

**THIS MORTGAGE AND SECURITY AGREEMENT SERVES AS A FINANCING STATEMENT FILED AS A FIXTURE FILING, PURSUANT TO SECTION 7-9-402(6), CODE OF ALABAMA, 1975, AS AMENDED.**

STATE OF ALABAMA                    )  
                                                  )  
COUNTY OF SHELBY                    )

**MORTGAGE AND SECURITY AGREEMENT AND**  
**ASSIGNMENT OF RENTS AND LEASES**

**THIS MORTGAGE AND SECURITY AGREEMENT AND ASSIGNMENT OF RENTS AND LEASES**, made this 30th day of July, 2003, between **DANIEL REALTY COMPANY**, an Alabama general partnership, (hereinafter called the "Borrower"), Mortgagor, whose address is 3595 Grandview Parkway, Suite 410, Birmingham, Alabama 35243, Attn: Christopher A. Brown, Senior Vice President, and **FIRST COMMERCIAL BANK**, an Alabama banking corporation (hereinafter called the "Lender"), Mortgagee, whose address is 800 Shades Creek Parkway, Birmingham, Alabama 35209.

**WITNESSETH**

**WHEREAS**, Borrower is justly indebted to Lender in the principal sum of Five Million Five Hundred Thousand and 00/100 Dollars (\$5,500,000.00), pursuant to a line of credit loan in said initial principal amount (the "Loan") said Loan being evidenced by a Promissory Note in said principal amount made payable to the order of Lender (the "Note") and a Loan and Security Agreement dated as of the date hereof (the "Loan Agreement") between Borrower and the Lender; and

**WHEREAS**, as a condition to making the Loan, Lender has required that Borrower mortgage, pledge, assign, and convey to it the real estate and interests more particularly described herein.

**NOW, THEREFORE**, the undersigned, in consideration of the indebtedness above mentioned, and to secure the prompt payment of same, with the interest thereon, and any extensions or renewals of same, and further to secure the performance of the covenants, conditions and agreements hereinafter set forth, and to secure all other indebtedness of every description of Borrower to Lender, have bargained and sold and do hereby grant, bargain, sell, alien and convey unto the Lender, its successors and assigns, the following described land, real estate, buildings, improvements, fixtures, furniture, and other personal property (which together with any additional such property hereafter acquired by the Borrower and subject to the lien of this Mortgage, or intended to be so, as the same may be from time to time constituted is hereinafter sometimes referred to as the "Mortgaged Property") to-wit:

(a) All that tract or parcel of land particularly described in Exhibit A attached hereto and made a part hereof.

(b) All buildings, structures, and improvements of every nature whatsoever now or hereafter situated on the property described in Exhibit A, and all fixtures, machinery, equipment, furniture and furnishings and personal property of every nature whatsoever now or hereafter owned by the Borrower and located in, on, or used or intended to be used in connection with or with the operation of said property, buildings, structures or other improvements, including all extensions, additions, improvements, betterments, renewals and replacements to any of the foregoing.

(c) All building materials, equipment, fixtures, fittings and personal property of every kind or character now owned or hereafter acquired by the Borrower for the purpose of being used or useful in connection with the improvements located or to be located on the real estate described herein, whether such materials, equipment, fixtures, fittings and personal property are actually located on or adjacent to said real estate or not, and whether in storage or otherwise, wheresoever the same may be located, including, but without limitation, all lumber and lumber products, bricks, building stones and building blocks, sand and cement, roofing material, paint, doors, windows, hardware, nails, wires and wiring, plumbing and plumbing fixtures, heating and air conditioning equipment and appliances, electrical and gas equipment and appliances, pipes and piping, ornamental and decorative fixtures, furniture, ranges, refrigerators, dishwashers, disposals, and in general all building materials and equipment of every kind and character used or useful in connection with said improvements.

**TOGETHER** with all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments, and appurtenances whatsoever, in any way belonging, relating or appertaining to any of the property hereinabove described, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by the Borrower, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of the Borrower of, in and to the same, including but not limited to:

(a) All rents, profits, issues and revenues of the Mortgaged Property from time to time accruing, whether under leases or tenancies now existing or hereafter created, reserving to Borrower, however, so long as Borrower is not in default hereunder, the right to receive and retain the rents, issues and profits thereof; and

(b) All judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the premises or any part thereof under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the premises or the improvements thereon or any part thereof, or to any rights appurtenant thereto, including any award for change of grade of streets. Lender is hereby authorized on behalf and in the name of Borrower to execute and deliver valid acquittances for, and appeal from, any such judgments or awards. Lender may apply to all such sums or any part thereof so received, after the payment of all its expenses, including costs and attorney's fees, on the indebtedness secured hereby in



such manner as it elects, or at its option, the entire amount or any part thereof so received may be released.

**TO HAVE AND TO HOLD** the Mortgaged Property and all parts thereof unto the Lender, its successors and assigns forever, subject however to the terms and conditions herein:

**PROVIDED, HOWEVER,** that these presents are upon the condition that, if the Borrower shall pay or cause to be paid to the Lender the principal and interest payable in respect to the Note, at the times and in the manner stipulated therein and herein, all without any deduction or credit for taxes or other similar charges paid by the Borrower, and shall keep, perform and observe all and singular the covenants and promises in the Note, and in this Mortgage expressed to be kept, performed, and observed by and on the part of the Borrower, and all other indebtedness of every description owed by Borrower to Lender, all without fraud or delay, then this Mortgage, and all the properties, interest and rights hereby granted, bargained, and sold shall (except as provided in Section 1.14 hereof) cease, determine and be void, but shall otherwise remain in full force and effect.

**AND** the Borrower covenants and agrees with the Lender as follows:

## **ARTICLE I**

1.01. **Performance of Note and Mortgage.** The Borrower will perform, observe and comply with all provisions hereof and of the Note secured hereby and will duly and punctually pay to the Lender the sum of money expressed in the Note with interest thereon and all other sums required to be paid by the Borrower pursuant to the provisions of this Mortgage, and will perform, fulfill and pay all its obligations under all other security agreements, guaranty agreements, pledges, assignments, notes and other documents, writings and instruments (collectively, with the Note and the Mortgage, the "Loan Documents"), all without any deductions or credit for taxes or other similar charges paid by the Borrower.

1.02. **Warranty of Title.** The Borrower is lawfully seized of an indefeasible estate in fee simple in the land and real property hereby Mortgaged and has good and absolute title to all existing personal property hereby Mortgaged and has good right, full power and lawful authority to sell, convey and mortgage the same in the manner and form aforesaid; that, except as otherwise set forth on Exhibit B hereto, the same is free and clear of all liens, charges, and encumbrances whatsoever, including, as to the personal property and fixtures, conditional sales contracts, chattel Mortgages, security agreements, financing statements, and anything of a similar nature, and that Borrower shall and will warrant and forever defend the title thereto unto the Lender, its successors and assigns, against the lawful claims of all persons whomsoever.

1.03. **Monthly Tax Deposits.** If required by the Lender, the Borrower will pay to the Lender on the first day of each month together with and in addition to the regular payment of interest, until the Note are fully paid, an amount equal to one-twelfth (1/12) of the yearly taxes and assessments as estimated by the Lender to be sufficient to enable the Lender to pay, at least thirty (30) days before they become due, all taxes, assessments, and other similar charges against the Mortgaged Property or any part thereof. Such added payments shall not be, nor be deemed to be, trust funds, but may be commingled with the general funds of the Lender, and no interest

shall be payable in respect thereof. Upon demand of the Lender, the Borrower agrees to deliver to the Lender such additional moneys as are necessary to make up any deficiencies in the amounts necessary to enable the Lender to pay such taxes, assessments and similar charges. In the event of a default by the Borrower in the performance of any of the terms, covenants or conditions in the Note, the Loan Documents or Mortgage, the Lender may apply to the reduction of the sums secured hereby, in such manner as the Lender shall determine, any amount under this Section 1.03 remaining to the Borrower's credit.

**1.04. Other Taxes, Utilities and Liens.**

(a) The Borrower will pay promptly, when and as due, and will promptly exhibit to the Lender receipts for the payment of, all taxes, assessments, water rates, dues, charges, fines and impositions of every nature whatsoever imposed, levied or assessed or to be imposed, levied or assessed upon or against the Mortgaged Property or any part thereof, or upon the interest of the Lender in the Mortgaged Property (other than any of the same for which provision has been made in Section 1.03 hereof), as well as all income taxes, assessments and other governmental charges lawfully levied and imposed by the United States of America or any state, county, municipality, borough or other taxing authority upon the Borrower or in respect of the Mortgaged Property or any part thereof, or any charge which, if unpaid, would become a lien or charge upon the Mortgaged Property prior to or equal to the lien of this Mortgage for any amounts secured hereby or would have priority or equality with this Mortgage in distribution of the proceeds of any foreclosure sale of the Mortgaged Property or any part thereof.

(b) The Borrower will promptly pay all charges by utility companies, whether public or private, for electricity, gas, water, sewer or other utilities provided to any Mortgaged Property.

(c) The Borrower shall promptly pay and will not suffer any mechanic's, laborer's, statutory or other lien which might or could be prior to or equal to the lien of this Mortgage to be created or to remain outstanding upon any of the Mortgaged Property.

(d) In the event of the passage of any state, federal, municipal or other governmental law, order, rule or regulation, subsequent to the date hereof, in any manner changing or modifying the laws now in force governing the taxation of mortgages or debts secured by mortgages or the manner of collecting taxes so as to affect adversely the Lender, the entire balance of the principal sum secured by this Mortgage and all interest accrued thereon shall without notice become due and payable forthwith at the option of the Lender.

**1.05. Insurance.** The Borrower will procure for, deliver to, and maintain for the benefit of, the Lender during the life of this Mortgage, insurance policies as required by the Loan Agreement.

The Lender is hereby authorized and empowered, at its option, to adjust or compromise any loss under any insurance policies on the Mortgaged Property, and to collect and receive the proceeds from any such policy or policies. Each insurance company is hereby authorized and directed to make payment for all such losses, directly to the Lender, instead of to the Borrower and Lender jointly. After deducting from said insurance proceeds any reasonable expenses incurred by it in the collection or handling of said fund, the Lender may apply the net proceeds,



at its option, either toward restoring the improvements, or as a credit on any portion of the Mortgage indebtedness selected by it, whether then matured or to mature in the future, or at the option of the Lender, such sums either wholly or in part may be paid over to the Borrower to be used to repair such buildings or to build new buildings in their place or for any other purpose or object satisfactory to the Lender without affecting the lien of the Mortgage for the full amount secured hereby before such payment took place. Lender shall not be held responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure.

If required by the Lender, the Borrower will pay to the Lender on the first day of each month, together with and in addition to the regular payment of interest and monthly tax deposit (as required by Section 1.03 hereof) until the Note are fully paid, an amount equal to one-twelfth (1/12) of the yearly premiums for insurance. Such amount shall be used by Lender to pay such insurance premiums when due. Such added payments shall not be, nor be deemed to be, trust funds, but may be commingled with the general funds of the Lender, and no interest shall be payable in respect thereof. Upon demand of the Lender, the Borrower agrees to deliver to the Lender such additional moneys as are necessary to make up any deficiencies in the amounts necessary to enable the Lender to pay such insurance premiums. In the event of a default by the Borrower in the performance of any of the terms, covenants and conditions in the Note, this Mortgage or the other Loan Documents, the Lender may apply to the reduction of the sums secured hereby, in such manner as the Lender shall determine, any amount paid in accordance herewith remaining to the Borrower's credit.

**1.06. Condemnation.** If all or any part of the Mortgaged Property shall be damaged or taken through condemnation (which term when used in this Mortgage shall include any damage or taking by any governmental authority, and any transfer by private sale in lieu thereof), either temporarily or permanently, within 30 days following such condemnation, Borrower shall either (i) provide additional Approved Real Estate (as that term is defined in the Loan Agreement) to the Lender such that Section 5.16 of the Loan Agreement is satisfied or (ii) make payments on the outstanding principal balance of the Loan such that Section 5.16 of the Loan Agreement is satisfied. The Lender shall be entitled to compensation, awards, and other payments or relief therefor and is hereby authorized, at its option, to commence, appear in and prosecute, in its own or the Borrower's name, any action or proceedings relating to any condemnation, and to settle or compromise any claim in connection therewith. All such compensation, awards, damages, claims, rights of action and proceeds and the right thereto are hereby assigned by the Borrower to the Lender, who, after deducting therefrom all its reasonable expenses, including attorney's fees, may release any moneys so received by it without affecting the lien of this Mortgage or may apply the same in such manner as the Lender shall determine to the reduction of the sums secured hereby, and any balance of such moneys then remaining shall be paid to the Borrower. The Borrower agrees to execute such further assignments of any compensations, awards, damages, claims, rights of action and proceeds as the Lender may reasonably require.

**1.07. Care of the Property.**

(a) The Borrower will preserve and maintain the Mortgaged Property in good condition and repair, and will not commit or suffer any waste and will not do or suffer to be done

anything which will increase the risk of fire or other hazard to the Mortgaged Property or any part thereof.

(b) Except as otherwise provided herein, no buildings, fixtures, personal property, or other part of the Mortgaged Property shall be removed, demolished or substantially altered without the prior written consent of the Lender. The Borrower may sell or otherwise dispose of, free from the lien of this Mortgage, furniture, furnishings, equipment, tools, appliances, machinery, fixtures or appurtenances, subject to the lien hereof, which may become worn out, undesirable, obsolete, disused or unnecessary for use in the operation of the Mortgaged Property, not exceeding in value at the time of disposition thereof One Thousand Dollars (\$1,000.00) for any single transaction, or a total of Five Thousand Dollars (\$5,000.00) in any one year, upon replacing the same by, or substituting for the same, other furniture, furnishings, equipment, tools, appliances, machinery, fixtures, or appurtenances not necessarily of the same character, but of at least equal value to the Borrower and costing not less than the amount realized from the property sold or otherwise disposed of, which shall forthwith become, without further action, subject to the lien of this Mortgage.

(c) If the Mortgaged Property or any part thereof is damaged by fire or any other cause, the Borrower will give immediate written notice of the same to the Lender.

(d) The Lender is hereby authorized to enter upon and inspect the Mortgaged Property at any time during normal business hours.

(e) The Lender is hereby authorized to cause the Mortgaged Property to be appraised and reappraised from time to time, as deemed necessary by the Lender, whether or not an Event of Default has occurred hereunder, and the Borrower agrees to pay all expenses incurred by the Lender in connection therewith. Lender agrees to pay the cost of any appraisal required in excess of one per calendar year.

(f) The Borrower will promptly comply with all present and future laws, ordinances, rules and regulations of any governmental authority affecting the Mortgaged Property or any part thereof, including, without limitation, the Americans with Disabilities Act.

(g) If all or any part of the Mortgaged Property shall be damaged by fire or other casualty, the Borrower will promptly restore the Mortgaged Property to the equivalent of its original condition, regardless of whether or not there shall be any insurance proceeds therefor. If a part of the Mortgaged Property shall be physically damaged through condemnation, the Borrower will promptly restore, repair or alter the remaining property in a manner satisfactory to the Lender.

**1.08. Further Assurances; After Acquired Property.** At any time, and from time to time, upon request by the Lender, the Borrower will make, execute and deliver or cause to be made, executed and delivered, to the Lender and, where appropriate, to cause to be recorded and/or filed and from time to time thereafter to be re-recorded and/or re-filed at such time and in such offices and places as shall be deemed desirable by the Lender any and all such other and further mortgages, instruments of further assurance, certificates and other documents as may, in the reasonable opinion of the Lender, be necessary or desirable in order to effectuate, complete,



enlarge, or perfect, or to continue and preserve the obligations of the Borrower under the Note, this Mortgage or the other Loan Documents, and the lien of this Mortgage as a first and prior lien upon all of the Mortgaged Property, whether now owned or hereafter acquired by the Borrower. Upon any failure by the Borrower so to do, the Lender may make, execute, and record any and all such mortgages, instruments, certificates, and documents for and in the name of the Borrower and the Borrower hereby irrevocably appoints the Lender the agent and attorney-in-fact of the Borrower so to do. The lien hereof will automatically attach, without further act, to all after acquired property attached to and/or used in the operation of the Mortgaged Property or any part thereof.

**1.09. Leases Affecting Mortgaged Property.** The Borrower will comply with and observe its obligations as landlord under all leases affecting the Mortgaged Property or any part thereof. If requested by Lender, Borrower will furnish Lender with executed copies of all leases now or hereafter created on said premises; and all leases now or hereafter entered into will be in form and substance subject to the approval of Lender. Borrower will not accept payment of rent more than one (1) month in advance without the express written consent of Lender. Borrower assigns to the Lender as additional security all such leases, whether now existing or hereafter created, including, without limitation, all rents, royalties, issues and profits of the premises from time to time accruing, and will not cancel, surrender or modify any lease so assigned without the written consent of the Lender.

**1.10. Expenses.** The Borrower will pay or reimburse the Lender for all reasonable attorney's fees, costs and expenses incurred by the Lender in any action, proceeding or dispute of any kind in which the Lender is made a party, or appears as party plaintiff or defendant, affecting the Note, this Mortgage, the other Loan Documents, Borrower or the Mortgaged Property, including but not limited to the foreclosure of this Mortgage, any condemnation action involving the Mortgaged Property, or any action to protect the security hereof; and any such amounts paid by the Lender shall bear interest at the Default Rate, shall be payable upon demand, and shall be secured by the lien of this Mortgage.

**1.11. Performance by Lender of Defaults by Borrower.** If the Borrower shall default in the payment of any tax, lien, assessment or charge levied or assessed against the premises; in the payment of any utility charge, whether public or private; in the payment of insurance premiums; in the procurement of insurance coverage and the delivery of the insurance policies required hereunder; or in the performance or observance of any covenant, condition or term of this Mortgage, then the Lender, at its option, may perform or observe the same, and all payments made for costs or expenses incurred by the Lender in connection therewith, shall be secured hereby and shall be, without demand, immediately repaid by the Borrower to the Lender with interest thereon at the Default Rate. The Lender shall be the sole judge of the legality, validity and priority of any such tax, lien, assessment, charge, claim and premium; of the necessity for any such actions and of the amount necessary to be paid in satisfaction thereof. The Lender is hereby empowered to enter and to authorize others to enter upon the premises or any part thereof for the purpose of performing or observing any such defaulted covenant, condition or term, without thereby becoming liable to the Borrower or any person in possession holding under the Borrower.

1.12. **Books and Records.** The Borrower shall keep and maintain at all times full, true and accurate books of accounts and records, adequate to reflect correctly the results of the operation of the Mortgaged Property. The Borrower will furnish to the Lender within ninety (90) days after the end of the Borrower's fiscal year, a balance sheet and a statement of income and expenses, both in reasonable detail and form satisfactory to Lender and certified by the Borrower (or a member, manager, or other officer thereof), and audited by a Certified Public Accountant reasonably satisfactory to the Lender, and a rent schedule of the Mortgaged Property, certified by the Borrower (or a member, manager, or other officer thereof), showing the name of each tenant, and for each tenant, the space occupied, the lease expiration date and the rent paid.

1.13. **Estoppel Affidavits.** The Borrower, within ten (10) days after written request from the Lender, shall furnish a written statement, duly acknowledged, setting forth the unpaid principal of, and interest on, the Note and whether or not any offsets or defenses exist against such principal and interest.

1.14. **Compliance with Applicable Environmental Law.** The term "Applicable Environmental Law" shall be defined as any statutory law or case law pertaining to health or the environment, or petroleum products, or oil, or hazardous substances, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") as codified at 42 U.S.C. § 9601 et. seq.; the Resource Conservation and Recovery Act of 1976, as amended, as codified at 42 U.S.C. § 6901 et seq.; the Superfund Amendments and Reauthorization Act of 1986, as codified at 42 U.S.C. § 9671, et seq.; and the Hazardous Wastes Management and Minimization Act as codified at Code of Ala. 1975 § 22-30-1 et. seq., as amended; the terms "hazardous substance" and "release" shall have the meanings specified in CERCLA; provided, in the event CERCLA is amended to broaden the meaning of any term defined thereby, such broader meaning shall apply subsequent to the effective date of such amendment; and provided, to the extent that the laws of the State of Alabama establish a meaning for "hazardous substance" or "release" which is broader than that specified in CERCLA, such broader meaning shall apply. The Borrower represents and warrants to the Lender that, to the best of Borrower's knowledge, the Mortgaged Property and the Borrower are not in violation of or subject to any existing, pending or threatened investigation or inquiry by any governmental authority or any response costs or remedial obligations under any Applicable Environmental Law and this representation and warranty would continue to be true and correct following disclosure to the applicable governmental authorities of all relevant facts, conditions and circumstances, if any, pertaining to the Mortgaged Property; to the best of Borrower's knowledge, that the Borrower has not obtained and is not required to obtain any permits, licenses or similar authorizations to construct, occupy, operate or use any buildings, improvements, fixtures or equipment forming a part of the Mortgaged Property by reason of any Applicable Environmental Law; that the Borrower has taken all steps necessary to determine and has determined that, to the best of Borrower's knowledge, no petroleum products, oil, hazardous substances, or solid wastes have been disposed of or otherwise released on the Mortgaged Property; and that the use which the Borrower has made, makes or intends to make of the Mortgaged Property will not result in the location on or disposal or other release of any petroleum products, oil, hazardous substances or solid waste on or to the Mortgaged Property. The Borrower hereby agrees to pay any fines, charges, fees, expenses, damages, losses, liabilities, or response costs arising from or pertaining to the application of any such Applicable Environmental Law to the Mortgaged Property and to indemnify and forever save the Lender



harmless from any and all judgments, fines, charges, fees, expenses, damages, losses, liabilities, response costs, or attorneys' fees and expenses arising from the application of any such Applicable Environmental Law to the Mortgaged Property or the Lender (other than as a result of any gross negligence or willful acts of Lender, its successors and assigns); and this indemnity shall survive any foreclosure of this Mortgage or the taking by the Lender of a deed in lieu of foreclosure. The Borrower agrees to notify the Lender in the event that any governmental agency or other entity notifies the Borrower that it may not be in compliance with any Applicable Environmental Laws. The Borrower agrees to permit the Lender to have access to the Mortgaged Property at all reasonable times in order to conduct, at the Borrower's expense, any tests which the Lender deems are necessary to ensure that the Borrower and the Mortgaged Property are in compliance with all Applicable Environmental Laws.

## **ARTICLE II**

**2.01. Event of Default.** The term "Event of Default," wherever used in this Mortgage, shall have the same meaning as given such term in the Loan Agreement.

**2.02. Acceleration of Maturity.** If an Event of Default shall have occurred and be continuing, then the entire principal amount of the indebtedness secured hereby with interest accrued thereon shall, at the option of the Lender, become due and payable without notice or demand, time being of the essence; and any omission on the part of the Lender to exercise such option when entitled to do so shall not be considered as a waiver of such right.

**2.03. Right of Lender to Enter and Take Possession.**

(a) If an Event of Default shall have occurred and be continuing, the Borrower, upon demand of the Lender, shall forthwith surrender to the Lender the actual possession, and if and to the extent permitted by law, the Lender may enter and take possession, of all the Mortgaged Property, and may exclude the Borrower and its agents and employees wholly therefrom.

(b) Upon every such entering upon or taking of possession, the Lender may hold, store, use, operate, manage and control the Mortgaged Property and conduct the business thereof, and, from time to time (i) make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon and purchase or otherwise acquire additional fixtures, personalty and other property; (ii) insure or keep the Mortgaged Property insured; (iii) manage and operate the Mortgaged Property and exercise all the rights and powers of the Borrower in its name or otherwise, with respect to the same; (iv) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted the Lender, all as the Lender from time to time may determine to be to its best advantage; and the Lender may collect and receive all the income, revenues, rents, issues and profits of the same including those past due as well as those accruing thereafter, and, after deducting (A) all expenses of taking, holding, managing, and operating the Mortgaged Property (including compensation for the services of all persons employed for such purposes); (B) the cost of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements, purchases and acquisitions; (C) the cost of such insurance; (D) such taxes, assessments and other charges prior to the lien of this Mortgage as the Lender may determine to pay; (E) other proper charges upon the Mortgaged Property or any part thereof; and (F) the reasonable compensation,

expenses and disbursements of the attorneys and agents of the Lender; shall apply the remainder of the moneys so received by the Lender to the payment of accrued interest, to the payment of tax and insurance deposits required in Sections 1.03 and 1.05 hereof, and to the payment of overdue installments of principal, all in such order and priority as the Lender may determine.

(c) Whenever all such Events of Default have been cured and satisfied, the Lender may, at its option, surrender possession of the Mortgaged Property to the Borrower, its successors or assigns. The same right of taking possession, however, shall exist if any subsequent Event of Default shall occur and be continuing.

#### **2.04. Receiver.**

(a) If an Event of Default shall have occurred and be continuing, the Lender, upon application to a court of competent jurisdiction, shall be entitled, without notice and without regard to the adequacy of any security for the indebtedness hereby secured or the solvency of any party bound for its payment, to the appointment of a receiver to take possession of and to operate the Mortgaged Property and to collect the rents, profits, issues, and revenues thereof.

(b) The Borrower will pay to the Lender upon demand all expenses, including receiver's fees, attorney's fees, costs and agent's compensation, incurred pursuant to the provisions contained in this Section 2.04; and all such expenses shall be secured by this Mortgage.

**2.05. Lender's Power of Enforcement.** If an Event of Default shall have occurred and be continuing, the Lender may, either with or without entry or taking possession as hereinabove provided or otherwise, proceed by suit or suits at law or in equity or any other appropriate proceeding or remedy (a) to enforce payment of the Note, any other Loan Document, or the performance of any term thereof or any other right, (b) to foreclose this Mortgage and to sell, as an entirety or in separate lots or parcels, the Mortgaged Property, as provided by law, and (c) to pursue any other remedy available to it, all as the Lender shall deem most effectual for such purposes. The Lender shall take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, as the Lender may determine.

**2.06. Power of Sale.** If an Event of Default shall have occurred, Lender may sell the Mortgaged Property at public outcry to the highest bidder for cash in front of the Court House door in the county where said property is located, either in person or by auctioneer, after having first given notice of the time, place and terms of sale by publication once a week for three (3) successive weeks prior to said sale in some newspaper published in said county, and, upon payment of the purchase money, Lender or any person conducting the sale for Lender is authorized to execute to the Purchaser at said sale a deed to the premises so purchased. Lender may bid at said sale and purchase said premises, or any part thereof, if the highest bidder therefor. At the foreclosure sale the Mortgaged Property may be offered for sale and sold as a whole without first offering it in any other manner or may be offered for sale and sold in any other manner Lender may elect.

**2.07. Application of Foreclosure Proceeds.** The proceeds of any foreclosure sale pursuant to Section 2.06 shall be applied as follows:



(a) First, to the expenses of making the sale, including a reasonable attorney's fee for such services as may be necessary in the collection of said indebtedness or the foreclosure of this Mortgage;

(b) Second, to the repayment of any money, with interest thereon at a rate equal to the Default Rate, which Lender may have paid, or become liable to pay, or which it may then be necessary to pay for taxes, insurance, assessments or other charges, liens, or debts as hereinabove provided;

(c) Third, to the payment and satisfaction of the indebtedness hereby secured with interest to date of sale; and

(d) Fourth, the balance, if any, shall be paid to the party or parties appearing of record to be the owner of the premises at the time of the sale after deducting any expense of ascertaining who is such owner.

**2.08. Lender's Option on Foreclosure.** At the option of the Lender, this Mortgage may be foreclosed as provided by law or in equity, in which event a reasonable attorney's fee shall, among other costs and expense, be allowed and paid out of the proceeds of the sale. In the event Lender exercises its option to foreclose the Mortgage in equity, Lender may, at its option, foreclose this Mortgage subject to the rights of any tenants of the Mortgaged Property, and the failure to make any such tenants parties defendants to any such foreclosure proceeding and to foreclose their rights will not be, nor be asserted to be by the Borrower, a defense to any proceedings instituted by the Lender to collect the sum secured hereby, or any deficiency remaining unpaid after the foreclosure sale of the Mortgaged Property.

**2.09. Waiver of Exemption.** Borrower waives all rights of exemption pertaining to real or personal property as to any indebtedness secured by or that may be secured by this Mortgage.

**2.10. Suits to Protect the Mortgaged Property.** The Lender shall have power (a) to institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Mortgaged Property by any acts which may be unlawful or any violation of this Mortgage, (b) to preserve or protect its interest in the Mortgaged Property and in the income, revenues, rents and profits arising therefrom, and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with, such enactment, rule or order would impair the security hereunder or be prejudicial to the interest of the Lender.

**2.11. Delay or Omission No Waiver.** No delay or omission of the Lender or of any holder of the Note to exercise any right, power or remedy accruing upon any default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such default, or acquiescence therein; and every right, power and remedy given by this Mortgage or the Loan Documents to the Lender may be exercised from time to time and as often as may be deemed expedient by the Lender.

**2.12. No Waiver of One Default to Affect Another, etc.** No waiver of any default hereunder shall extend to or shall affect any subsequent or any other then existing default or shall impair any rights, powers or remedies consequent thereon.

If the Lender (a) grants forbearance or an extension of time for the payment of any sums secured hereby; (b) takes other or additional security for the payment thereof; (c) waives or does not exercise any right granted herein or in the Note; (d) releases any part of the Mortgaged Property from the lien of this Mortgage or otherwise changes any of the terms of the Note or this Mortgage; (e) consents to the filing of any map, plat or replat thereof; (f) consents to the granting of any easement thereon; or (g) makes or consents to any agreement subordinating the lien or charge hereof, any such act or omission shall not release, discharge, modify, change, or affect the original liability under the Note, this Mortgage or any other Loan Document or otherwise of the Borrower or any subsequent purchaser of the Mortgaged Property or any part thereof, or any maker, co-signer, endorser, surety or guarantor; nor shall any such act or omission preclude the Lender from exercising any right, power or privilege herein granted or intended to be granted in the event of any other default then made or of any subsequent default, nor, except as otherwise expressly provided in an instrument or instruments executed by the Lender shall the lien of this Mortgage be altered thereby. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Mortgaged Property, the Lender, at its option, without notice to any person or corporation is hereby authorized and empowered to deal with any such vendee or transferee with reference to the Mortgaged Property or the indebtedness secured hereby, or with reference to any of the terms or conditions hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any of the liabilities or undertakings hereunder.

**2.13. Discontinuance of Proceedings - Position of Parties Restored.** In case the Lender shall have proceeded to enforce any right or remedy under this Mortgage by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Lender, then and in every such case the Borrower and the Lender shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of the Lender shall continue as if no such proceeding had been taken.

**2.14. Remedies Cumulative.** No right, power, or remedy conferred upon or reserved to the Lender by this Mortgage is intended to be exclusive of any right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity or by statute.

### **ARTICLE III**

**3.01. Successors and Assigns Included in Parties.** Whenever in this Mortgage one of the parties hereto is named or referred to, the heirs, administrators, executors, successors and assigns of such party shall be included, and all covenants and agreements contained in this Mortgage by or on behalf of the Borrower or by or on behalf of Lender shall bind and inure to the benefit of their respective heirs, administrators, executors, successors and assigns, whether so expressed or not.



3.02. **Headings, etc.** The headings of the articles, sections, paragraphs and subdivisions of this Mortgage are for convenience of reference only, are not to be considered a part hereof, and shall not limit or otherwise affect any of the terms hereof.

3.03. **Invalid Provisions to Affect No Others.** In case any one or more of the covenants, agreements, terms or provisions contained in this Mortgage, in the Note or in any other Loan Document shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms and provisions contained herein, in the Note or any other Loan Document shall be in no way affected, prejudiced or disturbed thereby.

3.04. **Security Agreement.** This Mortgage shall also be construed to be, and shall be construed as, a security agreement with respect to any of the properties described herein which are characterized by law as fixtures or personal property, of whatever nature (hereinafter referred to as the "Collateral").

(a) **Assembly of Collateral.** Upon default hereunder and acceleration of the indebtedness pursuant to the provisions hereof, of the Note or any other Loan Document secured hereby, the Lender may, at its discretion, require the Borrower to assemble the Collateral and make it available to the Lender at a place reasonably convenient to both parties to be designated by the Lender.

(b) **Manner of Sale.** Upon default hereunder and acceleration of the indebtedness pursuant to the provisions hereof, of the Note or any Loan Document secured hereby, all or any part of the Collateral may, at the sole discretion of the Lender, be combined with the real property covered hereby and sold together with such real property as an entirety, or the Collateral (or any part of the Collateral not sold together with the real property) may be sold separately, as one parcel or in such parcels, manner, or order as the Lender, in its sole discretion, may elect.

(c) **Notice of Sale.** The Lender shall give the Borrower notice, by registered or certified mail, postage prepaid, of the time and place of any public sale of any Collateral or of the time after which any private sale or other intended disposition thereof is to be made by sending notice to the Borrower at least ten (10) days before the time of the sale or other disposition, which provisions for notice the Borrower and Lender agree are reasonable.

(d) **Additional Documents.** The Borrower will, from time to time, within fifteen (15) days after request by the Lender, execute, acknowledge and deliver any financing statement, certificate, continuation statement, inventory, or other similar documents as the Lender may request in order to protect, preserve, continue, extend, or maintain the security interest under the priority of this Mortgage and will, upon demand, pay any expenses incurred by the Lender in the preparation, execution, and filing of any such documents.

(e) **Alabama Uniform Commercial Code.** Except as specifically set forth herein, the Lender shall have, with respect to the Collateral, all rights and privileges of a secured party under the Alabama Uniform Commercial Code.

(f) **Mortgage to Serve as Financing Statement.** This Mortgage shall constitute a financing statement under the Alabama Uniform Commercial Code.

3.05. **Future Advances.** A portion of the Loan secured by this Mortgage will be advanced to the Borrower by the Lender from time to time in accordance with the Note or other agreements to be entered into between Borrower and Lender. **THIS MORTGAGE SECURES FUTURE ADVANCES, IF ANY, MADE PURSUANT TO THE NOTE.**

3.06 **Partial Releases.** Lender agrees to release the Mortgaged Property as provided for in Section 10.18 of the Loan Agreement.

**IN WITNESS WHEREOF,** the Borrower has executed this Mortgage, or has caused this Mortgage to be executed, the day and year first above written.

**DANIEL REALTY COMPANY**, an Alabama general partnership

By: **DANIEL EQUITY COMPANY, LLC**, an Alabama limited liability company, Its Managing Partner

By: **DANIEL REALTY CORPORATION**, an Alabama corporation, Its Manager

By: Christopher A. Brown  
Its: Sr. VP

**STATE OF ALABAMA** )  
 )  
Jefferson **COUNTY** )

I, Judy D. Baker, a Notary Public in and for said County in said State, hereby certify that Christopher A. Brown, whose name as Sr. V.P. of Daniel Realty Corporation, an Alabama corporation, as Manager of Daniel Equity Company, LLC, an Alabama limited liability company, as Managing Partner of Daniel Realty Company, an Alabama general partnership, is signed to the foregoing Mortgage and Security Agreement, and who is known to me, acknowledged before me on this day that, being fully informed of the contents of the foregoing, he, as such officer and with full authority, executed the same voluntarily for and as the act of said general partnership.

Given under my hand this 30<sup>th</sup> day of July, 2003.

Judy D. Baker  
Notary Public  
My Commission Expires: 4-6-2004



This instrument was prepared by George M. Taylor, III, 420 North 20th Street, Suite 3100,  
Birmingham, Alabama 35203

## **Exhibit A**

### **Property Description**

#### **PARCEL I**

Lot 7, according to the survey of Meadow Brook Corporate Park South, Phase II, as recorded in Map Book 12, Pages 10 A & B, in the Office of the Judge of Probate of Shelby County, Alabama; being situated in Shelby County, Alabama.

Lot 11-C, according to the survey of Meadow Brook Corporate Park South, Phase II, resurvey of Lot 11, as recorded in Map Book 13, Page 82, in the Office of the Judge of Probate of Shelby County, Alabama; being situated in Shelby County, Alabama.

Lot 11A-3, according to Meadow Brook Corporate Park South, Phase II, Resurvey No. 10, being a resurvey of Lot 11A-1, (being a resurvey of Lots 11-2 and 11-B) as recorded in Map Book 29, Page 42, in the Office of the Judge of Probate of Shelby County, Alabama; being situated in Shelby County, Alabama.

#### **PARCEL II**

To locate the point of beginning, commence at the Southwest corner of the Northeast Quarter of Section 32, Township 18 South, Range 1 West, Shelby County, Alabama; thence South 88 degrees 43 minutes 44 seconds East on the South boundary line of said Northeast Quarter a distance of 250.00 feet to a point; thence North 26 degrees 40 minutes 48 seconds East a distance of 1300.16 feet to the point of beginning, said point of beginning being on the West boundary line of Lot 2A of The Resurvey of Lot 2, Greystone, Second Sector, a subdivision which was recorded in Map Book 17, Page 27, in the Office of the Judge of Probate of Shelby County, Alabama, and the north right of way of a private road known as Greystone Way; thence South 50 degrees 29 minutes 50 seconds West on the North right of way of said road a distance of 265.10 feet to a curve to the left having a central angle of 14 degrees 32 minutes 51 seconds and a radius of 840.00 feet; thence along said curve a distance of 213.28 feet to a point; thence tangent to said curve South 35 degrees 56 minutes 59 seconds West a distance of 11.79 feet to a curve to the right having a central angle of 40 degrees 29 minutes 35 seconds and a radius of 410.00 feet; thence along said curve a distance of 289.76 feet to a point on the East boundary line of Lot 1, Greystone, Third Sector, a subdivision which was recorded in Map Book 14, Page 79, in the Office of the Judge of Probate, Shelby County, Alabama; thence North 20 degrees 09 minutes 47 seconds East on the East boundary line of said Lot 1 a distance of 569.30 feet to a point; thence North 16 degrees 15 minutes 22 seconds East on the East boundary line of said Lot 1 a distance of 384.30 feet to a point; thence 73 degrees 44 minutes 39 seconds East on the East boundary line of said Lot 1 a distance of 150.02 feet to a point; thence North 16 degrees 15 minutes 33 seconds East on the East boundary line of said Lot 1 a distance of 285.20 feet to a point; thence South 59 degrees 11 minutes 45 seconds East a distance of 348.34 feet to a point on the West boundary line of Lot 2A of the resurvey of Lot 2, Greystone, Second Sector; thence



South 26 degrees 40 minutes 17 seconds West on the West boundary line of said Lot 2A a distance of 521.17 feet to the point of beginning.

All lying and being in the NE 1/4 of Section 32, Township 18 South, Range 1 West, Shelby County, Alabama, and as shown on the boundary survey dated May 31, 1993, prepared by Charley Foster & Associates, Inc., and being more particularly described as follows:

To locate the point of beginning, commence at the SW corner of the NE 1/4 of Section 32, Township 18 South, Range 1 West, Shelby County, Alabama; thence South 88 degrees 43 minutes 44 seconds East on the South boundary of said NE 1/4 a distance of 250.00 feet to a point; thence North 26 degrees 40 minutes 48 seconds East a distance of 1300.16 feet to the point of beginning, said point of beginning being on the West boundary of Lot 2A of the resurvey of Lot 2, Greystone, Second Sector, a subdivision which was recorded in Map Book 17, Page 27, in the Office of the Judge of Probate, Shelby County, Alabama, and the North right of way of a public road; thence South 55 degrees 30 minutes 21 seconds West on the North right of way of said road a distance of 265.10 feet to a curve to the left having a central angle of 14 degrees 32 minutes 51 seconds and a radius of 840.00 feet; thence along said curve a distance of 213.28 feet to a point; thence tangent to said curve South 35 degrees 57 minutes 29 seconds West a distance of 11.79 feet to a curve to the right having a central angle of 40 degrees 29 minutes 35 seconds and a radius of 410.00 feet; thence along said curve a distance of 289.76 feet to a point on the East boundary of Lot 1, Greystone, Third Sector, a subdivision which was recorded in Map Book 14, Page 79, in the Office of the Judge of Probate, Shelby County, Alabama; thence North 20 degrees 10 minutes 42 seconds East on the East boundary of said Lot 1 a distance of 569.13 feet to a point; thence North 16 degrees 17 minutes 42 seconds East on the East boundary of said Lot 1 a distance of 384.29 feet to a point; thence South 73 degrees 42 minutes 18 seconds East on the East boundary of Lot 1 a distance of 150.00 feet to a point; thence North 16 degrees 17 minutes 42 seconds East on the East boundary of said Lot 1 a distance of 285.30 feet to a point; thence South 59 degrees 11 minutes 45 seconds East a distance of 347.93 feet to a point on the West boundary of Lot 2A of the resurvey of Lot 2, Greystone, Second Sector; thence South 26 degrees 40 minutes 48 seconds West on the West boundary of said Lot 2A a distance of 521.17 feet to the point of beginning.

### PARCEL III

A parcel of land situated in Section 29, Township 18 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Commence at a 2-inch open-top pipe locally accepted to be the Southeast corner of the Southeast Quarter of the Northeast Quarter of said Section 29; thence run West along the South line of said Quarter Quarter section for a distance of 140.00 feet to an iron pin found; thence turn an angle to the left of 90 degrees 00 minutes 00 seconds and run in a Southerly direction for a distance of 229.78 feet to an iron pin found on the Northeast line of Lot 1, Bigler's Resurvey, as recorded in map Book 8 on Page 106 in the Office of the Judge of Probate, Shelby County, Alabama; thence turn an angle to the right of 110 degrees 58 minutes 45 seconds and run in a Northwesterly direction along said Northeast line for a distance of 370.81 feet to an iron pin set

at the point of beginning; thence continue along last stated course for a distance of 65.70 feet to a 1/4-inch rebar found; thence turn an angle to the right of 01 degree 48 minutes 16 seconds and run in a Northwesterly direction along said Northeast line for a distance of 822.85 feet to a 1-inch rebar found on the Southeast right of way line of Alabama Highway No. 119; thence turn an angle to the right of 91 degrees 22 minutes 00 seconds and run in a Northeasterly direction along said Southeast right of way line for a distance of 680.58 feet to an iron pin found; thence turn an angle to the right of 86 degrees 27 minutes 25 seconds and run in a Southeasterly direction for a distance of 691.79 feet to a 1 1/2-inch open-top pipe found; thence turn an angle to the right of 66 degrees 37 minutes 31 seconds and run in a Southerly direction for a distance of 623.40 feet to an iron pin found, said iron pin found being on the South line of the Southeast Quarter of the Northeast Quarter of said Section 29; thence turn an angle to the right of 92 degrees 46 minutes 03 seconds and run in a Westerly direction for a distance of 101.75 feet to an iron pin set; thence turn an angle to the left of 70 degrees 30 minutes 31 seconds and run in a Southwesterly direction for a distance of 102.92 feet to the point of beginning.



**EXHIBIT B**  
**PERMITTED LIENS**

PARCEL I

1. Taxes and assessments due for the year 2003, a lien but not yet due and payable.
2. Transmission Line Permit(s) to Alabama Power Company as shown by instrument(s) recorded in Deed Book 146 page 391 in Probate Office.
3. Declaration of Covenants, Conditions and Restrictions for Meadow Brook Corporation Park 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 and 13th Amendment recorded as Inst. #1998-5588 in the Probate Office, 14<sup>th</sup> Amendment recorded as Inst. #1998-41655 and 15th Amendment recorded as Inst. #1998-46243 and 16th Amendment recorded in Inst. #1999-2935 and 17<sup>th</sup> Amendment as recorded in Inst. No. 20021217000631360 in Probate Office, and Assignment of Developer Rights recorded as Instrument #2001-35829.
4. Agreement with Alabama Power Company as set out in Misc. Book 48 page 880 in Probate Office.
5. Title to all minerals within and underlying the premises, together with all mining rights and other rights, privileges and immunities relating thereto, including rights set out in Deed Book 66 page 34 and Deed Book 28 page 581 in Probate Office. The Company further insures against loss or damage by the enforcement or attempted enforcement or right to use the surface of the land in order to remove minerals, without consent of the surface owner.
6. Building setback lines, easements and buffer zone(s) as shown by recorded plats in Map Book 12 page 10 (Lot 7), Map Book 13 page 82 (Lot 11C) and Map Book 29 page 42 (Lot 11A3) in the Probate Office, and as shown on Surveys of Carl Daniel Moore dated 7-20-01 (Lot 7), 7-22-01 (Lot 11C), 7-16-01 (Lot 11A3).
7. Agreements with Alabama Power Company in regard to underground cables as set out in Real Book 75 page 714, Real Book 75 page 634, Real Book 120 page 537 and Real Book 207 page 348 in the Probate Office.

8. Sewer line easement agreement as set out by Inst. # 1999-31558 in the Probate Office as shown on survey of Carl Daniel Moore dated 7-22-01. (Lot 11C)

9. "Easement Agreement by and between Daniel U. S. Properties Limited Partnership II and A. J. Associates Holding, LLC dated 6-29-01 by Inst. #2001-27024 in Probate Office." (Lot 11A3)

10. "Easement to Alabama Power Company dated 6-25-01 as set out by Inst. #2001-26137 in Probate Office." (Lot 11A3)

11. Restrictions, limitations, conditions and other provisions as set out in Map Book 12 page 10, Map Book 13 page 82 and Map Book 29 page 42 in the Probate Office. (Lot 11A3)

#### PARCEL II

12. Commercial Restrictions, covenants and conditions as set out by instrument recorded in Real Book 314 page 506; with 1st Amendment recorded as Inst. # 1996-531, 2nd Amendment recorded as Inst. # 1996-532 and 3rd Amendment recorded as Inst. # 2000-38942 in the Probate Office, and Assignment of Developer Rights as recorded as Instrument #2001-35832.

13. Transmission Line Permit(s) to Alabama power Company as shown by instrument(s) recorded in Deed Book 109 page 501 and Deed Book 239 page 214 in Probate Office.

14. Title to all minerals within and underlying the premises, together with all mining rights and other rights, privileges and immunities relating thereto, including rights set out in Deed Book 121 page 294; Deed Book 4 page 493 and Deed Book 4 page 495 in Probate Office. The Company further insures against loss or damage by the enforcement or attempted enforcement or right to use the surface of the land in order to remove minerals, without consent of the surface owner.

15. Covenant and Agreement for water service as shown by instruments recorded in real Book 235 page 574, along with 1st Amendment recorded as Inst. # 1993-20840 and 2nd Amendment recorded as Inst. # 1992-20786 in the Probate Office.

16. Agreement between Daniel Oak Mountain Limited Partnership and Shelby Cable, Inc. as shown by instrument recorded in real Book 350 page 545 in the Probate Office.

#### PARCEL III

17. Transmission Line Permit(s) to Alabama Power Company as shown by instrument(s) recorded in Deed Book 111 page 403 in Probate Office.

18. Easement Agreement by and between Daniel Realty Company and Greystone Branch LLC recorded as Inst. No. 20020515000229770 in the Probate Office.