


Record and Return to:

Bingham McCutchen, LLP
One State Street
Hartford, Connecticut 06103
Attn: Thomas J. O'Shea, Esq.

State of Alabama
Shelby County


20030102000000380 Pg 1/11 44.00
Shelby Cnty Judge of Probate, AL
01/02/2003 08:14:00 FILED/CERTIFIED

**ASSIGNMENT OF
LEASES AND RENTS
753393**

A. **THIS ASSIGNMENT OF LEASES AND RENTS** (as the same may from time to time hereafter be modified, supplemented or amended, this "**Assignment of Leases**"), made as of December 31, 2002 by **WELLS EXCHANGE – MEADOW BROOK PARK, BIRMINGHAM, LLC**, a Georgia limited liability company, having a post office address at 6200 The Corners Parkway, Suite 250, Norcross, Georgia 30092, Attention: Leo F. Wells, as "**Borrower**" ("**Borrower**" to be construed as "**Borrowers**" if the context so requires), to **PRINCIPAL COMMERCIAL FUNDING, LLC**, a Delaware limited liability company, having a principal place of business and post office address at c/o Principal Real Estate Investors, LLC, 801 Grand Avenue, Des Moines, Iowa 50392-1450, as "**Lender**",

WITNESSETH THAT:

B. **WHEREAS**, Borrower, is justly indebted to Lender for money borrowed (the "**Loan**") in the original principal sum of Thirteen Million Nine Hundred Thousand and 00/100 Dollars (\$13,900,000.00) ("**Loan Amount**"). To evidence and secure the Loan, Borrower has made and delivered to Lender a secured promissory note (as may be modified, amended, supplemented, extended or consolidated in writing, and any note(s) issued in exchange therefor or replacement thereof, the "**Note**") in the Loan Amount payable as provided for in the Note and finally maturing (absent any acceleration of maturity as therein provided) on January 1, 2013, with interest as therein expressed, and has executed and delivered a "**Mortgage**" (it being agreed that "**Mortgage**" as hereinafter used shall be construed to mean "mortgage" or "deed of trust" or "trust deed" or "deed to secure debt" as the context so requires) bearing the aforesaid date to secure the Note and creating a lien on Borrower's interest in certain real estate in the county of Shelby, state of Alabama, more particularly described in Exhibit A attached hereto and made a part hereof, including but not limited to the Improvements now or hereafter thereon and the easements, rights and appurtenances thereunto belonging, all as more particularly described in the Mortgage and hereinafter called the "**Premises**"; and

C. WHEREAS, Borrower is the lessor under those certain written leases of the Premises listed in Exhibit B attached hereto and made a part hereof, and Borrower may hereafter make other leases of the Premises or parts thereof; and

D. WHEREAS, Lender has required the assignment hereafter made as a condition to making the above-described loan;

E. **NOW, THEREFORE**, Borrower, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby absolutely and directly (and not merely collaterally) assign, bargain, sell, transfer, convey, set over and deliver unto Lender, all rights of the lessor under the above described lease(s) and all other leases, tenancies, rental arrangements, subleases, and guarantees of the performance or obligations of any tenants thereunder affecting the Premises, or any part thereof, now existing or which may be executed at any time in the future during the life of this Assignment of Leases, and all amendments, extensions and renewals of said leases, subleases, and guarantees and any of them, all of which are hereinafter called the "**Leases**," and all rents or other income or payments, regardless of type or source of payment (including but not limited to common area maintenance charges, lease termination payments, purchase option payments, refunds of any type, prepayment of rents, settlements of litigation or settlements of past due rents) which may now or hereafter be or become due or owing under the Leases, and any of them, or on account of the use of the Premises, all of which are hereinafter called the "**Rents**". It is intended hereby to establish a present and complete transfer, and direct and absolute assignment of all the Leases and all rights of the lessor thereunder and all the Rents unto Lender, with the right, but without the obligation, to collect all of said Rents, which may become due during the life of this Assignment of Leases. Borrower agrees to deposit with Lender copies of all leases of all or any portion of the Premises. Capitalized terms used herein and not otherwise defined shall have those meanings given to them in the Loan Documents.

1. Borrower hereby appoints Lender the true and lawful attorney of Borrower with full power of substitution and with power for it and in its name, place and stead, to demand, collect, give receipts and releases for any and all Rents herein assigned which may be or become due and payable by the lessees and other occupants of the Premises, and at its discretion to file any claim or take any other action or proceeding and make any settlement of any claims, either in its own name or in the name of Borrower or otherwise, which Lender may deem necessary or desirable in order to collect and enforce the payment of any and all Rents. Lessees of the Premises, or any part thereof, are hereby expressly authorized and directed to pay all Rents herein assigned to Lender or such nominee as Lender may designate in writing delivered to and received by such lessees who are expressly relieved of any and all duty, liability or obligation to Borrower in respect of all payments so made.
2. Lender is hereby vested with full power to use all measures, legal and equitable, whether in person, by agent or by a receiver deemed by it necessary or proper to enforce this Assignment of Leases including the right to enter upon the Premises, or any part thereof and take possession thereof forthwith to effect the cure of any default on the part of Borrower

as lessor in any of the Leases or with or without taking possession of the Premises, to collect the Rents assigned hereunder all without regard to the adequacy of any security for the Indebtedness secured by the Loan Documents.

Borrower hereby grants full power and authority to Lender to exercise all rights, privileges and powers herein granted at any and all times hereafter, without notice to Borrower, with full power to use and apply all of the Rents assigned hereunder as specified in the Loan Documents.

Notwithstanding any provision herein to the contrary, prior to an Event of Default, Lender hereby grants to Borrower the license to collect all Rents, as the same become due and payable, but in any event for not more than one calendar month in advance, and to enforce all provisions contained in the Leases. Such license shall not be applicable to any Extraordinary Rental Payments, all of which shall be paid directly to Lender. Lender shall be entitled to hold Extraordinary Rental Payments it receives in an interest-bearing account as additional security for the Note and the funds shall be governed by the terms of that certain Escrow Security Agreement between Borrower and Lender. Borrower shall render such accounts of collections as Lender may require. The license herein granted to Borrower shall terminate immediately and automatically, without further action or documentation, upon an Event of Default; and upon written notice of Borrower's Event of Default at any time hereafter given by Lender to any lessee, all Rents thereafter payable and all agreements and covenants thereafter to be performed by any such lessee shall be paid and performed by such lessee directly to Lender in the same manner as if the above license had not been granted, without prosecution of any legal or equitable remedies under the Mortgage. Any lessee of the Premises or any part thereof is authorized and directed to pay to Borrower any Rent herein assigned currently for not more than one calendar month in advance, but shall make all Extraordinary Rental Payments to Lender and any payment so made, other than Extraordinary Rental Payments, prior to receipt by such lessee of the aforementioned notice shall constitute a full acquittance to lessee therefor.

3. Lender shall be under no obligation to enforce any of the rights or claims assigned to it hereunder or to perform or carry out any of the obligations of the lessor under any of the Leases and does not assume any of the liabilities in connection with or arising out of the covenants and agreements of Borrower in the Leases; and Borrower covenants and agrees that it will faithfully perform all of the obligations imposed under any and all of the Leases. All Security Deposits collected by Borrower shall be maintained in accordance with all applicable Legal Requirements and, if cash, shall be deposited by Borrower at a federally insured institution reasonably satisfactory to Lender. Should Lender incur any liability, loss or damage under the Leases or under or by reason of this Assignment of Leases, or in the defense of any claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in any of the Leases, the amount thereof, including costs, expenses and reasonable attorneys' fees and costs, including reasonable

attorneys' fees and costs on appeal, shall be added to the Indebtedness secured by the Mortgage.

This Assignment of Leases shall not operate to place responsibility for the control, care, management or repair of the Premises, or parts thereof, upon Lender nor shall it operate to make Lender liable for the carrying out of any of the terms and conditions of any of the Leases, or for any waste of the Premises by the lessee under any of the Leases or any other party, or for any dangerous or defective condition of the Premises or for any negligence in the management, upkeep, repair or control thereof resulting in loss or injury or death to any lessee, licensee, employee or stranger.

4. Provided there has been no Event of Default under the Loan Documents, any amounts collected hereunder by Lender which are in excess of those applied to pay in full the aforesaid liabilities and Indebtedness at the time due shall be promptly paid to Borrower; provided, however, that this provision shall not be applicable to any payments under the Leases in excess of one calendar month in advance, including, but not limited to, lease termination payments, purchase option exercise payments, refunds of any type, or prepayment of Rents, litigation settlements or settlements of past due Rents (all of which shall be referred to collectively herein as the **'Extraordinary Rental Payments'**), all of which may be retained by Lender pursuant to the provisions hereof and applied in accordance with the provisions of the Escrow Security Agreement referred to in paragraph 2 hereof.
5. Borrower covenants not to alter, modify, amend or change the terms of any of the Leases or give any consent or permission or exercise any option required or permitted by the terms thereof or waive any obligation required to be performed by any lessee or execute, cancel or terminate any of the Leases or accept a surrender thereof or enter into leases after the date hereof without the prior written consent of Lender, and Borrower will not make any further transfer or assignment thereof, or attempt to pledge, assign or encumber any of the Leases or Rents or other amounts payable thereunder, or convey or transfer or suffer a conveyance or transfer of the Premises or of any interest therein so as to effect, directly or indirectly, a merger of the estates and rights of, or a termination or diminution of the obligations of, any lessee thereunder. Borrower further covenants to deliver to Lender, promptly upon receipt thereof, copies of any and all demands, claims and notices of default received by Borrower from any lessee under any of the Leases assigned herein or of any default thereunder by Lessee. Borrower shall keep and perform all terms, conditions and covenants required to be performed by lessor under the Leases. If requested by Lender, Borrower shall enforce the Leases and all remedies available to Borrower against the lessees thereunder in case of default under the Leases by lessees.
 - (a) Notwithstanding the foregoing, Borrower shall be permitted, in the ordinary course of business, to enter into, extend, renew, amend or modify (but not terminate) any Lease which covers less than 40,000 square feet of net rentable area of space without

Lender's prior written consent; provided that all of the following conditions are satisfied:

- (i) No Event of Default exists under the Loan Documents;
 - (ii) The Lease contains no purchase option;
 - (iii) A new Lease must be commercially reasonable and executed on a standard lease form that has previously been approved in writing by Lender (the "Standard Form") with only minor customary changes or pre-approved changes to the Standard Form;
 - (iv) All lease extensions, renewals, amendments or modifications (A) are in the ordinary course of business of Borrower; (B) are commercially reasonable; (C) do not involve the relocation of a tenant to space not located within the Premises; and (D) do not provide for reduction of rent or other tenant reimbursement amounts;
 - (v) The new Lease, or any renewal, extension, amendment or modification of an existing Lease, does not or will not cause a default under any Lease, or any other document or instrument (recorded or otherwise) in any way burdening or affecting the Premises; and
 - (vi) The tenant's business does not and will not involve the presence of Hazardous Material on the Premises, including but not limited to businesses engaged in the processing of dry cleaning on-site.
- (b) Borrower shall furnish to Lender a true and complete copy of each Lease, extension, renewal, amendment or modification of lease, hereafter made by Borrower with respect to space in the Premises within thirty (30) days after delivery of each such Lease, extension, renewal, amendment or modification by the parties thereto. The delivery by Borrower of each Lease, extension, renewal, amendment or modification that does not require Lender's consent under the terms of this Assignment of Leases and Rents shall constitute a representation by Borrower that the conditions contained in this paragraph 5 have been complied with.
6. Upon payment in full of the principal sum, interest and other Indebtedness secured hereby, and by any other documents which secure the Note, this Assignment of Leases shall be and become null and void; otherwise, it shall remain in full force and effect as herein provided and, with the covenants, warranties and power of attorney herein contained, shall inure to the benefit of the heirs, successors and assigns of Lender, and shall be binding upon Borrower, and its heirs and permitted successors and assigns.

7. Following the occurrence of an Event of Default, Lender may as attorney-in-fact or agent of Borrower or in its own name as Lender and under the powers granted herein and in the Mortgage extend, modify, or terminate (to the extent permitted by law or the terms of the specific lease) any then existing leases or subleases and make new leases, which extensions, modifications or new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the Maturity Date and the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Borrower and all persons whose interests in the Premises are subject to the lien of the Mortgage and shall be binding also upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the Indebtedness secured by the Mortgage, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser.
8. The limitation of recourse liability provisions of paragraph 9 of the Note are fully incorporated herein by reference as if the same were specifically stated here.
9. It is understood and agreed that this Assignment of Leases shall become effective concurrently with the Note and the Mortgage. This Assignment of Leases shall be governed by and construed in accordance with the laws of the State where the Premises is located, without regard to its conflicts of law principles.
10. (a) It is the intention of Lender and Borrower that the assignment effectuated by this Assignment of Leases with respect to the rents and other amounts due under the Leases shall be a direct, absolute and currently effective assignment and shall not constitute merely the granting of a lien, collateral assignment or a security interest or pledge for the purpose of securing the Indebtedness secured by the Mortgage and is effective whether or not a default occurs hereunder or under the Loan Documents. In the event that a court of competent jurisdiction determines that, notwithstanding such expressed intent of the parties, Lender's interest in the Rents or other amounts payable under the Leases constitutes a lien on or security interest in or pledge thereof, it is agreed and understood that the forwarding of a notice to Borrower after the occurrence of an Event of Default, advising Borrower of the revocation of Borrower's license to collect such Rents shall be sufficient action by Lender to (i) perfect such lien on or security interest in or pledge of the Rents, (ii) take possession thereof, and (iii) entitle Lender to immediate and direct payment of the Rents for application as provided in the Loan Documents, all without the necessity of any further action by Lender, including, without limitation, any action to obtain possession of the Land, Improvements or any other portion of the Premises. Notwithstanding the direct and absolute assignment of the Rents, there shall be no pro tanto reduction of any portion of the Indebtedness secured by the Mortgage except with respect to Rents actually received by Lender and applied by Lender toward payment of such Indebtedness.

- (b) Without limitation of the absolute nature of the assignment of the Rents, Borrower and Lender agree that (i) this Assignment of Leases shall constitute a "security agreement" for purposes of 11 U.S.C. Section 552(b), (ii) the security interest created by this Assignment of Leases extends to property of Borrower acquired before the commencement of a case in bankruptcy and to all amounts paid as Rents (including, without limitation, any Extraordinary Rental Payments), and (iii) such security interest shall extend to all Rents (including, without limitation, any Extraordinary Rental Payments) acquired by the estate after the commencement of any case in bankruptcy. Without limitation of the absolute nature of the assignment of the Rents, to the extent Borrower (or Borrower's bankruptcy estate) shall be deemed to hold any interest in the Rents (including, without limitation, any Extraordinary Rental Payments) after the commencement of a voluntary or involuntary bankruptcy case, Borrower hereby acknowledges and agrees that such Rents (including, without limitation, any Extraordinary Rental Payments) are and shall be deemed to be "cash collateral" under Section 363 of the Bankruptcy Code. Borrower may not use the cash collateral without the consent of Lender and/or an order of any bankruptcy court pursuant to 11 U.S.C. 363(c)(2), and Borrower hereby waives any right it may have to assert that such Rents (including, without limitation, any Extraordinary Rental Payments) do not constitute cash collateral. No consent by Lender to the use of cash collateral by Borrower shall be deemed to constitute Lender's approval, as the case may be, of the purpose for which such cash collateral was expended.
 - (c) Borrower acknowledges and agrees that, upon recordation of this Assignment of Leases, Lender's interest in the Rents shall be deemed to be fully perfected, "choate" and enforced as to Borrower and all third parties, including, without limitation, any subsequently appointed trustee in any case under the Bankruptcy Code, without the necessity of (a) commencing a foreclosure action with respect to this Assignment of Leases, (b) furnishing notice to Borrower or tenants under the Leases, (c) making formal demand for the Rents, (d) taking possession of the Premises as a lender-in-possession, (e) obtaining the appointment of a receiver of the Rents and profits of the Premises, (f) sequestering or impounding the Rents, or (g) taking any other affirmative action.
11. Notwithstanding anything in this Assignment of Leases to the contrary, Lender may, upon written notice to Borrower, elect to (i) exclude from the assignment provided in this Assignment of Leases any of the Leases as specified in such notice so that the interest under such indicated Lease is not assigned to Lender, (ii) subordinate the lien and other terms and provisions of the Mortgage to any of the Leases as indicated in said notice to Borrower, and/or (iii) require Borrower to use best efforts to obtain a non-disturbance and attornment agreement, in form and substance approved by Lender, from any of the lessees under any of the Leases as indicated in said notice to Borrower.

12. Borrower has had the opportunity to fully negotiate the terms hereof and modify the draftsmanship of this Assignment of Leases. Therefore, the terms of the Assignment of Leases shall be construed and interpreted without any presumption, inference, or rule requiring construction or interpretation of any provision of this Assignment of Leases against the interest of the party causing this Assignment of Leases or any portion of it to be drafted. Borrower is entering into this Assignment of Leases freely and voluntarily without any duress, economic or otherwise.
13. Each Notice which any party hereto may desire or be required to give to the other shall be given in accordance with the provisions of the Mortgage.
14. If more than one, all obligations and agreements of Borrower and of any general partners of Borrower are joint and several.
15. This Assignment of Leases may be executed in counterparts, each of which shall be deemed an original; and such counterparts when taken together shall constitute but one agreement.
16. Capitalized terms used herein and not otherwise defined shall have those meanings given to them in the Loan Documents.

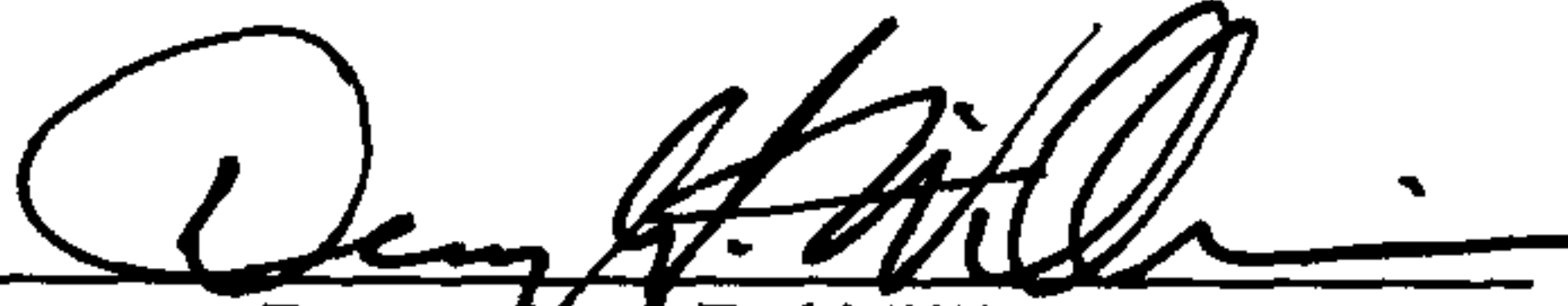
[Remainder of Page Intentionally Left Blank; Signature Page(s) Follow(s)]

IN WITNESS WHEREOF, Borrower has caused this Assignment of Leases and Rents to be duly executed and delivered as of the date first hereinabove written.

**WELLS EXCHANGE – MEADOW BROOK
PARK, BIRMINGHAM, LLC**, a Georgia limited
liability company

Christopher Alameda


Terri B. Keith

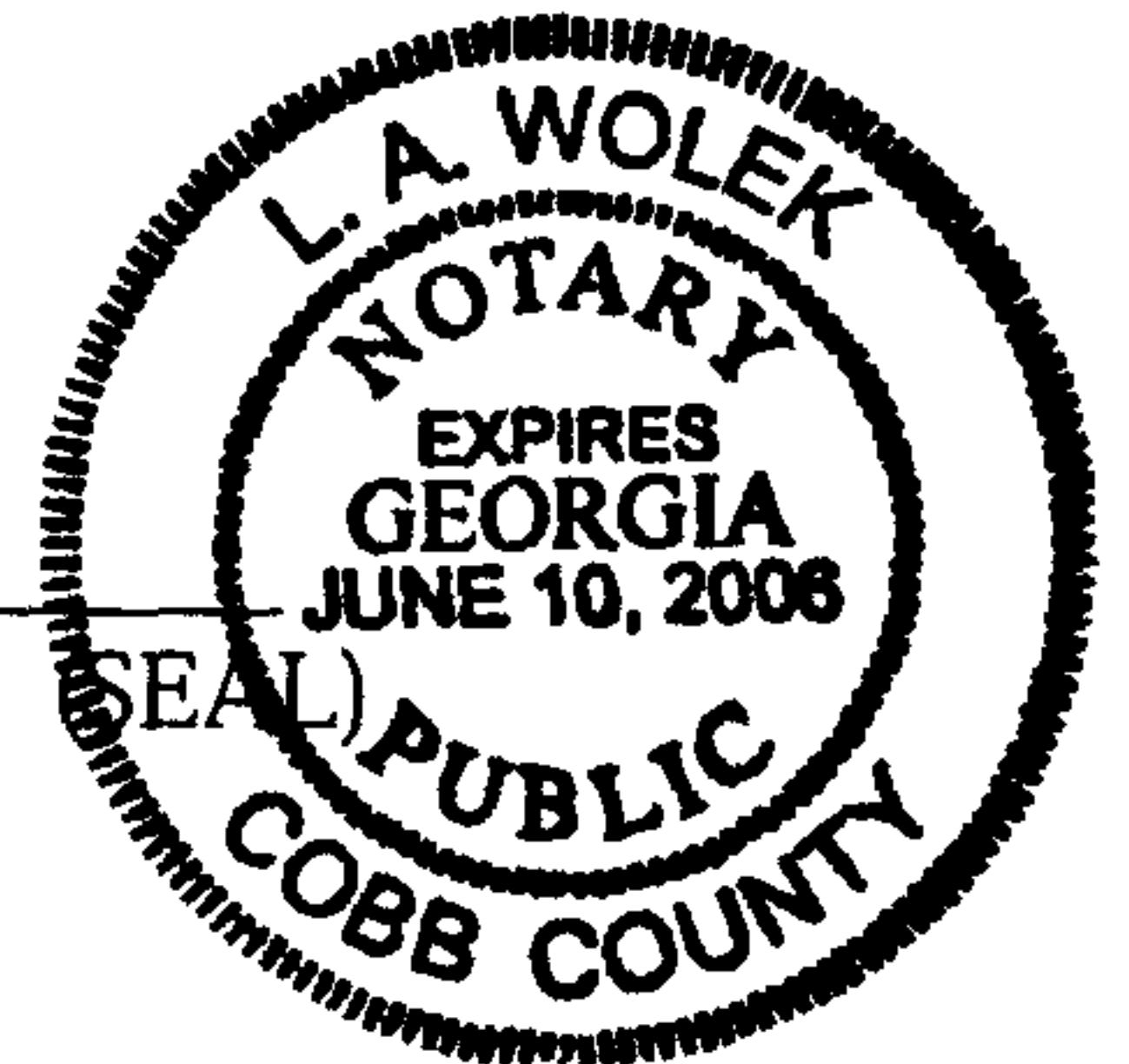
By 
Name: Douglas P. Williams
Title: Executive Vice President

STATE OF Georgia
COUNTY OF Cobb

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that Douglas P. Williams, whose name as a Exec. VP of Wells Exchange - Meadow Brook Park, Birmingham, LLC, a Georgia 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 the instrument, he, as such Exec. VP, and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal, this 23rd day of December, 2002.


Notary Public
My Commission Expires: 6/10/06



[Signature Page to Assignment of Leases and Rents]

SCHEDULE A – LEGAL DESCRIPTION

Parcel 1

Lot 11-G, Meadow Brook Corporate Park South, Phase II, Resurvey No. 8, as recorded in Map Book 25 page 91 A & B in the Office of the Judge of Probate of Shelby County, Alabama; being more particularly described as follows:

Begin at the Southeasterly corner of Lot 11-G, Meadow Brook Corporate Park South, Phase II, Resurvey No. 8 as recorded in Map Book 25 page 91 A & B in the Office of the Judge of Probate of Shelby County, Alabama and run North 90 deg. 00 min. West (assumed) a distance of 603.04 feet to the Southwesterly corner of Lot 11-G; thence North 0 deg. 00 min. East a distance of 603.74 feet to a point on the Southeasterly right of way line of Resource Drive; thence North 64 deg. 16 min. 06 sec. East along the Southeasterly right of way line of Resource Drive a distance of 223.21 feet to the P. C. (point of curve) of a curve to the left having a radius of 460.00 feet, a central angle of 28 deg. 27 min. 36 sec. and a chord bearing of North 50 deg. 02 min. 18 sec. East; thence along the arc of said curve and the Southeasterly right of way line of Resource Drive a distance of 228.49 feet to the P. R. C. (point of reverse curve) of a curve to the right having a radius of 25.00 feet, a central angle of 79 deg. 47 min. 55 sec. and a chord bearing of North 75 deg. 42 min. 28 sec. East; thence along the arc of said curve and the Southeasterly right of way line of Resource Drive a distance of 34.82 feet to a point on the Southwesterly right of way line of Corporate Drive, said point being the P. R. C. (point of reverse curve) of a curve to the left having a radius of 362.21 feet, a central angle of 10 deg. 38 min. 30 sec. and a chord bearing of South 69 deg. 42 min. 50 sec. East; thence along the arc of said curve and the Southwesterly right of way line of Corporate Drive a distance of 67.27 feet to the P. T. (point of tangent) of said curve; thence South 75 deg. 02 min. 05 sec. East tangent to said curve along the Southwesterly right of way line of Corporate Drive a distance of 52.34 feet to a point; thence South 0 deg. 25 min. 10 sec. East a distance of 97.46 feet to a point; thence South 15 deg. 00 min. 40 sec. West a distance of 43.23 feet to a point; thence South 0 deg. 25 min. 10 sec. East a distance of 460.67 feet to a point; thence South 22 deg. 45 min. 40 sec. East a distance of 235.47 feet to the point of beginning; being situated in Shelby County, Alabama.

Parcel 2

Lot 11-F, according to the Meadow Brook Corporate Park South, Phase II, Resurvey No. 4, as recorded in Map Book 24, Page 42 in the Office of the Judge of Probate of Shelby County, Alabama; being situated in Shelby County, Alabama.

Together with, as to each parcel, rights and easements existing under and by virtue of the Declaration, as follows:

Declaration of Covenants, Conditions and Restrictions for Meadow Brook Corporation Park, (the "Declaration") as set out in Real 64 page 91, along with 1st Amendment recorded in Real 95 page 826, 2nd Amendment recorded in Real 141 page 784, 3rd Amendment recorded in Real 177 page 244, 4th Amendment recorded in Real 243 page 453, 5th Amendment recorded in Real 245 page 89, 6th Amendment recorded as Inst. #1992-23529, 7th Amendment recorded as Inst. 1995-03028, 8th Amendment recorded as Inst. #1995-04188, 9th Amendment recorded as Inst. #1996-5491, 10th Amendment recorded as Inst. #1996-32318, 11th Amendment recorded as Inst. #1997-30077, 12th Amendment recorded as Inst. #1997-37856, 13th Amendment recorded as Inst. #1998-5588, 14th Amendment recorded as Inst. #1998-41655, 15th Amendment recorded as Inst. #1998-46243, 16th Amendment recorded as Inst. #1999-2935 and, 17th Amendment, recorded as Inst. #2002-1217, in Probate Office.

Exhibit B

Leases

1. Lease Agreement by and between Borrower (successor in interest to Daniel Meadow Brook South, L.L.C.) and Nichols TXEN Corporation dated May 8, 1988 as amended by that First Amendment to Lease Agreement Tenant Expansion Agreement dated December 9, 1998, Assignment of Lease and Release Agreement dated March 13, 2000 (assigning the Lease Agreement to Computer Sciences Corporation), Second Amendment to Lease Agreement dated March 13, 2000, and Third Amendment to Lease Agreement dated March 13, 2000.

2. Lease by and between Borrower (successor in interest to Meadow Brook South 2600, L.L.C.) and Allstate Insurance Company dated September 5, 2001, as amended by First Amendment to Lease Agreement dated January 1, 2002, Second Amendment to Lease Agreement dated April 22, 2002, and Third Amendment to Lease Agreement dated July 29, 2002, and Fourth Amendment to Lease Agreement dated December ~~26th~~, 2002.