

## ASSIGNMENT OF RENTS AND LEASES

This Assignment of Rents and Leases (as modified or replaced from time to time, this "Security Instrument") is made, and is executed as of March 11, 2003, by GS II Brook Highland LLC, a Delaware limited liability company (together with its successors and permitted assigns, "Assignor"), whose address for all purposes hereunder is c/o Developers Diversified Realty Corporation, 3300 Enterprise Parkway, P.O. Box 228042, Beachwood, Ohio 44122, to and for the benefit of ARCHON FINANCIAL, L.P., a Delaware limited partnership (together with all successors and assigns, the "Assignee"), whose address for all purposes hereunder is 600 East Las Colinas Boulevard, Suite 800, Irving, Texas 75039.

### WITNESSETH

For good and valuable consideration, the receipt and sufficiency of which by the parties hereto are hereby acknowledged, and for the purpose of securing the payment of all Indebtedness (as such term is defined in that certain Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing (as amended from time to time, the "Mortgage"), executed by Assignor for the benefit of Assignee, dated as of the date hereof and intended to be recorded simultaneously herewith, relating to the real property (the "Property") described in Exhibit A hereto, including, without limitation, payment of the indebtedness in the initial principal aggregate amount of \$123,500,000 (which principal amount may be increased up to \$150,000,000) to be paid with interest according to the Loan Agreement, dated as of the date hereof, by and among Assignor, and certain other entities, collectively as borrower, Assignee, as lender, and, for certain limited purposes, certain other entities (as the same may be extended, renewed, supplemented or modified, the "Loan Agreement"; capitalized terms used herein and not otherwise defined having the meanings ascribed thereto in the Loan Agreement)), and in accordance with the provisions of the Loan Agreement, Assignor agrees as follows:

1. Assignment. Assignor does hereby presently, absolutely and unconditionally assign to the Assignee, Assignor's right, title and interest in all current and future Leases (as such term is defined in the Mortgage) and the absolute, unconditional and continuing right to receive and collect all Rents (as such term is defined in the Mortgage), it being intended by Assignor that this assignment constitutes a present, outright, immediate, continuing and absolute assignment and not an assignment for additional security only. Such assignment to the Assignee shall not be construed to bind the Assignee to the performance of any of the covenants, conditions or provisions contained in any such Lease or otherwise impose any obligation upon the Assignee. The Assignee shall have no responsibility on account of this assignment for the control, care, maintenance, management or repair of the Property, for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property. Assignor agrees to execute and deliver to the Assignee such additional instruments, in form and substance reasonably satisfactory to the Assignee, as may hereafter be requested by the Assignee to further evidence and confirm such assignment.

2. License. Notwithstanding that Assignor hereby presently grants to the Assignee an outright, immediate, continuing and absolute assignment of the Rents and Leases and not merely the collateral assignment of, or the grant of a lien or security interest in, the Rents and

Leases, the Assignee hereby grants to Assignor and its successors and not to any lessee or any other person, a revocable license to collect and receive the Rents and to retain, use and enjoy the same and otherwise exercise all rights as landlord under any Lease, including, without limitation, the right to collect and receive the Rents and other sums due under the Leases and to perform all obligations of the landlord and enforce all obligations of the tenants, in each case subject to the terms hereof and of the Loan Agreement. During the continuance of any Event of Default, the license granted herein to Assignor shall immediately and automatically cease and terminate and shall be of no further force or effect, at which time Assignor at the request of the Assignee shall notify in writing all tenants and subtenants under any of the Leases that all Rent due thereunder should be paid to the Assignee at its address set forth in the Loan Agreement, or at such other place as the Assignee shall notify Assignor in writing (provided, that if such Event of Default ceases to exist, the license shall automatically be reinstated). Notwithstanding said license, Assignor agrees that the Assignee, and not Assignor, shall be deemed to be the creditor of each tenant or subtenant under any Lease in respect to assignments for the benefit of creditors and bankruptcy, reorganization, insolvency, dissolution or receivership proceedings affecting such tenant or subtenant (without obligation on the part of the Assignee, however, to file or make timely filings of claims in such proceedings or otherwise to pursue creditors' rights therein), with an option in favor of the Assignee to apply any money received by Assignor as such creditor in reduction of any amounts due under the Loan Documents. During the continuance of an Event of Default, any portion of the Rents held by Assignor shall be held in trust for the benefit of the Assignee for use in the payment of the Indebtedness. Upon the occurrence and during the continuance of an Event of Default, the license granted to Assignor herein shall immediately and automatically cease and terminate and shall be of no further force or effect, and the Assignee shall immediately be entitled to possession of all Rents, whether or not the Assignee enters upon or takes control of the Property, provided that if such Event of Default ceases to exist, the license shall automatically be reinstated.

3. Certain Rights of the Assignee. Subject to the revocable license granted above, upon the occurrence and during the continuance of an Event of Default, the Assignee shall have the immediate and continuing right, power and authority, either in person or by agent, without bringing any action or proceeding, or by a receiver appointed by a court, without the necessity of taking possession of the Property in its own name, and without the need for any other authorization or action by Assignor or the Assignee, in addition to and without limiting any of the Assignee's rights and remedies hereunder, under the Loan Agreement and any other Loan Documents and as otherwise available at law or in equity, (a) to notify any lessee or other person that the Leases have been assigned to the Assignee and that all Rents are to be paid directly to the Assignee, whether or not the Assignee has commenced or completed foreclosure or taken possession of the Property; (b) to reasonably settle, compromise, release, extend the time of payment of, and make allowances, adjustments and discounts of any Rents or other obligations in, to and under the Leases; (c) to demand, sue for or otherwise collect, receive, and enforce payment of Rents, including those past-due and unpaid and other rights under the Leases, prosecute any action or proceeding, and defend against any claim with respect to the Rents and Leases; (d) subject to the rights of tenants under the Leases, to enter upon, take possession of and operate the Property whether or not foreclosure under this Security Instrument has been instituted and without applying for a receiver; (e) to lease all or any part of the Property; and/or (f) to perform any and all obligations of Assignor under the Leases and reasonably exercise any



and all rights of Assignor therein contained to the full extent of Assignor's rights and obligations thereunder.

4. Irrevocable Instructions to Tenants. At the Assignee's request, Assignor shall deliver a copy of this Assignment to each tenant under a Lease and to each manager and managing agent or operator of the Property, and the Assignee shall have the continuing right to do so. Assignor irrevocably directs any tenant, manager, managing agent, or operator of the Property, without any requirement for notice to or consent by Assignor, to comply with all demands of the Assignee under this Article 4 and to turn over to the Assignee on demand all Rents which it receives. Assignor hereby acknowledges and agrees that payment of any Rents by a person to the Assignee as hereinabove provided shall constitute payment by such person, as fully and with the same effect as if such Rents had been paid to Assignor. The Assignee is hereby granted and assigned by Assignor the right, at its option, upon revocation of the license granted herein, upon an Event of Default that is continuing, to enter upon the Property in person or by agent, without bringing any action or proceeding, or by court-appointed receiver to collect the Rents. Any Rents collected after the revocation of the license shall be applied in accordance with the provisions of the Loan Agreement. Neither the enforcement of any of the remedies under this Article 4 nor any other remedies or security interests afforded to the Assignee under the Loan Documents, at law or in equity shall cause the Assignee to be deemed or construed to be a mortgagee in possession of the Property, to obligate the Assignee to lease the Property or attempt to do so, or to take any action, incur any expense, or perform or discharge any obligation, duty or liability whatsoever under any of the Leases or otherwise. Assignor shall, and hereby agrees to indemnify the Assignee for, and to hold the Assignee harmless from and against, any and all claims, liability, expenses, losses or damages which may or might be asserted against or incurred by the Assignee solely by reason of the Assignee's status as an assignee pursuant to the assignment of Rents and Leases contained herein, but excluding any claim to the extent caused by the Assignee's negligence or willful misconduct or related to conditions first arising after foreclosure of this Security Instrument, acceptance of a deed in lieu of foreclosure or possession of the Property by Assignee. Should the Assignee incur any such claim, liability, expense, loss or damage solely by reason of the Assignee's status as an assignee pursuant to the Assignment of Rents and Leases, the amount thereof, including all actual expenses and reasonable fees of attorneys, shall constitute Indebtedness secured hereby, and Assignor shall reimburse the Assignee therefor ten (10) days after written demand.

5. Unilateral Subordination. Assignee may, at any time and from time to time by specific written instrument intended for the purpose, unilaterally subordinate the lien of this Security Instrument to any Lease, without joinder or consent of, or notice to, Assignor, any tenant or any other person, and notice is hereby given to each tenant under a Lease of such right to subordinate. No such subordination shall constitute a subordination to any lien or other encumbrance, whenever arising, or improve the right of any junior lienholder; and nothing herein shall be construed as subordinating this Security Instrument to any Lease.

6. Notices. Any notice required or permitted to be given under this Security Instrument shall be given in the manner described in the Loan Agreement.

7. Covenant Running with the Land. All representations, warranties, covenants and Obligations contained in the Loan Agreement are incorporated herein by this reference and, to

the extent relating to the Property, are intended by the parties to be, and shall be construed as, covenants running with the Land. As used herein, "Assignor" shall refer to the party named in the first paragraph of this Security Instrument and to any subsequent owner of all or any portion of the Property (without in any way implying that the Assignee has or will consent to any such conveyance or transfer of the Property). All persons or entities who may have or acquire an interest in the Property shall be deemed to have notice of, and be bound by, the terms of the Loan Agreement and the other Loan Documents; however, no such party shall be entitled to any rights thereunder without the prior written consent of the Assignee.

8. Attorney-in-Fact. Assignor hereby irrevocably appoints the Assignee and its successors and assigns, as its attorney-in-fact, which appointment is irrevocable and coupled with an interest, after and during the continuance of an Event of Default (a) to execute and/or record any notices of completion, cessation of labor or any other notices that the Assignee deems appropriate to protect the Assignee's interest, if Assignor shall fail to do so within ten (10) days after written request by the Assignee, (b) upon the exercise of the rights of Assignee under this Security Instrument or the foreclosure with respect to Rents and Leases, to execute all instruments of assignment, conveyance or further assurance with respect to the Leases and Rents in favor of the grantee of any such deed and as may be necessary or desirable for such purpose, (c) to the extent that Assignee may lawfully do so, to prepare, execute and file or record financing statements, continuation statements, applications for registration and like papers necessary to create, perfect or preserve the Assignee's security interests and rights in or to any of the collateral, and (d) during the continuance of any Event of Default, to perform any obligation of Assignor hereunder; however: (1) the Assignee shall not under any circumstances be obligated to perform any obligation of Assignor; (2) any necessary sums advanced by the Assignee in such performance shall be included in the Indebtedness and shall bear interest at the Default Rate; (3) the Assignee as such attorney-in-fact shall only be accountable for such funds as are actually received by the Assignee; and (4) the Assignee shall not be liable to Assignor or any other person or entity for any failure to take any action which it is empowered to take under this Section 8.

9. Successors and Assigns. This Security Instrument shall be binding upon and inure to the benefit of the Assignee and Assignor and their respective successors and assigns.

10. No Waiver. Any failure by the Assignee to insist upon strict performance of any of the terms, provisions or conditions of the Loan Documents shall not be deemed to be a waiver of same, and the Assignee shall have the right at any time to insist upon strict performance of all of such terms, provisions and conditions.

11. Subrogation. To the extent proceeds of the Note have been used to extinguish, extend or renew any indebtedness against the Property, then the Assignee shall be subrogated to all of the rights, security titles, liens and interests existing against the Property and held by the holder of such indebtedness and shall have the benefit of the priority of all of the same, and such former rights, security titles, liens and interests, if any, are not waived, but are continued in full force and effect in favor of the Assignee.

12. Loan Agreement. If any conflict or inconsistency exists between this Security Instrument and the Loan Agreement, the Loan Agreement shall govern.



13. Release. Upon payment in full of the Indebtedness and performance in full of the Obligations, or upon the sale of the Property in the manner permitted by the Loan Agreement, the estate hereby granted shall cease, terminate and be void and the Assignee, at Assignor's expense, shall release the liens and security interests created by this Security Instrument. Upon the sale of a portion of the Property in accordance with the Loan Agreement and the partial prepayment or defeasance of the Indebtedness to the extent required thereunder, the Assignee, at Assignor's expense, shall effect a partial release of this Security Instrument to the extent required under, and in the manner set forth in, the Loan Agreement.

14. Waiver of Jury Trial; Consent to Jurisdiction. (a) TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, ASSIGNOR AND, BY ITS ACCEPTANCE OF THIS SECURITY INSTRUMENT, ASSIGNEE EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY AGREE TO WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS SECURITY INSTRUMENT, ANY OTHER LOAN DOCUMENT, OR ANY DEALINGS, CONDUCT, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS BY EITHER OF THEM RELATING TO THE SUBJECT MATTER OF THIS SECURITY INSTRUMENT AND THE LENDER/BORROWER RELATIONSHIP BETWEEN THEM. THE SCOPE OF THIS WAIVER IS INTENDED TO ENCOMPASS ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS TRANSACTION, INCLUDING WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. ASSIGNOR AND ASSIGNEE EACH ACKNOWLEDGE THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO THIS SECURITY INSTRUMENT, AND THAT EACH WILL CONTINUE TO RELY ON THE WAIVER IN THEIR RELATED FUTURE DEALINGS. ASSIGNOR AND ASSIGNEE EACH FURTHER WARRANT AND REPRESENT THAT EACH OF THEM HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT EACH OF THEM KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THE WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS SECURITY INSTRUMENT, OR ANY OTHER LOAN DOCUMENTS OR AGREEMENTS RELATING TO THIS SECURITY INSTRUMENT. IN THE EVENT OF LITIGATION, THIS SECURITY INSTRUMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

(b) ASSIGNOR AND, BY ITS ACCEPTANCE HEREOF, ASSIGNEE EACH FURTHER CONSENT, GENERALLY, UNCONDITIONALLY AND IRREVOCABLY, TO THE NONEXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS OF THE STATE IN WHICH ANY OF THE COLLATERAL IS LOCATED IN RESPECT OF ANY PROCEEDING RELATING TO ANY MATTER, CLAIM OR DISPUTE ARISING WITH RESPECT TO SUCH COLLATERAL. ASSIGNOR AND, BY ITS ACCEPTANCE OF THIS SECURITY INSTRUMENT, ASSIGNEE FURTHER IRREVOCABLY CONSENT TO THE SERVICE OF PROCESS, GENERALLY, UNCONDITIONALLY AND IRREVOCABLY, AT THE ADDRESSES SET FORTH IN THE FIRST PARAGRAPH

HEREOF IN CONNECTION WITH ANY OF THE AFORESAID PROCEEDINGS IN ACCORDANCE WITH THE RULES APPLICABLE TO SUCH PROCEEDINGS. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH OF ASSIGNOR AND, BY ITS ACCEPTANCE OF THIS SECURITY INSTRUMENT, ASSIGNEE HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW HAVE OR HAVE IN THE FUTURE TO THE LAYING OF VENUE IN RESPECT OF ANY OF THE AFORESAID PROCEEDINGS BROUGHT IN THE COURTS REFERRED TO ABOVE AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ASSIGNEE TO SERVE PROCESS IN ANY MANNER PERMITTED BY LAW OR TO COMMENCE PROCEEDINGS OR OTHERWISE PROCEED AGAINST ASSIGNOR IN ANY JURISDICTION.

15. Governing Law. THIS SECURITY INSTRUMENT SHALL BE GOVERNED BY, AND BE CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED. ALL PROVISIONS OF THE LOAN AGREEMENT INCORPORATED HEREIN BY REFERENCE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, AS SET FORTH IN THE GOVERNING LAW PROVISION OF THE LOAN AGREEMENT.

16. Headings. The Article, Section and Subsection titles hereof are inserted for convenience of reference only and shall in no way alter, modify, limit or define, or be used in construing, the scope, intent or text of such Articles, Sections or Subsections.

17. Entire Agreement. This Security Instrument and the other Loan Documents embody the entire agreement and understanding between the Assignee and Assignor pertaining to the subject matter hereof and thereof and supersede all prior agreements, understandings, representations or other arrangements, whether express or implied, written or oral, between such parties relating to the subject matter hereof and thereof. This Security Instrument and the other Loan Documents may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties.

18. Severability. If any provision of this Security Instrument is invalid or unenforceable, then such provision shall be given full force and effect to the fullest possible extent, and all of the remaining provisions of this Security Instrument shall remain in full force and effect and shall be binding on the parties hereto.

19. Waiver of Stay, Moratorium and Similar Rights. Assignor agrees, to the full extent that it may lawfully do so, that it will not at any time insist upon or plead or in any way take advantage of any appraisal, valuation, stay, marshaling of assets, exemption, extension, redemption or moratorium law now or hereafter in force and effect so as to prevent or hinder the enforcement of the provisions of this Security Instrument or the Indebtedness secured hereby, or any agreement between Assignor and the Assignee or any rights or remedies of the Assignee.

20. Lien Absolute, Multisite Real Estate and Multiple Collateral Transaction. Assignor acknowledges that this Security Instrument and a number of other Loan Documents and those



documents required by the Loan Documents together secure the Indebtedness. Assignor agrees that, to the extent permitted by law, the lien of this Security Instrument and all obligations of the Assignor hereunder shall be absolute and unconditional and shall not in any manner be affected or impaired by:

(a) any lack of validity or enforceability of the Loan Agreement or any other Loan Document, any agreement with respect to any of the Indebtedness or Obligations or any other agreement or instrument relating to any of the foregoing;

(b) any acceptance by the Assignee of any security for or guarantees of any of the Indebtedness hereby secured;

(c) any failure, neglect or omission on the part of the Assignee to realize upon or protect any of the Indebtedness hereby secured or any of the collateral security therefor, including the Loan Documents, or due to any other circumstance which might otherwise constitute a defense available to, or a discharge of, the Assignor in respect of the Indebtedness and Obligations hereby secured or any collateral security therefor, including the Loan Documents, or due to any other circumstance which might otherwise constitute a defense available to, or a discharge of, the Assignor in respect of the Indebtedness or Obligations or this Security Instrument (other than the indefeasible payment in full in cash of all the Indebtedness and Obligations hereby secured);

(d) any change in the time, manner or place of payment of, or in any other term of, all or any of the Indebtedness or Obligations;

(e) any release (except as to the property released), sale, pledge, surrender, compromise, settlement, nonperfection, renewal, extension, indulgence, alteration, exchange, modification or disposition of any of the Indebtedness or Obligations hereby secured or of any of the collateral security therefor;

(f) any amendment or waiver of or any consent to any departure from the Loan Agreement or any other Loan Documents or of any guaranty thereof, if any, and the Assignee may in its discretion foreclose, exercise any other remedy available to it under any or all of the Loan Documents without first exercising or enforcing any of its rights and remedies hereunder;

(g) any exercise of the rights or remedies of the Assignee hereunder or under any or all of the Loan Documents;

(h) any sale, assignment or foreclosure of the Note, the Mortgages or any of the other Loan Documents (other than this Security Instrument);

(i) any assumption or any other change in the composition of Assignor or any of the other Borrowers including the withdrawal or removal of the Sponsor from any current or future position of ownership, management or control of Assignor or any of the other Borrowers;

(j) the accuracy or inaccuracy of the representations and warranties made by Assignor or any of the other Borrowers in any of the Loan Documents;

(k) any insolvency, bankruptcy, arrangement, adjustment, composition, liquidation, disability, dissolution or lack of power of Assignor, any of the other Borrowers, or any other party at any time liable for the payment of all or part of the Indebtedness or Obligations; or any dissolution of Assignor or any of the other Borrowers, or any sale, lease or transfer of any or all of the assets of any of Assignor or any of the other Borrowers or of the Property, or any changes in the shareholders, partners or members of any of the Assignor or of the other Borrowers; or any merger, consolidation or reorganization of any of the Assignor or any of the other Borrowers;

(l) any payment by any of the Borrowers to Assignee is held to constitute a preference under bankruptcy laws, or for any reason Assignee is required to refund such payment or pay such amount to any of the Borrowers or someone else; or

(m) any other action taken or omitted to be taken with respect to the Loan Documents, the Indebtedness and Obligations, or the security and collateral therefor, whether or not such action or omission prejudices Assignor or the other Borrowers or increases the likelihood that Assignor or the other Borrowers will be required to pay the Indebtedness and the Obligations or that Assignee will enforce its rights hereunder, it is the unambiguous and unequivocal intention of Assignor that Assignor and the other Borrowers shall be obligated to pay the Indebtedness and Obligations when due and to perform its obligations hereunder, notwithstanding any occurrence, circumstance, event, action, or omission whatsoever, whether contemplated or un contemplated, and whether or not otherwise or particularly described herein, which obligation shall be deemed satisfied only upon the full and final payment and satisfaction of the Indebtedness and Obligations.

21. Real Estate Taxes. The Assignor shall not be entitled to any credit upon the Indebtedness or deduction from the assessed value of the Property by virtue of payment of real estate taxes on the Property. If any law is enacted or adopted or amended after the date of this Security Instrument which deducts the Indebtedness from the value of the Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Indebtedness or Assignee's interest in the Property, Assignor will pay such tax and shall reimburse Assignee for any such amounts paid by Assignee. In the event that the payment or reimbursement of such tax by Assignor would, in the opinion of Assignee's counsel, be unlawful or taxable to Assignee or unenforceable or provide the basis for a defense of usury, then in any such event, Assignee shall have the option, by written notice of not less than 90 days, to declare the Indebtedness immediately due and payable, in which event no prepayment premium or fee or Release Price or Yield Maintenance Premium will be due.

22. Incorporation by Reference. (a) All obligations of Assignor under this Security Instrument shall be limited by the provisions of Section 9.19 of the Loan Agreement, the provisions of which are incorporated herein by this reference.

(b) The parties hereby acknowledge that the Loan Agreement, among other things, contains restrictions on the prepayment of the Indebtedness, as well as restrictions on the sale, transfer and encumbrance of the Property and the ownership interests in the Assignor.



23. Recording Taxes. Assignor hereby covenants to pay any and all recording or other taxes or fees due in connection with this Security Instrument.

24. Multiple Exercise of Remedies. To the extent permitted by law, Assignor specifically consents and agrees that the Assignee may exercise rights and remedies hereunder and under the other Loan Documents separately or concurrently and in any order that the Assignee may deem appropriate.

Assignor hereby acknowledges receipt of a true copy of the within Security Instrument.

**[REMAINDER OF PAGE INTENTIONALLY BLANK]**

IN WITNESS WHEREOF, this Security Instrument has been duly executed and delivered to Assignee by Assignor on the date of the acknowledgment attached hereto.

**ASSIGNOR:**

GS II BROOK HIGHLAND LLC,  
a Delaware limited liability company

By: Developers Diversified of Alabama, Inc.,  
its Manager Member

By: Joan U. Allgood ]

Name:

Title:

**Joan U. Allgood**  
**Vice President**



STATE OF Ohio

COUNTY OF Cuyahoga

I, the undersigned, a Notary Public, in and for said County, in said State, hereby certify that Joan U. Allgood, whose name as Vice President of Developers Diversified of Alabama, Inc., an Alabama corporation, as sole and managing member of GS II Brook Highland LLC, a Delaware limited liability company, is signed to the foregoing Mortgage, Financing Statement and Security Agreement, and who is known to me, acknowledged before me on this day, that, being informed of the contents thereof, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 4<sup>th</sup> day of March, 2003.

Paula Jones  
NOTARY PUBLIC PAULA JONES  
(Print Name)

(SEAL)

PAULA JONES, Notary Public  
State of Ohio, Cuyahoga County  
My Commission Expires Jan. 11, 2004

My Commission Expires: Jan. 11, 2004

**EXHIBIT "A"**

**PARCEL 1**

**LOTS 1, 1A, 2,2A, ACCORDING TO THE BROOK HIGHLAND PLAZA RESURVEY, AS RECORD IN MAP BOOK 18M PAGE 99 IN THE PROBATE OFFICE OF SHELBY COUNTY, ALABAMA, BEING SITUATED IN SHELBY COUNTY, ALABAMA.**

**TOGETHER WITH ALL FO THE BENEFICIAL RIGHTS AND INTERESTS IN THE EASEMENT UNDER THE FOLLOWING INSTRUMENTS:**

**1). DECLARATION OF EASEMENTS AND RESTRICTIONS CONVENATS (BROOK HIGHLAND DEVELOPMENT-1.35 ACRES OUT PARCEL) BY AMSOUTH BANK N.A. AS ANCILLARY TRUSTEE FOR NBNC NATIONAL BANK OF NORTH CAROLINA, AS TRUSTEE FOR THE PUBLIC EMPLOYEES RETIREMENT SYSTEM OF OHIO, DATED AUGUST 29, 1990, AND RECORDED IN REAL 307, PAGE 985, IN SAID PROBATE OFFICE.**

**2.) EASEMENT AGREEMENT DATED OCTOBER 12, 1993, BY AN BETWEEN AMSOUTH BANK N.A., AS ANCILLARY TRUSTEE FOR NATIONS BANK OF NORTH CAROLINA, N.A. AS TRUSTEE FOR THE PUBLIC EMPLOYEES RETIREMENT SYSTEM OF OHIO, AND BROOK HIGHLAND LIMITED PARTNERSHIP, A GEORGIA LIMITED PARTNERSHIP RECORDED AS INSTRUMENT # 1993-32515 IN SAID PROBATE OFFICE.**

**PARCEL 2**

**ALL BENEFICIAL RIGHTS IN EASEMENTS GRANTED TO DEVELOPERS DIVERSIFIED OF ALABAMA CORP., BY THE EASEMENT AGREEMENT DATED DECEMBER 30, 1994, BY AND BETWEEN BROOK HIGHLAND LIMITED PARTNERSHIP AND DEVELOPERS DIVERSIFIED OF ALABAMA., AS RECORDED AS RECORDED AS INSTRUMENT NO. 1994-37773 IN PROBATE OFFICE OF SHELBY COUNTY, ALABAMA.**

**ALL BEING SITUATED IN SHELBY COUNTY, ALABAMA.**



**ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN SECTION 31 ,  
TOWNSHIP 18 SOUTH RANGE 1 WEST, SHELBY COUNTY, ALABAMA BEING  
MORE PARTICULARLY DESCRIBED AS FOLLOWS;**

**BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER  
OF SECTION 31, TOWNSHIP 18 SOUTH, RANGE 1 WEST, SHELBY COUNTY,  
ALABAMA BEING SOUTH 89° 31'51" WEST A DISTANCE OF 848.96 FEET FROM  
THE NORTHEAST CORNER OF LOT 1, BROOK HIGHLAND PLAZA RESURVEY  
(MAP BOOK 18, PAGE 99);**

**THENCE RUN SOUTH 89°31'51" WEST A DISTANCE OF 50.00 FEET TO A POINT.  
THENCE RUN SOUTH 00°38'38" EAST A DISTANCE OF 300.00 FEET TO A POINT;  
THENCE RUN NORTH 89° 37'51" EAST A DISTANCE OF 20.00 FEET TO A POINT;  
THENCE RUN SOUTH 01° 36'53" EAST A DISTANCE OF 295.07 FEET TO A POINT;  
THENCE RUN SOUTH 89°31'51" WEST A DISTANCE OF 225.00 FEET TO A POINT;  
THENCE RUN SOUTH 00°38'38" EAST A DISTANCE OF 145.41 FEET TO A POINT;  
THENCE RUN SOUTH 88°24'44" WEST A DISTANCE OF 150.94 FEET TO A POINT;  
THENCE RUN ALONG THE ARC OF A CURVE AN ARC DISTANCE OF 325.14 FEET  
(SAID CURVE HAVING A RADIUS OF 910.27 FEET A CHORD BEARING OF NORTH  
81°24'44" WEST A CHORD DISTANCE OF 323.42 FEET) TO A POINT;  
THENCE RUN NORTH 71°10'44" WEST A DISTANCE OF 90.62 FEET TO A POINT;  
THENCE RUN NORTH 64° 18'36" WEST A DISTANCE OF 37.79 FEET TO A POINT;  
THENCE RUN NORTH 73°31'00" WEST A DISTANCE OF 110.98 FEET TO A POINT;  
THENCE RUN NORTH 56 °07'21" WEST A DISTANCE OF 73.40 FEET TO A POINT;  
LOCATED ON THE TO A POINT LOCATED ON THE EASTERLY RIGHT OF WAY  
LINE OF BROOK-HIGHLAND PARKWAY (RIGHT OF WAY VARIES);  
THENCE RUN ALONG AND COINCIDENT WITH THE EASTERLY RIGHT OF WAY  
LINE OF BROOK HIGHLAND PARKWAY NORTH 16°29'00" EAST A DISTANCE OF  
206.74 FEET TO A POINT;  
THENCE RUN ALONG THE COINCIDENT WITH THE EASTERLY RIGHT OF WAY  
LINE FO BROOK HIGHLAND PARKWAY NORTH 73°31'00" WEST A DISTANCE OF  
12.00 FEET TO A POINT; THENCE RUN ALONG AND COINCIDENT WITH THE  
EASTERLY RIGHT OF WAY LINE OF BROOK HIGHLAND PARKWAY, ALONG**

**THE ARC OF A CURVE AN ARC DISTANCE OF 254.68 FEET (SAID CURVE HAVING A RADIUS OF 310.47 FEET, A CHORD BEARING OF NORTH 39°59'00" EAST, AND A CHORD DISTANCE OF 247.60 FEET) TO A POINT; THENCE RUN ALONG AND COINCIDENT WITH THE EASTERLY RIGHT OF WAY LINE OF BROOK HIGHLAND PARKWAY NORTH 26°31'00" WEST A DISTANCE OF 12.00 FEET TO A POINT; THENCE RUN ALONG AND COINCIDENT WITH THE EASTERLY RIGHT OF WAY LINE OF BROOK HIGHLAND PARKWAY NORTH 63°29'00" A DISTANCE OF 518.37 FEET TO A POINT; THENCE RUN ALONG AND COINCIDENT WITH THE EASTERLY RIGHT OF WAY LINE OF BROOK HIGHLAND PARKWAY 29°31'00" WEST A DISTANCE OF 20.00 FEET TO A POINT; THENCE RUN ALONG AND COINCIDENT WITH THE EASTERLY RIGHT OF WAY LINE OF BROOK HIGHLAND PARKWAY, ALONG THE ARC OF A CURVE AN ARC DISTANCE OF 501.28 FEET (SAID CURVE HAVING A RADIUS OF 635.12 FEET, A CHORD BEARING OF NORTH 40°52'21" EAST, A CHORD DISTANCE OF 488.37 FEET) TO A POINT; THENCE LEAVING THE RIGHT OF WAY LINE OF BROOK HIGHLAND PARKWAY RUN SOUTH 89°50'48" EAST, A DISTANCE OF 85.21 FEET TO A POINT; THENCE RUN SOUTH 00°38'38" EAST, A DISTANCE OF 355.06 FEET TO A POINT; SAID POINT BEING THE POINT OF BEGINNING.**

**SAID TRACT BEING DESIGNATED AS PROPOSED "PHASE II" ON THAT CERTAIN SURVEY FOR A.B. SHOPPING CENTERS PROPERTIES, PREPARED BY CARR & ASSOCIATES ENGINEERS, INC., BEARING THE SEAL AND CERTIFICATION OF BARTON F. CARR, REGISTERED PROFESSIONAL LAND SURVEYOR NO 16685, DATED NOVEMBER 25, 1994, LAST REVISED DECEMBER 21, 1994.**