indebtedness and Closing Costs, are available to pay the same.

(g) In the event either (i) Borrower is dissolved and all distributions pursuant to Section 16.3(a) of the Borrower's Operating Agreement dated July __, 1995 have been made or (ii) any member of Borrower elects to purchase the membership interest of the other member of Borrower, whether pursuant to Section 13.3 of the Operating Agreement of the Borrower or otherwise, then, upon written notice to Lender of the occurrence of either such event, Lender shall immediately release all of the Property from the lien of this Mortgage and cancel and terminate the Note and all other Security Documents without the payment of any amount or consideration whatsoever from Borrower."

(c) Subordination to Development Management Agreement. The Mortgage is hereby amended by adding the following thereto as Section 6.21:

"Section 6.21 Subordination to Development Management Agreement. Contemporaneously herewith, Borrower and Daniel Equity Partners Limited Partnership, a Virginia limited partnership ("Daniel"), have entered into a Development Management Agreement of even date herewith (the "Development Management Agreement"). Pursuant to Section 4.01 of the Development Management Agreement, Borrower has agreed to pay Daniel certain development fees (the "Development Fees") upon the sale of portions of the Property. Lender does hereby covenant and agree that the release payments to be paid to Lender pursuant to Section 6.20(a) and 6.20(b) above (the "Release Payments") shall be and hereby are subordinated to a parity

position with the payment of the Development Fees and, to the extent Release Payments are payable to Lender upon the sale of any of the Property, such Release Payments shall be made on a prorata basis with the payment of the Development Fees to Daniel. For example, if the sale of any single-family residential lot comprising any portion of the Property would result in a gross sales price of \$100,000.00, with \$10,000.00 in closing costs and a Prior Mortgage release price of \$70,000.00, the net proceeds from such sale, \$20,000.00, would be paid prorata to Lender and Daniel so that Lender would receive \$14,000.00 of the remaining proceeds of sale as partial payment of the Release Payment and Daniel would receive \$6,000.00 of the remaining proceeds of sale as partial payment of the Development Fee. The remaining \$6,000.00 of the Release Payment due to Lender and \$2,571.43 of the Development Fee due to Daniel would be deferred until such time as the proceeds payable with respect to the sale of any portion of the Property would be sufficient to pay such deferred amount. The computation of the foregoing is illustrated as follows:

Release Payment Due Lender	\$20,000.00
Development Fee Due Daniel	<u>\$ 8,571.43</u>
Total	<u>\$28,571.43</u>
Amount Payable to Lender	$\$20,000.00 \div \$28,571.43 =$ 70% of proceeds
Amount Payable to Daniel	$\$8,571.43 \div \$28,571.43 =$ 30% of proceeds

If any portion of the Release Payments or Development Fees payable to either Lender or Daniel is not paid when due, then the unpaid portion thereof shall be deferred, without interest thereon, until such time as the proceeds from the sale of any portion of the Property are sufficient to pay the same. The provisions of Sections 6.20 and 6.21 of this Mortgage may not be amended or modified without the prior written consent of Daniel. Furthermore, as long as this Mortgage is outstanding, the provisions of Sections 4.01, 4.02 or 4.03 of the Development Management Agreement may not be amended without the prior written consent of Lender."

4. **Modification of Note.** Contemporaneously herewith, the parties have entered into a Note Modification Agreement modifying certain of the terms and provisions of the Note, the terms of which are incorporated herein by reference and made a part hereof.

5. **Full Force and Effect.** Except as expressly modified or amended herein, all of the terms and provisions of the Mortgage shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Mortgage Assumption and Modification Agreement as of the day and year first above written.

DANIEL EQUITY PARTNERS LIMITED PARTNERSHIP, a Virginia limited partnership

By: DANIEL EQUITY CORPORATION I, a Virginia corporation, its General Partner

By: 
T. Charles Tickle, Its Chairman

GREYSTONE DEVELOPMENT COMPANY, L.L.C., an Alabama limited liability company

By: THE CWD, L.L.C., an Alabama limited liability company, Its Co-Manager

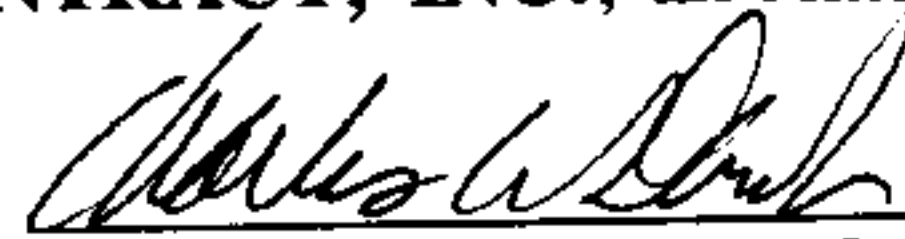
By: 
Charles W. Daniel, Its Managing Member

By: DANIEL EQUITY PARTNERS LIMITED PARTNERSHIP, a Virginia limited partnership, Its Co-Manager

By: Daniel Equity Corporation I, a Virginia corporation, Its General Partner

By: 
T. Charles Tickle, Its Chairman

DANTRACT, INC., an Alabama corporation

By: 
Charles W. Daniel, Its President

STATE OF ALABAMA)

COUNTY OF SHELBY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that T. Charles Tickle, whose name as Chairman of Daniel Equity Corporation I, a Virginia corporation, as General Partner of Daniel Equity Partners 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 such corporation, in its capacity as General Partner of Daniel Equity Partners Limited Partnership, a Virginia limited partnership.

Given under my hand and official seal, this the 14th day of July, 1995.

Joseph J. Andrews
Notary Public
My Commission Expires: 7/18/98

STATE OF ALABAMA)

COUNTY OF SHELBY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Charles W. Daniel, whose name as Managing Member of THE CWD, L.L.C., an Alabama limited liability Company, as Co-Manager of Greystone Development Company, L.L.C., an Alabama 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 THE CWD, L.L.C., an Alabama limited liability company, in its capacity as Co-Manager of Greystone Development Company, L.L.C., an Alabama limited liability company.

Given under my hand and official seal, this the 14 day of July, 1995.

[Signature]
Notary Public
My Commission Expires: 5/13/96

STATE OF ALABAMA)

SHELBY COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that T. Charles Tickle, whose name as Chairman of Daniel Equity Corporation I, a Virginia corporation, as General Partner of Daniel Equity Partners Limited Partnership, a Virginia limited partnership, as Co-Manager of Greystone Development Company, L.L.C., an Alabama 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 such corporation, as General Partner of Daniel Equity Partners Limited Partnership, a Virginia limited partnership, as Co-Manager of Greystone Development Company, L.L.C., an Alabama limited liability company.

Given under my hand and official seal, this the 14th day of July, 1995.

Jones & Andrews
Notary Public
My Commission Expires: 7/18/98

STATE OF ALABAMA)

SHELBY COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Charles W. Daniel, whose name as President of Dantract, Inc., an Alabama 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 such corporation.

Given under my hand and official seal, this the 14 day of July, 1995.

[Signature]
Notary Public
My Commission Expires: 5/13/96

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