

ABSOLUTE ASSIGNMENT OF RENTS AND LEASES

THIS ABSOLUTE ASSIGNMENT OF RENTS AND LEASES (this "Assignment") dated as of May 8, 1998 is made by **R. Shan Paden** (the "Assignor") and **AmSouth Bank**, an Alabama banking corporation, (the "Assignee").

Recitals

Pursuant to a Loan Agreement (the "Loan Agreement") of even date herewith, the Assignor has agreed to lend the Assignee \$755,000 (the "Loan"). As part of the inducement to the Assignee to make the Loan, the Assignor has agreed to execute and deliver to the Assignee this Assignment.

Agreement

NOW, THEREFORE, in consideration of the Recitals and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Assignee agrees with the Assignor as follows:

SECTION 1. Granting Clauses. The Assignor does hereby sell, assign, transfer and set over to the Assignee, its successors and assigns, and does hereby grant to the Assignee, its successors and assigns the following (collectively, the "Property"):

(a) All leases and subleases, written or oral, and all agreements for use or occupancy of any portion of the Real Property described on Exhibit A hereto (the "Land") and any improvements, buildings, structures and fixtures now or hereafter located thereon (the "Improvements") (the Land and the Improvements being hereinafter sometimes together called the "Real Property") with respect to which the Assignor is the lessor or sublessor, including the existing leases, if any, described on Exhibit B attached hereto and made a part hereof (the "Existing Leases"), any and all extensions and renewals of said leases and agreements and any and all further leases or agreements, now existing or hereafter made, including subleases thereunder, upon or covering the use or occupancy of all or any part of the Land or the Improvements, all such leases, subleases, agreements and tenancies heretofore mentioned (including the Existing Leases), whether entered into before or after the filing by or against the Assignor of any petition for relief under the federal Bankruptcy Code, being covered by this assignment and being hereinafter collectively referred to as the "Leases";

(b) any and all guaranties of the lessee's and any sublessee's performance under any of the Leases;

(c) the immediate and continuing right to collect and receive all of the rents, income, receipts, revenues, issues and profits now due or which may become due or to which the Assignor may now or shall hereafter (including during the period of redemption, if any) become entitled or may demand or claim, whether paid or accruing before or after the filing of any petition by or against the Assignor for relief under the federal Bankruptcy Code, arising or

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issuing from or out of the leases or from or out of the Land or the Improvements, or any part thereof, including minimum rents, additional rents, percentage rents, common area maintenance charges, parking charges, tax and insurance premium contributions, and liquidated damages following default, the premium payable by any lessee upon the exercise of any cancellation privilege provided for in any of the Leases, and all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by destruction or damage to the Land or the Improvements, together with any and all rights and claims that the Assignor may now or hereafter have against any such lessee under the Leases or against any subtenants or occupants of the Land or any of the Improvements, all such moneys, rights and claims described in this Section being hereinafter referred to as the "Rents"; provided, however, so long as no Event of Default (as defined in the Loan Agreement) exists, the Assignor shall have the right under a license granted hereby to collect, receive and retain the Rents, but no Rents shall be collected more than one (1) month in advance of the due date thereof; and

(d) any award, dividend or other payment made hereafter to the 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 hereby appoints the Assignee as the Assignor's irrevocable attorney in fact to appear in any action and/or to collect any such award, dividend or other payment after the occurrence of an Event of Default.

The Land, the Improvements, the Leases and the Rents are sometimes collectively referred to herein as the "Property."

SUBJECT, HOWEVER, to the encumbrances, if any, described on Exhibit C hereto ("Permitted Encumbrances").

SECTION 2. Rights and Remedies of Assignee Upon Default.

(a) Operation of Real Property. If an Event of Default exists, in addition to all other rights herein conferred on the Assignee, the Assignee (or any person designated by the Assignee) may, but shall not be obligated to, enter upon and take possession of any or all of the Real Property, exclude the Assignor therefrom, and hold, use, administer, manage and operate the same to the extent that the Assignor could do so, without any liability to the Assignee resulting therefrom; and the Assignee may collect, receive and receipt for all proceeds accruing from such operation and management, make repairs and purchase needed additional property, and exercise every power, right and privilege of the Assignor with respect to the Real Property.

(b) Right to Receiver. If an Event of Default exists, the Assignee shall be entitled, as a matter of right, to the appointment by any competent court or tribunal, without notice to the Assignor or any other party, of a receiver of the rents, issues and profits of the Real Property, with power to lease and control the Real Property and with such other powers as may be deemed necessary.

(c) Rents and Leases. If an Event of Default exists, the Assignee at its option, shall have the right, power and authority without the need to take possession of the Real Property or to obtain the appointment of a receiver, to exercise and enforce any or all of the following rights and remedies with respect to Rents and Leases:

(1) to terminate the license granted to the Assignor in Section 1(c) to collect the Rents, to notify the tenants under the Leases or any other parties in possession of any of the Real Property to pay all Rents directly to the Assignee and, without taking possession, in the Assignee's own name to demand, collect, receive, sue for, attach and levy the Rents, to give proper receipts, releases and acquittances therefor;

(2) with or without any action or proceeding, through any person or by agent, or by a receiver to be appointed by court, to enter upon, take possession of, manage and operate the Real Property or any part thereof for the account of the Assignor, to make, modify, enforce, cancel or accept surrender of any Lease, to remove and evict any lessee or sublessee, to increase or reduce rents, to decorate, clean and make repairs, and otherwise to do any act or incur any costs or expenses the Assignee shall deem proper to protect the security hereof, as fully and to the same extent as the Assignor could if in possession; and

(3) to take whatever legal proceedings may appear necessary or desirable to enforce any obligation of the Assignor under this Assignment.

The Assignor hereby releases any claims against any tenants under the Leases or any other parties in possession of any of the Real Property for any Rents or other sums paid to the Assignee in accordance with this Agreement. The collection of the Rents and application thereof as aforesaid or the entry upon and taking possession of the Real Property or both shall not cure or waive any default or waive, modify or affect any notice of default under this Assignment, or invalidate any act done pursuant to such notice, and the enforcement of such right or remedy by the Assignee, once exercised, shall continue for so long as the Assignee shall elect, notwithstanding that the collection and application aforesaid of the Rents may have cured the original default.

(d) Waiver of Certain Laws. The Assignor waives, to the fullest extent permitted by law, the benefit of all laws now existing or hereafter enacted providing for (1) any appraisal before disposition of any portion of the Property (commonly known as appraisal laws), or (2) any creation or extension of a period of redemption from any disposition of the Property (commonly known as stay laws and redemption laws). The Assignor also waives any and all rights the Assignor may have to a hearing before any court or other governmental authority prior to the exercise by the Assignee of any of its rights or remedies under this Agreement and applicable law.

(e) Remedies Cumulative. The rights, powers and remedies of the Assignee under this Agreement are cumulative and not exclusive of any other rights, powers or remedies now or hereafter existing by contract, at law or in equity.

SECTION 3. Absolute Assignment. The assignment of the Property by the Assignor to the Assignee under this Assignment is intended to be an absolute assignment and not merely a conditional assignment or security interest. The Property is intended to be, and hereby is, assigned absolutely by the Assignor to the Assignee, subject only to the license granted to the Assignor under Section 1(c), which license is terminable at the option of the Assignee upon the occurrence of an Event of Default.

SECTION 4. Miscellaneous

(a) Notices. Any request, demand, authorization, direction, notice, consent, waiver or other document provided or permitted by this Agreement shall be given in the manner, and shall be effective at the time, provided in the Loan Agreement. Five (5) Business Days' written notice to the Assignor as provided above shall constitute reasonable notification to the Assignor when notification is required by law; provided, however, that nothing contained in the foregoing shall be construed as requiring five (5) Business Days' notice if, under applicable law and the circumstances then existing, a shorter period of time would constitute reasonable notice.

(b) Expenses. The Assignor shall promptly on demand pay all costs and expenses, including the fees and disbursements of counsel to the Assignee, incurred by the Assignee in connection with (a) the negotiation, preparation and review of this Assignment (whether or not the transactions contemplated by this Assignment shall be consummated), (b) the enforcement of this Assignment, (c) the custody and preservation of the Property, (d) the protection or perfection of the Assignee's rights and interests under this Assignment in the Property, (e) the filing or recording of this Assignment or any related financing, continuation or termination statements, or similar documents (including any stamp, documentary, mortgage, recording and similar taxes and fees), (f) the exercise by or on behalf of the Assignee of any of its rights, powers or remedies under this Assignment and (g) the prosecution or defense of any action or proceeding by or against the Assignee or Assignor, concerning any matter related to this Assignment, any of the Property in which the Assignee is the prevailing party. The Assignor's obligations under this section shall survive the payment in full of the Obligations and the termination of this Assignment.

(c) Heirs, Successors and Assigns. Whenever in this Assignment any party hereto is referred to, such reference shall be deemed to include the heirs, successors and assigns of such party, except that the Assignor may not assign or transfer this Assignment without the prior written consent of the Assignee; and all covenants and agreements of the Assignor contained in this Assignment shall bind the Assignor's heirs, successors and assigns and shall inure to the benefit of the successors and assigns of the Assignee.

(d) Independent Obligations. The Assignor agrees that each of the obligations of the Assignor to the Assignee under this Assignment may be enforced against the Assignor without the necessity of joining any other person, as a party, including without limitation any other holders of Liens in any Property.

(e) Governing Law. This Assignment shall be construed in accordance with and governed by the internal laws of the State of Alabama (without regard to conflict of law principles) except as required by mandatory provisions of law and except to the extent that the validity and perfection of the assignment of the property hereunder are governed by the laws of any jurisdiction other than the State of Alabama.

(f) Date of Assignment. The date of this Assignment is intended as a date for the convenient identification of this Assignment and is not intended to indicate that this Assignment was executed and delivered on that date.

(g) Counterparts. This Assignment may be executed in any number of counterparts, each of which so executed shall be deemed an original, but all such counterparts shall together constitute but one and the same agreement.

(h) Waiver and Election. The exercise by the Assignee of any option given under this Assignment shall not constitute a waiver of the right to exercise any other option. No failure or delay on the part of the Assignee in exercising any right, power or remedy under this Assignment shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any further exercise thereof or the exercise of any other right, power or remedy. No modification, termination or waiver of any provisions of this Assignment, nor consent to any departure by the Assignor therefrom, shall be effective unless in writing and signed by an authorized officer of the Assignee; and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No notice to or demand on the Assignor in any case shall entitle the Assignor to any other or further notice or demand in similar or other circumstances.

(i) No Obligations of Assignee; Indemnification. The Assignee does not by virtue of this Assignment assume any duties, liabilities or obligations with respect to any of the Real Property or the Property unless expressly assumed by the Assignee under a separate agreement in writing, and this Assignment shall not be deemed to confer on the Assignee any duties or obligations that would make the Assignee directly or derivatively liable for any person's negligent, reckless or wilful conduct; provided, however, the foregoing shall in no manner relieve the Assignee for any negligent, reckless or wilful conduct on the Assignee's behalf occurring subsequent to the taking of possession of the Real Property by the Assignee through foreclosure or otherwise. The Assignor agrees to indemnify and hold the Assignee harmless against and with respect to any damage, claim, action, loss, costs, expense, liability, penalty or interest (including attorneys' fees) and all costs and expenses of all actions, suits, proceedings, demands, assessments, claims and judgments directly or indirectly resulting from, occurring in connection with, or arising out of the Real Property, or the assignment of the Rents

and Leases to the Assignee; provided, however, the Assignor shall not indemnify and hold the Assignee harmless with respect to any negligent, reckless or wilful conduct on the Assignee's behalf occurring subsequent to the taking of possession of the Real Property by the Assignee through foreclosure or otherwise. The provisions of this section shall survive the termination, satisfaction and release (in whole or in part) of this Assignment.

(k) Re-Assignment of Leases and Rents. When the Liabilities (as defined in the Loan Agreement) are paid in full and such payment is evidenced by a recorded written instrument of satisfaction of the Mortgage (as defined in the Loan Agreement), the Lender shall, upon written request by the Assignor, transfer, assign and set over to the Assignor all of the Assignee's right, title and interest in, to and under the Property.

IN WITNESS WHEREOF, the undersigned **R. Shan Paden** has executed this Assignment on the date first written above.


R. Shan Paden

STATE OF ALABAMA)
)
JEFFERSON COUNTY)

I, the undersigned authority, a Notary Public in and for said county in said state, hereby certify that R. Shan Paden, whose name 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 executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 8th day of May, 1998.


Notary Public

[AFFIX SEAL]

My commission expires: 9-20-2001

EXHIBIT A

(Land Description)

Lot 5, according to the Survey of Southwood Office Park, as recorded in Map Book 23 page 59 in the Office of Judge of Probate of Shelby County, Alabama, being situated in Shelby County, Alabama.

EXHIBIT B

(Existing Leases)

Lessor

Lessee

Date

NONE

EXHIBIT C

(Permitted Encumbrances)

1. General and special real estate taxes for the current year and subsequent years.
2. Title to all minerals within and underlying the premises, together with all mining rights and other rights, privileges, and immunities relating thereto as recorded in Deed Book 4, Page 464, Deed Book 127, Page 140 and Deed Book 64, Page 501 in the Office of the Judge of Probate of Shelby County, Alabama.
3. Terms and conditions of that certain Grading and Drainage Agreement recorded in Instrument Number 1997-38360 in the Office of the Judge of Probate of Shelby County, Alabama.
4. Declaration of protective covenants, agreements, easements, charges and liens for Riverchase (Business) as recorded in Misc. Book 13, Page 50, as amended by Amendment No. 1 in Misc. Book 15, Page 189, and further amended by Amendment No. 2, in Misc. Book 19, Page 633 and Real 208, page 174.
5. Restrictions, conditions and other rights as set forth in deed recorded in Deed Book 331, Page 757 and amended in Real Volume 236, Page 56, and referenced by Letter recorded in Instrument #1997-38361.
6. 35 foot building set back from Riverchase Ridge and 35 foot building set back from Riverchase Trail.
7. Land Use Agreement between Blue Cross-Blue Shield and The Harbert-Equitable Joint Venture recorded in Misc. Book 19 Page 690, amended by Misc. Book 43 page 82, Real 16 Page 64 and Real 381 page 465 in Probate Office.

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