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THIS INSTRUMENT PREPARED BY:

Wendy L. Cornett, Esq.  
BURR & FORMAN LLP  
Suite 3100, SouthTrust Tower  
420 North 20th Street  
Birmingham, Alabama 35203  
(205) 251-3000

Inst # 1998-49413

12/11/1998-49413  
10:33 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
41.50  
013 MEL

**CROSS-COLLATERALIZATION/CROSS-DEFAULT AGREEMENT  
AND MODIFICATION**

**THIS CROSS-COLLATERALIZATION/CROSS-DEFAULT AGREEMENT AND MODIFICATION** (this "Agreement") is made and entered into this 9<sup>th</sup> day of December, 1998, between **QUAIL 600 LIMITED PARTNERSHIP**, an Alabama limited partnership (the "Borrower"), **METROPOLITAN LIFE INSURANCE COMPANY**, a New York corporation (the "Lender"). **THE FIDELITY COMPANY**, a North Carolina corporation (the "Trustee") as trustee pursuant to those certain deeds of trust set forth on Exhibit A attached hereto and incorporated herein by reference joins in this Agreement for the sole purpose of evidencing its consent hereto.

**RECITALS:**

A. Borrower has requested that Lender make a certain loan in the principal amount of \$10,025,000.00 (the "Grandview Loan") and secured by the certain Mortgage, Security Agreement and Fixture Filing and dated of even date and recorded contemporaneously herewith in the Office of the Judge of Probate of Jefferson County, Alabama and upon which all recording tax has been paid.

B. Lender has required, as partial consideration for Lender's advance of funds pursuant to the Grandview Loan, that the Grandview Loan be cross-defaulted and cross-collateralized with prior loans made by Lender to Borrower (the "Prior Loans"). (The Prior Loans and the Grandview Loan shall be collectively referred to herein as the "Loans".)

C. The Loans are evidenced by promissory notes, mortgages (upon which recording tax has previously been paid), deeds of trust (upon which recording tax has previously been paid) and other documents, all of such loan documents being more particularly described on Exhibit A hereto (the "Loan Documents").

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## **AGREEMENT**

**NOW, THEREFORE,** in consideration of the foregoing recitals, to induce the Lender to amend the Prior Loans and to make the Grandview Loan, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower agrees with the Lender, and the Lender agrees with the Borrower, as follows:

1. **Cross-collateralization.** The Loans are hereby cross-collateralized with one another, and Borrower agrees that the collateral described in each of the Loan Documents shall secure on a pari passu basis with all Loans, the obligations of the Borrower under all of the Loan Documents, including, without limitation, the Borrower's obligations to pay the principal of and interest on Borrower's respective Loans, as the same may hereafter be renewed, modified, amended or extended, and to pay all other indebtedness and other agreed charges and to perform all of the terms and conditions under the respective Loan Documents.

2. **Cross-default.** The Loans are hereby cross-defaulted with one another and the Borrower hereby agrees that the occurrence of an Event of Default as defined in, and pursuant to any of its Loan Documents which is not cured within applicable grace or curative periods, shall constitute an immediate Event of Default (without need of notice or the expiration of any additional cure period other than as specified in such Loan Documents) under all other Loan Documents.

3. **Modification.** As defined and used throughout the mortgages/deeds of trust (the "Security Instruments") set forth as such on Exhibit "A", the definitions shall apply:

(a) The "Quail 600 Notes" shall collectively mean the promissory notes described on Exhibit "A".

(b) The "Quail 600 Loan Documents" shall collectively mean the Loan Documents.

4. **Miscellaneous.**

(a) Upon the filing of each mortgage or deed of trust, or any modification thereto, constituting part of the Loan Documents, all necessary recording, intangible, or documentary stamp taxes will be duly paid by the Borrower. This Agreement is being given as additional collateral to secure the obligations of the Borrower under the Loan Documents.

(b) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, administrators, successors and assigns.

(c) Except as specifically modified herein, all other terms and conditions of the Security Instruments shall remain unchanged and in full force and effect.

5. **Controlling Law.** This Agreement shall be governed by the laws of the State where the related property described in the Loan Documents is located.

6. **Trustee Consent.** Trustee hereby consents to the execution of this Agreement and the terms set forth herein.

7. **Waiver of Jury Trial.** BORROWER HEREBY WAIVES ANY RIGHT THAT IT MAY HAVE TO A TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SETOFF, DEMAND, ACTION OR CAUSE OF ACTION (A) ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR THE LOAN, OR (B) IN ANY WAY CONNECTED WITH OR PERTAINING OR RELATED TO OR INCIDENTAL TO ANY DEALINGS OF LENDER AND/OR BORROWERS WITH RESPECT TO THE LOAN DOCUMENTS OR IN CONNECTION WITH THIS AGREEMENT OR THE EXERCISE OF ANY PARTY'S RIGHTS AND REMEDIES UNDER THIS AGREEMENT OR OTHERWISE, OR THE CONDUCT OR THE RELATIONSHIP OF THE PARTIES HERETO, IN ALL OF THE FOREGOING CASES WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. BORROWER AGREES THAT LENDER MAY FILE A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY, AND BARGAINED AGREEMENT OF BORROWER IRREVOCABLY TO WAIVE ITS RIGHTS TO TRIAL BY JURY AS AN INDUCEMENT OF LENDER TO MAKE THE LOAN TO BORROWER, AND THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY DISPUTE OR CONTROVERSY WHATSOEVER (WHETHER OR NOT MODIFIED HEREIN) BETWEEN BORROWERS AND LENDER SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be properly executed under seal as of the day and year first above written.

**[Signature Pages and Acknowledgments to follow]**

**BORROWER:**

**QUAIL 600 LIMITED PARTNERSHIP**, an  
Alabama limited partnership (Seal)

By: Daniel Realty Investment Corporation-  
MB600, an Alabama corporation, its  
sole general partner

By: *John C. Gorecki*  
Sr. Vice President

Attest:

*Shirley A. Ellis*  
Assistant Secretary

[Corporate Seal]

STATE OF Alabama )  
COUNTY OF Jefferson )

I, *Sammy M. Bartley*, a Notary Public in and for said county in said state, hereby certify that *John C. Gorecki*, whose name as Sr. Vice President of DANIEL REALTY INVESTMENT CORPORATION-MB 600, an Alabama corporation, as sole general partner of QUAIL 600 LIMITED PARTNERSHIP, an Alabama 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, s/he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation, acting in its capacity as general partner of said partnership.

WITNESS my hand and official seal, this the 9<sup>th</sup> day of December, 1998.

My commission expires:

10-08-01

*Sammy M. Bartley*  
NOTARY PUBLIC  
[Official Seal]



**BORROWER:**

**QUAIL 600 LIMITED PARTNERSHIP**, an  
Alabama limited partnership (Seal)

By: Daniel Realty Investment Corporation-  
MB600, an Alabama corporation, its sole  
general partner

By: John C. Haden  
Sr. Vice President

Attest:

Sheila D. Ellis  
Assistant Secretary

[Corporate Seal]

STATE OF Alabama )  
COUNTY OF Jefferson )

I, Tammy M. Bartley, a Notary Public of Jefferson County,  
State of Alabama, do hereby certify that Sheila D. Ellis personally  
came before me this day and acknowledged that he/she is the Assistant Secretary of  
DANIEL REALTY INVESTMENT CORPORATION-MB600, an Alabama corporation, and that,  
by authority duly given and as the act of the corporation acting as sole general partner of QUAIL 600  
LIMITED PARTNERSHIP, an Alabama limited partnership, the foregoing instrument was signed  
in its name by its Sr. Vice President, sealed with its corporate seal, and attested by  
himself/herself as its Assistant Secretary.

Witness my hand and official seal, this the 9th day of December, 1998.

Tammy M. Bartley  
Notary Public

[Official Seal]

My commission expires:

10-08-01

**LENDER:**

**METROPOLITAN LIFE INSURANCE  
COMPANY, a New York corporation**

Attest:

Nancy J. Hammon  
Assistant Secretary

By: William E. Cafferty  
Assistant Vice President

[Corporate Seal]

STATE OF Georgia )  
COUNTY OF Fulton )

I, Frankie L. Loeferman, a Notary Public in and for said county in said state, hereby certify that William E. Cafferty, whose name as Assistant Vice President of Metropolitan Life Insurance Company, a New York 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, William E. Cafferty, as such Assistant Vice President and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal, this 9<sup>th</sup> day of December, 1998.

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NOTARY PUBLIC

Notary Public, Georgia, State at Large  
My Commission Expires March 12, 2001

My Commission expires: \_\_\_\_\_

**LENDER:**

**METROPOLITAN LIFE INSURANCE  
COMPANY, a New York corporation**

Attest:

Wally J. Hammer  
Assistant Secretary

By: William E. [Signature]  
Assistant Vice President

STATE OF GEORGIA )  
COUNTY OF FULTON )

I, Grace Lipler, a Notary Public of Fulton County, State of Georgia, do hereby certify that Wally J. Hammer personally came before me this day and acknowledged that he/she is the Assistant Secretary of METROPOLITAN LIFE INSURANCE COMPANY, and that, by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Assistant Vice President, sealed with its corporate seal, and attested by himself/herself as its Assistant Secretary.

Witness my hand and official seal, this the 9th day of December, 1998.

[Signature]  
Notary Public

My commission expires:

[Official Seal]

Notary Public, Georgia, State at Large  
My Commission Expires March 12, 2001

**TRUSTEE:**

**THE FIDELITY COMPANY**

Attest:

Ann Foster Myers  
Asst. Secretary

By: Hardin G. Halsey  
Vice President

[Corporate Seal]

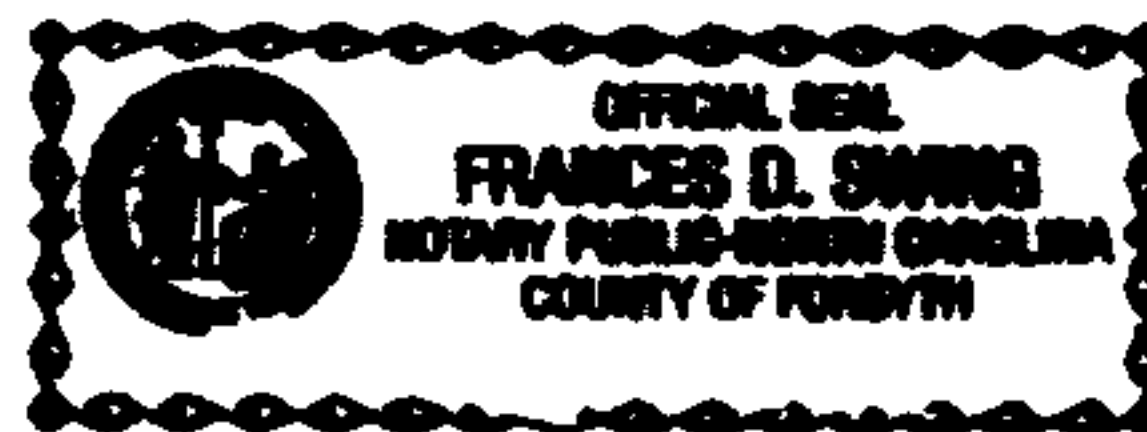
STATE OF North Carolina )  
COUNTY OF Forsyth )

I, Frances D. Swing, a Notary Public in and for said county in said state, hereby certify that Hardin G. Halsey, whose name as Vice Pres. of **THE FIDELITY COMPANY**, TRUSTEE, 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, Hardin G. Halsey, as such Vice Pres. and with full authority, executed the same voluntarily for and as the act of said trustee.

Given under my hand and seal, this 8th day of December, 1998.

Frances D. Swing  
NOTARY PUBLIC

My Commission expires: 2/9/2002





**TRUSTEE:**

**THE FIDELITY COMPANY**

By: *David B. Wiley*  
Vice President

Attest:

*Ann Foster Myers*  
Asst. Secretary

[Corporate Seal]

STATE OF North Carolina )  
COUNTY OF Forsyth )

I, Frances D. Swing, a Notary Public of Forsyth County, State of North Carolina, do hereby certify that Ann Foster Myers personally came before me this day and acknowledged that he/she is the Asst. Secretary of THE FIDELITY COMPANY, TRUSTEE, and that, by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President, sealed with its corporate seal, and attested by himself/herself as its Asst. Secretary.

Witness my hand and official seal, this the 8th day of December, 1998.

*Frances D. Swing*  
Notary Public

My commission expires:

2/9/2002

[Official Seal]



## **EXHIBIT A**

### **Loan Documents**

#### **\$4,725,000 Mortgage Loan on property at 11525 Carmel Commons Boulevard, Mecklenburg County, North Carolina (Quail Commons)**

1. Amended and Restated Promissory Note in the principal amount of \$4,725,000.00 made as of the 30th day of September naming Borrower as Maker and Lender as Holder with a stated maturity date on October 1, 2003
2. Amended and Restated Deed of Trust and Security Agreement, dated September 30, 1996 and filed for registration on October 2, 1996, recorded in Book 8766, Page 49, Office of the Register of Deeds for Mecklenburg County, North Carolina from Borrower as Grantor to The Fidelity Company as Trustee for the benefit of Lender
3. Amended and Restated Assignment of Rents and Leases for the benefit of Lender, filed for registration October 2, 1996, recorded in Book 8766, Page 112, in the aforesaid Mecklenburg County, North Carolina records
4. Unsecured Indemnity Agreement dated September 30, 1996 from Borrower to Lender
5. Affidavit of Ownership and Certification
6. UCC-1 Financing Statements as filed with Mecklenburg County, North Carolina, the Secretary of State of North Carolina and the Secretary of State of Alabama
7. Subordination Agreement by and among Lender, Southern Indiana Properties, Inc. and Borrower, filed for registration October 21, 1996, recorded in Book 8786, Page 283, aforesaid Mecklenburg County, North Carolina records as may be amended and restated by instrument dated of even date herewith
8. Any other documents executed by Borrower or any guarantors of Borrower in connection with the Quail Commons loan and all renewals, amendments, modifications, restatements and extensions of these documents

#### **\$5,100,000 Mortgage Loan for Property located at 7621 Little Avenue, Charlotte, Mecklenburg County, North Carolina (Quail Plaza)**

1. Amended and Restated Promissory Note in the principal amount of \$5,100,000.00 made as of the 30th day of September, 1996, naming Borrower as Maker and Lender as Holder with a stated maturity date of October 1, 2003

2. Amended and Restated Deed of Trust and Security Agreement, dated September 30, 1996, and filed for registration October 2, 1996, recorded in Book 8766, Page 1, Office of the Register of Deeds for Mecklenburg County, North Carolina from Borrower as Grantor to The Fidelity Company as Trustee for the benefit of Lender
3. Amended and Restated Assignment of Rents and Leases for the benefit of Lender, filed for registration October 2, 1996, recorded in Book 8766, Page 112, in the aforesaid Mecklenburg County, North Carolina records
4. Unsecured Indemnity Agreement dated September 30, 1996 from Borrower to Lender
5. Affidavit of Ownership and Certification
6. UCC-1 Financing Statements as filed with Mecklenburg County, North Carolina, the Secretary of State of North Carolina, and the Secretary of State of Alabama
7. Subordination Agreement by and among Lender, Southern Indiana Properties, Inc. and Borrower, filed for registration October 21, 1996, recorded in Book 8786, Page 283, aforesaid Mecklenburg County, North Carolina records as may be amended and restated by instrument dated of even date herewith
8. Any other documents executed by Borrower or any guarantors of Borrower in connection with the Quail Plaza loan and all renewals, amendments, modifications, restatements and extensions of these documents

**\$2,625,000 Mortgage Loan on Property located at 600 Corporate Parkway, Birmingham, Shelby County, Alabama (Meadowbrook)**

1. Promissory Note dated September 30, 1996, in the principal amount of \$2,625,000.00 from Borrower as Maker to Lender as Holder with a stated maturity date of October 1, 2003
2. Mortgage and Security Agreement filed for record October 2, 1996, recorded as Instrument #1996-32641, in the Office of the Judge of Probate of Shelby County, Alabama by Borrower as Mortgagor in favor of Lender as Mortgagee and dated September 30, 1996
3. Assignment of Lessor's Interest in Leases filed for record October 2, 1996, recorded as Instrument #1996-32642, in the aforesaid Probate Office
4. Unsecured Indemnity Agreement
5. Affidavit of Ownership and Certification
6. UCC-1 Financing Statements

7. Subordination Agreement by and among Lender, Southern Indiana Properties, Inc. and Borrower, filed for record October 9, 1996, recorded as Instrument #1996-33594, in the aforesaid Probate Office as may be amended and restated by instrument dated of even date herewith
8. Any other documents executed by Borrower or any guarantors of Borrower in connection with the Meadowbrook loan and all renewals, amendments, modifications, restatements and extensions of these documents

**\$10,025,000 Mortgage Loan on Property located at 3535 Grandview Parkway, Jefferson County, Alabama (Grandview)**

1. Promissory Note from Borrower as Maker to Lender as Holder dated of even date herewith in the principal amount of \$10,025,000.00 with a stated maturity date of December 1, 2008
2. Mortgage, Security Agreement and Fixture filing by Borrower as Mortgagor to Lender as Mortgagee dated of even date herewith and recorded contemporaneously herewith in the Office of the Judge of Probate of Jefferson County, Alabama
3. Amended and Restated Subordination Agreement dated of even date herewith between Metropolitan Life Insurance Company as Senior Lender, SIP Diversified Holdings, Inc. as Junior Lender and Borrower and recorded contemporaneously herewith in the Office of the Judge of Probate of Jefferson County, Alabama
4. Assignment of Leases naming Borrower as Assignor and Lender as Assignee executed of even date herewith and recorded contemporaneously herewith
5. Cross-Collateralization/Cross Default Agreement and Modification entered into between Borrower and Lender dated of even date herewith and recorded contemporaneously herewith
6. Principal's Indemnification Agreement by and between Daniel Realty Company and Lender dated of even date herewith
7. Unsecured Indemnity Agreement dated of even date herewith between Daniel Realty Company and Lender
8. Unsecured Indemnity Agreement dated of even date herewith between Borrower and Lender
9. UCC Financing Statements to be filed in the Office of the Judge of Probate of Jefferson County, Alabama and with the Secretary of State of the State of Alabama
10. Affidavit of Ownership and Certification of Borrower

11. Memorandum of Understanding dated of even date herewith between Borrower and Lender
12. Leasing Guidelines Agreement between Borrower and Lender dated of even date herewith
13. Any other documents executed by Borrower or any guarantors of Borrower in connection with the Grandview loan and all renewals, amendments, modifications, restatements and extensions of these documents

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