

STATE OF ALABAMA     )  
                                     :  
COUNTY OF SHELBY     )

**RESTRICTIVE USE AGREEMENT**

THIS RESTRICTIVE USE AGREEMENT (this "Agreement") is made and entered into as of the 6<sup>th</sup> day of December, 2001 by FRANK S. SCHILLECI, a married man ("Owner"), in favor of DANIEL U.S. PROPERTIES LIMITED PARTNERSHIP II, an Alabama limited partnership ("Developer").

**RECITALS:**

Owner is the owner of that certain real property (the "Property") situated in Shelby County, Alabama which is more particularly described in Exhibit A attached hereto and incorporated herein by reference.

Owner desires to encumber the Property with certain use restrictions as hereinafter provided, which restrictions shall run in favor of Developer and its successors and assigns.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, in hand paid by Developer to Owner, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Owner, Owner does hereby covenant and agree as follows:

1.     **Restriction on Use.** Owner acknowledges and agrees that the Property shall in no event be used for the operation of a "Hooters" bar or restaurant or any similar type of business establishment similar to a "Hooters" or which promotes itself, operates or does business in form similar to a "Hooters" bar or restaurant.

2.     **Acknowledgment of Restrictive Covenants.** Owner does further acknowledge and agree that the use and development of the Property is subject to all of the terms, covenants, agreements, restrictions, liens and rights established in the Declaration of Covenants, Conditions and Restrictions for Meadow Brook Corporate Park dated October 17, 1984, as recorded in Book 005, Page 772, *et. seq.*, in the Office of the Judge of Probate of Shelby County, Alabama, as amended from time to time.

3.     **Miscellaneous.**

(a)     All of the terms and provisions of this Agreement shall be and are covenants running with the land which shall be binding upon and inure to the benefit of Owner and Developer and their respective heirs, executors, administrators, personal representatives, successors and assigns.

(b)     The terms and provisions of this Agreement may be modified, amended or supplemented only by a written instrument executed by the then owner of the Property and Developer, or its successors and assigns.

(c) The paragraph headings and captions used herein are for convenience of reference only and shall in no way define, limit, describe or restrict the scope or intent of this Agreement or in any way affect the terms and provisions hereof.


(d) Whenever the context requires or permits, the use of the masculine gender shall be deemed to include the feminine, the singular shall include the plural and vice versa.

(e) If any provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then the remainder of this Agreement or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(f) This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama.

(g) Owner does hereby represent and warrant that the Property does not constitute the homestead of Owner or his spouse.

IN WITNESS WHEREOF, Owner has executed this Agreement as of the day and year first above written.

  
Frank S. Schilleci

This instrument prepared by and  
upon recording should be returned to:

Stephen R. Monk, Esq.  
Bradley Arant Rose & White LLP  
2001 Park Place, Suite 1400  
Birmingham, Alabama 35203  
(205) 521-8429



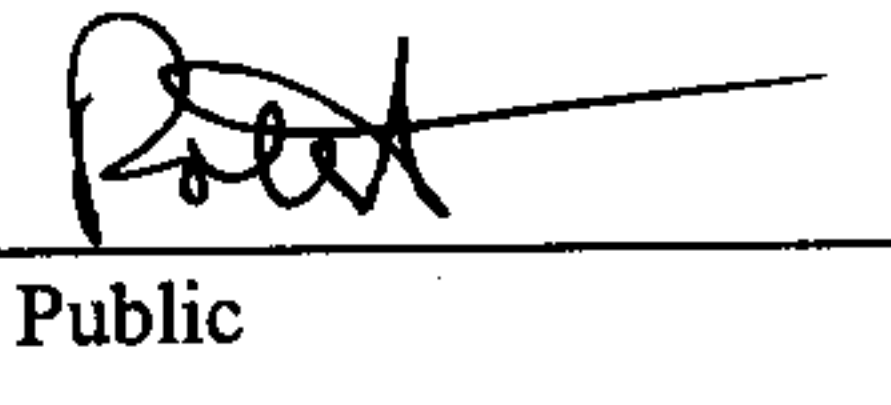
STATE OF ALABAMA

Jefferson COUNTY

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I, the undersigned, a notary public in and for said county in said state, hereby certify that FRANK S. SCHILLECI, 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 6<sup>th</sup> day of December, 2001.

    
Notary Public

[NOTARIAL SEAL]

My commission expires: NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: Apr 7, 2005  
~~BONDED THROUGH NOTARY PUBLIC UNDERWRITERS~~

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upon recording should be returned to:

Stephen R. Monk, Esq.  
Bradley Arant Rose & White LLP  
2001 Park Place, Suite 1400  
Birmingham, Alabama 35203  
(205) 521-8429

**EXHIBIT A**

**LEGAL DESCRIPTION OF PROPERTY**

Lot 3, according to Schilleci's Addition to Meadow Brook Corporate Park Phase I, as recorded in Map Book 24, Page 5 in the Office of the Judge of Probate of Shelby County, Alabama.

Inst # 2001-56555

12/26/2001-56555  
11:35 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
004 CH 20.00