

STATE OF ALABAMA)

SHELBY COUNTY)

819

ASSIGNMENT OF LEASEHOLD INTEREST

THIS ASSIGNMENT OF LEASEHOLD INTEREST is made this the 3rd day of JULY, 1988 by J.F. Gaskill Co., Inc. (the "Assignor"), to First Alabama Bank, Birmingham, Alabama (the "Bank"), to secure an indebtedness owing by the Assignor to the Bank, as evidenced by that certain promissory note (the "Note") dated July 19, 1985, in the principal sum of SIX HUNDRED THOUSAND AND NO/100 (\$600,000.00) DOLLARS, payable to the order of the Bank and executed by the Assignor, which indebtedness (the "Indebtedness") is described in a Corporate Line of Credit Agreement (the "Corporate Line of Credit Agreement") dated July 19, 1984, as amended, executed by the Assignor and the Bank. This Assignment of Leasehold Interest, the Corporate Line of Credit Agreement, and all other instruments executed by the Assignor further securing the Indebtedness are hereinafter collectively referred to as the "Security Documents."

R E C I T A L S

A. The Industrial Development Board of the City of Hoover (the "Board") and the Assignor entered into a Lease Agreement dated as of June 1, 1985, as recorded in Real Volume 031, Page 874, in the Shelby County Probate Office (the "Lease"), wherein the Board leased to the Assignor certain real property and buildings located in the City of Hoover, to-wit:

A tract of land situated in the NE 1/4 of the SE 1/4 of Section 19, Township 19 South, Range 2 West, Shelby County, Alabama and being more particularly described as follows:

Commence at the SE corner of the NE 1/4 of the SE 1/4 of Section 19, Township 19 South, Range 2 West; thence North along the East line of said section 283.46 feet; thence 90°00'00" left, 729.70 feet to a point on the West right-of-way line of Parkway Office Circle and also the point of beginning; thence 40°23'12" left, leaving said right-of-way line, 262.29 feet; thence 30°38'09" right, 303.59 feet; thence 92°43'07" right, 328.01 feet; thence 82°20'48" right, 495.17 feet to the West right-of-way line of Parkway Office Circle; thence 95°48'12" right, 89.70 feet along said right-of-way line to the beginning of a curve to the left; said curve having a central angle of 18°34'36" and a radius of 460.00 feet; thence along the arc of said curve and said right-of-way, 149.14 feet to the point of

First Ala Bank

beginning and containing 163.073 square feet or 3.74 acres, more or less.

for use as a facility for designing, modifying, processing, assembling, warehousing, repairing, testing certain process control systems and hardware, automatic control valves, devices and accessories (the "Project").

B. The Board issued its Industrial Development First Mortgage Revenue Bonds (J.F. Gaskill Co., Inc. Project), Series 1985, in the aggregate principal amount of \$800,000 (the "Bonds"), pursuant to a Mortgage and Trust Indenture, dated as of June 1, 1985 (the "Indenture"), as recorded in Real Volume 031, Page 933, in the Shelby County Probate Office, between the Board and First Alabama Bank as Trustee (the "Trustee"), for the purpose of acquiring and equipping the said facility.

C. The Assignor desires to further secure the Note by granting, transferring and assigning to the Bank the Assignor's leasehold interest in the Lease.

NOW, THEREFORE, in consideration of the premises and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Assignor agrees as follows:

1. The Assignor does hereby grant, transfer and assign to the Bank the leasehold interests of the Assignor in the Lease, including, but not limited to:

- a. The Options in favor of Lessee as provided in ARTICLE XI of the Lease, and in particular the Assignor's option to purchase the Project.
- b. The Assignor's rights to the payment of any balance remaining in the Bond Fund established in the Indenture.
- c. The Assignor's right to any and all equity in the Project.

These rights are assigned as security and this assignment shall be null and void if the Indebtedness is paid in full.

2. The Assignor represents and warrants to the Bank that:

- a. The Assignor has good title to the Lease and good right to assign its leasehold interest and the options in favor of Lessee as provided in Article XI of the Lease;
- b. No other person, corporation or entity has any right, title or interest in the Lease (as

Lessee) or in the options (as optionee) hereby assigned;

- c. All and singular the terms, covenants, conditions and warranties of the Lease on the part of the Assignor thereunder have been duly and punctually performed, kept, and observed by the Assignor;
- d. No previous sale, assignment, transfer, mortgage or pledge of the Lease or the options hereby assigned is superior to the assignment of the options in the Lease hereunder.
- e. All of the terms and conditions of the Lease are in full force and effect and the Assignor is not in default under the Lease.

3. To protect the security of this assignment, the Assignor covenants and agrees:

- a. To observe, perform and discharge all obligations, covenants and warranties provided for under the terms of the Lease to be kept, observed and performed by the Assignor thereunder and to give prompt notice to the Bank in the event Assignor fails to observe, perform and discharge the same;
- b. To enforce or secure the performance of each and every obligation, term, covenant, condition and agreement to be performed by the Lessor under the terms of the Lease;
- c. To appear in and defend any action or proceeding arising under, or occurring out of, or in any manner connected with the Lease or the obligations, duties or liabilities of the Assignor thereunder, and, upon request by the Bank, to do so in the name and on behalf of the Bank but at the expense of the Assignor, and to pay all costs and expenses of the Bank, including reasonable attorney's fees, in any action or proceeding in which the Bank may appear with regard to the Lease or the rights granted herein;
- d. Not to pledge, transfer, mortgage or otherwise encumber or assign the rights granted to the Bank hereunder during the term hereof.

4. It is a condition of the granting of these powers, benefits and privileges, and of the making of the Assignment, and

the Bank by the acceptance of this Assignment so agrees that, until an act of default shall be made by the Assignor in the performance of any of the agreements, covenants and promises in the Note, the Corporate Line of Credit Agreement or any of the Security Documents, including the making of the payments as set out in said Note, the Assignor may, with the prior written consent of the Bank, exercise the options in Article XI of the Lease; provided, however, if any portion of the indebtedness evidenced by the Note is unpaid, the Assignor shall immediately upon exercise of the option to purchase the Project execute a first Mortgage in favor of Bank; but it is covenanted and agreed by the Assignor, for the consideration aforesaid, upon or at any time after default in the payment of any Indebtedness secured hereby or in the observance or performance of any obligation, covenant or warranty set forth herein, in the Corporate Line of Credit Agreement, or in any Security Document, or the occurrence of any event of default under the terms of any of the Note, the Corporate Line of Credit Agreement, or any Security Document, the Bank, at its option, shall have the right, power and authority to exercise and enforce any or all of the following rights and remedies:

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- a. to require the Assignor to exercise the Option to Purchase as set forth in Article XI of the Lease in favor of the Bank and to execute such documents as might be required in order to vest fee simple title to the Project in the Bank's name.
 - b. to give proper receipts, releases and acquittance therefor, after deducting all necessary and reasonable costs and expenses of collection, including reasonable attorney's fees,
 - c. to apply the net proceeds from the sale of the Project, together with any balance in the Bond Fund and any funds of the Assignor deposited with the Bank, upon any Indebtedness secured hereby, or by the Security Documents and in such order as the Bank may determine;
 - d. and to declare all sums secured hereby immediately due and payable and, at its option, to exercise all of the rights and remedies provided for in the Note, in the Corporate Line of Credit Agreement, in the Security Documents, or under the terms hereof.

5. This assignment shall remain in effect as long as any part of the Indebtedness remains unpaid and upon the payment in full of said Indebtedness the Bank shall execute a release of this assignment upon the written request and at the expense of the Assignor. This assignment shall run with the land described

in Paragraph A. of the recitals herein and shall inure to the benefit of and bind the parties hereto and their respective heirs, successors and assigns.

IN WITNESS WHEREOF, the Assignor has caused this Assignment to be executed, sealed and witnessed, all by the Assignor's duly authorized officers, and has caused this document to be dated this the 3 day of July, 1988.

J.F. GASKILL CO., INC.

By: J.F. Gaskill Jr.
Its PRESIDENT

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned Notary Public, in and for said County in said State, hereby certify that J.F. Gaskill, whose name as President of J.F. Gaskill Co., Inc., an Alabama corporation, is signed to the foregoing Assignment of Leasehold Interest, and who is known to me, acknowledged before me on this day that, being informed of the contents of said Assignment, 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 the 5 day of July, 1988.

Doreen Diana Cobb
NOTARY PUBLIC
My Commission Expires: 9-19-89

This Instrument Prepared By:
Joseph W. Mathews, Jr.
Lange, Simpson, Robinson & Somerville
1700 First Alabama Bank Building
Birmingham, Alabama 35203

STATE OF ALA. SHERIFF
I CERTIFY THIS
INSTRUMENT WAS FILED

88 JUL 13 PM 7:39

Thomas A. Shivers, Jr.
JUDGE OF PROBATE

RECORDING FEES

Recording Fee	\$ <u>12.50</u>
Index Fee	<u>1.00</u>
TOTAL	<u>\$13.50</u>