

1986

STATE OF ALABAMA)
JEFFERSON COUNTY)

INDENTURE OF TRUST

This Indenture of Trust made and entered into this
21 day of November, 1979, by and
between Walter G. Brush and wife, Pauline M. Brush, of the
City of Birmingham, State of Alabama (hereinafter collectively
referred to as "Grantor"), and Nora Jean McElroy (hereinafter
referred to as "Trustee").

W I T N E S S E T H:

WHEREAS, the Grantor desires to grant the property here-
inafter described and create therewith a trust which shall be
for the benefit of his adopted son, Robert Michael Brush; and,

WHEREAS, the said Trustee hereinabove named has agreed
to accept said trusteeship, and all interest in property which
may come to it by reason of this agreement, for the benefit
and use of said beneficiary, all in accordance with the provi-
sions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises, it is
hereby understood and agreed by and between the parties hereto
as follows:

1. Grant of Trust. The said Grantor does hereby grant,
bargain, sell, transfer and convey unto the said Trustee, its
successors and assigns, the property described in Exhibit A
which is attached hereto and made a part hereof as though set
forth in full herein, all of which shall comprise the corpus
of said trust.

TO HAVE AND TO HOLD the same unto the said Trustee, its
successors and assigns, together with all and singular the
tenements, hereditaments and appurtenances thereto belonging
or in anywise appertaining, but in trust, nevertheless, for
the uses and purposes, upon the terms and conditions and with
the powers and duties hereinafter stated.

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Nora Jean McElroy
P.O. Box 20742
Birmingham, AL 35216

2. Duties and Powers of Trustee. In the management and control of the trust created herein, the Trustee in her sole judgment and discretion may do and have done with respect to the trust estate all things which, in the judgment and discretion of the Trustee, may seem necessary, desirable and proper to promote, protect and conserve the interest of the trust estate, and of the beneficiary thereof, in like manner as if the Trustee were entitled to said property beneficially. Without in anywise limiting the generality of the foregoing, but solely in order to define with particularity certain of the powers herein vested in the Trustee, the Trustee shall have and may in its judgment and discretion exercise, among others, the following powers, to be broadly construed with reference to the trust estate:

(a) To collect the income therefrom.

(b) To compromise, adjust and settle, in its discretion, any claim in favor of or against the trust.

(c) To hold any property or securities originally received by it as a part of the trust or to which it becomes entitled by virtue of incorporation, liquidation, reorganization, merger, consolidation or change in charter or name, including any stock or interest in any family corporation, partnership or enterprise, so long as it shall consider the retention for the best interests of the trust.

(d) To sell, auction, convey, exchange, lease or rent for a period beyond the possible termination of the trust (or for a less period) for improvement or otherwise, or to grant options for or in connection with such purposes, or otherwise dispose of, all or any portion of the trust, in such manner and upon such terms and conditions as the Trustee may approve.

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(e) To invest and reinvest the trust and the proceeds or sale or disposal of any portion thereof, in such loans, bonds, stocks, mortgages, common trust funds, securities, or other property, real or personal, or to purchase options for such purposes, or to exercise options, rights or warrants, to purchase securities or other property as to the Trustee may seem suitable; provided, however, that the corporate Trustee, acting alone, is authorized to make temporary investments in interest bearing securities and notes, and to purchase and sell fractional shares and subscription rights to which the trust may become entitled.

(f) To hold, retain or acquire property or securities which, in its opinion is for the best interests of the trust, without regard to any statutory or constitutional limitation applicable to the investment of trust funds.

(g) To vote any corporate stock held hereunder in person or by special, limited or general proxy, with or without power of substitution, or to refrain from voting.

(h) To continue or dispose of any business enterprise without liability therefor, whether such enterprise be in the form of a sole proprietorship, partnership, corporation or otherwise, and to develop, add capital to, expand or alter the business of such enterprise, to liquidate, incorporate, reorganize, manage or consolidate the same, or change its charter or name, to appoint directors and employ officers, managers, employees or agents (including any trustee or director, officers or employees thereof) and to compensate and offer stock options and other employee or fringe benefits to them, and in exercising its powers in relation to such business enterprise, to receive extra or extraordinary compensation therefor.

(i) To subdivide or otherwise develop, and to change the use or purpose of, any real estate constituting a part of the trust into residential, recreational, commercial, cemetery, or other usage, to construct, alter, remodel, repair or raze any building or other improvement located thereon, to release, partition, vacate, abandon, dedicate or adjust the boundaries as to any such property.

(j) To operate farms and woodlands with hired labor, tenants or sharecroppers, to acquire real estate, crop allotments, livestock, poultry, machinery, equipment, materials, and any other items of production in connection therewith, to clear, drain, ditch, make roads, fence and plant part or all of such real estate, and to employ or enter into any practices or programs to conserve, improve or regulate the efficiency, fertility and production thereof, to improve, sell, auction or exchange crops, timber or other products thereof, to lease or enter into other management, cutting, production or sales contracts for a term beyond the possible termination of the trust or for a less period, to employ the methods of carrying on agriculture, animal husbandry and silviculture which are in use in the vicinity of any of such real estate or which the Trustee deems otherwise appropriate, to make loans or advances at interest for production, harvesting, marketing or any other purpose hereunder, in such manner and upon such terms and conditions as the Trustee may approve and in general take any action which the Trustee deems necessary or desirable in such operation of farms and woodlands.

(k) To drill, explore, test, mine or otherwise exploit oil, gas, or other mineral or natural resources, to engage in absorption, repressuring, and other production, processing or secondary recovery operations, to install, operate and maintain storage plants and pipelines or other transportation

facilities, to engage in any of the above activities directly under such business form as the Trustee may select or to contract with others for the performance of them, and to enter into and execute oil, gas and mineral leases, division and transfer orders, grants, farm-out, pooling and unitization agreements, and such other instruments or agreements in connection therewith as the Trustee deems necessary or desirable.

(l) To borrow money for such time and upon such terms as the Trustee sees fit, without security or on mortgage of any real estate or upon pledge of any personal property held hereunder, and to execute mortgages or collateral agreements therefor as necessary.

(m) To advance money to any trust for any purpose of the trust, and the Trustee shall reimburse itself for the money so advanced, with reasonable interest thereon, from the trust or from any funds belonging thereto.

(n) To hold money in its custody while awaiting distribution or investment under the terms hereof, even though such money be commingled with its funds (in which case the Trustee shall keep a separate account of the same on its books), and the Trustee shall not be required to pay interest thereon.

(o) To appoint, employ, remove and compensate such attorneys, agents and representatives, individual or corporate, as the Trustee deems necessary or desirable for the administration of the trust, and to treat as an expense of the trust any compensation so paid.

(p) To hold property or securities in bearer form, in the name of the Trustee, or in the name of its nominee, without disclosing any fiduciary relation.

(q) To keep any property constituting a part of said trust properly insured against hazards, to pay all

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taxes and assessments, mortgages or other liens now or thereafter resting upon said property and to create reserves for depreciation, depletion or such other purposes as the Trustee deems necessary or desirable.

(r) To determine whether any money or property coming into its hands shall be treated as a part of the principal of the trust or a part of the income therefrom, and to apportion between principal and income any loss or expenditure in connection with the trust as the Trustee may deem just and equitable.

(s) To pay from income any expenses reasonably necessary for the administration of the trust, and in the event the income is insufficient for such payments, the same shall be paid from the principal thereof.

(t) To exercise any power hereunder, either acting alone or jointly with others.

(u) To pay the funeral and burial expenses of any beneficiary from the principal of the trust from which income has been payable to such beneficiary.

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3. Trust Estate.

(a) The Trustee shall hold, manage and control the property comprising the trust estate, collect the income therefrom and shall disburse the entire net income derived therefrom in convenient installments for the use and benefit of Robert Michael Brush for the remainder of his lifetime. During such period, the Trustee is authorized in its sole and absolute discretion, at any time the net income from said trust is insufficient in the opinion of the Trustee to provide adequately and properly for the care, support and maintenance of the said Robert Michael Brush, to disburse from the principal of said trust estate such amounts as it may deem necessary or desirable. In determining the amounts of principal to be so disbursed, the Trustee shall take into

consideration any other income or property which said beneficiary may have from any source and the Trustee's discretion shall be conclusive as to the advisability of any such disbursement and the same shall not be questioned by anyone. For all sums so distributed the Trustee shall have full acquittance.

(b) Upon the death of the said Robert Michael Brush, the trust shall terminate and the Trustee shall, as soon as reasonably practicable, transfer, convey and pay over, free of trust, the then principal of the trust, together with any undistributed income thereof, to Nora Jean McElroy. In the event Nora Jean McElroy shall not survive Robert Michael Brush, then in such event, the Trustee shall transfer, convey and pay over free of trust the principal of said trust to The Baptist Foundation of Alabama.

4. Successor Trustee. Grantor directs that Nora Jean McElroy shall serve as sole Trustee of the trust herein created together with all the rights, powers, duties and discretion vested in her. In the event of the death, incapacity, inability or unwillingness to serve as Trustee hereunder of Nora Jean McElroy, then The First National Bank of Birmingham (or such successor corporation having trust powers as shall succeed to the business of said bank by purchase, merger, consolidation or change of charter or name) shall serve as Trustee of the trust herein created together with all the rights, powers, duties and discretion vested in the original Trustee.

5. Additions to Principal. The Grantor or any other person may at any time and from time to time, add cash, securities or other property to the principal of the trust estate herein created, by deed, gift, will or otherwise, without the consent of the Trustee. Any additions to the

trust estate shall be held, administered and distributed as an integral part of the principal thereof in accordance with all of the terms and provisions of this agreement.

6. Trust Irrevocable. Grantor specifically directs that the trust herein created is irrevocable and that there are no conditions or reservations or power in Grantor to revoke, alter or amend this agreement, in whole or in part or to free any or all of the property constituting said trust estate from the terms of said trust.

7. Alabama Law. This agreement shall be construed and regulated in all respects by the laws of the State of Alabama.

8. Acceptance of Trust. The Trustee hereby accepts the trust herein created.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the day and year first above written.

Walter G. Brush
WALTER G. BRUSH, GRANTOR

Pauline M. Brush
PAULINE M. BRUSH, GRANTOR

Nora Jean McElroy
NORA JEAN MCELROY, TRUSTEE

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned authority, a notary public in and for said county and said state, hereby certify that Walter G. Brush and Pauline M. Brush, whose names are signed to the foregoing conveyance and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 21st day of November, 1979.

[Signature]
NOTARY PUBLIC

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STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned authority, a notary public in and for said county and said state, hereby certify that Nora Jean McElroy, whose name is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 21st day of November, 1979.


NOTARY PUBLIC

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EXHIBIT A
TO
INDENTURE OF TRUST

An undivided one-half interest in and to the remainder interest of Walter G. Brush in real estate located in Birmingham, Jefferson County, Alabama, described as Lots No. 7, 8, 9, 10, 11 and 12, Block No. 172, according to the survey of Birmingham, Alabama, subject to the expiration of the following described trusts:

1. An undivided one-eighth interest in the above described property given to Pauline M. Brush, as Trustee for David Lee Byars (now David Lee Brush) under trust instrument dated December 15, 1971. This is a ten-year and twenty-day trust and will expire on January 4, 1982.

2. An undivided one-eighth interest in the above described property given to Pauline M. Brush, as Trustee for Robert Michael Byars (now Robert Michael Brush) under trust instrument dated December 15, 1971. This is a ten-year and twenty-day trust and will expire on January 4, 1982.

3. An undivided one-eighth interest in the above described property given to Pauline M. Brush, as Trustee for Robert Michael Byars (now Robert Michael Brush) under trust instrument dated January 3, 1972. This is a ten-year and twenty-day trust and will expire on January 23, 1982.

4. An undivided one-eighth interest in the above described property given to Pauline M. Brush, as Trustee for David Lee Byars (now David Lee Brush) under trust instrument dated January 3, 1972. This is a ten-year and twenty-day trust and will expire on January 23, 1982.

5. An undivided one-eighth interest in the above described property given to Nora Jean McElroy, as Trustee for Flora B. McElroy under trust instrument dated November 1, 1972. This is a ten-year and twenty-day trust and will expire on November 21, 1982.

6. An undivided one-eighth interest in the above described property given to Nora Jean McElroy, as Trustee for Flora B. McElroy under trust instrument dated January 2, 1973. This is a ten-year and twenty-day trust and will expire on January 22, 1983.

7. An undivided one-eighth interest in the above described property given to Pauline M. Brush, as Trustee for Robert Michael Byars (now Robert Michael Brush) under trust instrument dated February 15, 1975. This is a ten-year and twenty-day trust and will expire on March 2, 1985.

8. An undivided one-eighth interest in the above described property given to Pauline M. Brush, as Trustee for Flora B. McElroy under trust instrument dated February 15, 1975. This is a ten-year and twenty-day trust and will expire on March 2, 1985.

STATE OF ALA. SHELLEY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED
1987 JUN 30 AM 11:09

James W. Shumaker, Jr.
JUDGE OF PROBATE

RECORDING FEES	
Recording Fee	<u>25.00</u>
Index Fee	<u>1.00</u>
TOTAL	<u>26.00</u>