703

R

MORTGAGE AND INDENTURE

(Morrow Project)

THE INDUSTRIAL DEVELOPMENT BOARD
OF SHELBY COUNTY

To

AMSOUTH BANK, NATIONAL ASSOCIATION

BOOK 002 PAGE 456

This Mortgage and Indenture was prepared by James L. Birchall of Cabaniss, Johnston, Gardner, Dumas & O'Neal, 1900 First National-Southern Natural Building, Birmingham, Alabama 35203.

MORTGAGE AND INDENTURE

TABLE OF CONTENTS

(This Table of Contents is not a part of this Indenture and is only for convenience of reference)

PAGE

ARTICLE IV

COVENANTS BY THE BORROWER





ARTICLE V

POSSESSION, USE, DESTRUCTION, CONDEMNATION, SALE AND PARTIAL RELEASE OF MORTGAGED PROPERTY



ARTICLE VI

DEFAULT PROVISIONS AND REMEDIES OF BONDHOLDER

PAGE



ARTICLE VII

MISCELLANEOUS

STATE OF ALABAMA
SHELBY COUNTY

THIS MORTGAGE AND INDENTURE made and entered into by THE INDUSTRIAL DEVELOPMENT BOARD OF SHELBY COUNTY, a public corporation duly organized and existing under the laws of the State of Alabama (hereinafter called the "Borrower"), as party of the first part, and AMSOUTH BANK N.A., a national banking association with its principal office in the City of Birmingham, Alabama (hereinafter called the "Bondholder"), party of the second part;

W I T N E S S E T H:

WHEREAS, the Borrower has been heretofore organized under the laws of Alabama and is authorized by Article 2 of Chapter 20 of Title 11 of the CODE OF ALABAMA 1975 (Section 11-20-30 et seq.) to acquire, own, lease and dispose of the properties hereinafter described for the purposes set forth in said Article 2; and



WHEREAS, the Borrower has made the necesary arrangements with Gordon Morrow, Jr. and Malcolm A. Morrow, as Lessees, for the acquisition of the Project, hereinafter defined, and the Borrower has further entered into a Lease Agreement dated as of the date hereof with the Lessees specifying the terms and conditions of the acquisition of the Project and the leasing of the same to the Lessees (hereinafter called the "Lease Agreement"); and

WHEREAS, the Lease Agreement has been authorized by resolution duly adopted and approved by the Borrower, has been assigned and pledged to the Bondholder as hereinafter provided and an executed copy thereof delivered to the Bondholder; and

WHEREAS, the Lease Agreement will be duly recorded in the office of the Judge of Probate of the County in which the Project is situated, simultaneously with placing this Mortgage and Indenture on record with said Judge of Probate, to which Lease Agreement reference is hereby made for the rental, terms, conditions and obligations of the parties thereto; and

WHEREAS, it has been determined that the estimated amount necessary to finance the cost of the Project, including expenses incidental thereto, will require the issuance, sale and delivery of the Bond as hereinafter provided; and

WHEREAS, the Bond to be issued hereunder is to be substantially in the following form with appropriate omissions, insertions and variations permitted or authorized as hereinafter provided:

(Form of Bond)

UNITED STATES OF AMERICA
STATE OF ALABAMA
INDUSTRIAL DEVELOPMENT REVENUE BOND
(MORROW PROJECT)

KNOW ALL MEN BY THESE PRESENTS that The Industrial Development Board of Shelby County, a public corporation created and existing under the laws of the State of Alabama (herein called the "Board"), for value received, hereby promises to pay from the source and as hereinafter provided to AmSouth Bank N.A. (herein called the "Bondholder"), at its principal office in the City of Birmingham, Alabama, the principal sum of



FIVE HUNDRED THOUSAND DOLLARS
($500,000)

and in like manner to pay interest on the unpaid principal balance from the date hereof (computed on the basis of a 360-day year for the actual number of days elapsed) at a per annum rate of interest equal to seventy-five percent (75%) of the Prime Rate (as such term is hereinafter defined), as adjusted from time to time (herein called the "Computed Rate"), subject to the following:

(1) If the highest marginal rate of federal income tax imposed on corporations (the "Maximum Corporate Tax Rate") decreases after the date of issuance of the Bond, the percentage of the Prime Rate (the "Applicable Percentage") used to determine the effective rate of interest on the Bond shall be adjusted, effective on the first day of the calendar month next succeeding the effective date of such decrease, to the product (rounded to the second decimal point; e.g., _.00) of (i) the Applicable Percentage on the date of issuance of the Bond times (ii) a fraction the numerator of which is the number 1 minus the Maximum Corporate Tax Rate (expressed as a decimal) in effect following such decrease and the denominator of which is the number 1 minus the Maximum Corporate Tax Rate (expressed as a decimal) in effect on the date of issuance of the Bond.

(2) If a Final Determination (as such term is hereinafter defined) is made that interest on the Bond is Taxable (as such term is hereinafter defined), the Bond shall bear interest at the Prime Rate, as adjusted from time to time, plus 2% per annum, effective as of the earliest date that interest hereon became so Taxable. Any additional amount of interest payable on the Bond for the period prior to the date of such Final Determination shall be payable on the interest payment date (or redemption date, as the case may be ) next following the date of such Final Determination.

(3) In no event shall the rate of interest on the Bond be less than 7.5% per annum nor greater than 15% per annum; provided, however, that if the Compounded Rate shall at any time exceed 15%, then if the Computed Rate subsequently becomes less than 15%, the Bond shall bear interest at the rate of 15% for such period until the Board has paid, in addition to interest at the Computed Rate for such period, the amount of interest equal to the difference between the amount of interest which was paid for such period when the Computed Rate exceeded 15% and the amount of interest which would have been payable during such period had there not been a ceiling of 15% on the Computed Rate. After such additional interest has been paid, the interest rate on the Bond shall again be the Computed Rate (but not less than 7.5%, nor greater than 15%) unless and until the Computed Rate shall again exceed 15%, in which event the interest rate shall be 15% and the interest which is not paid because of said 15% ceiling will be subsequently paid in the manner provided hereinabove.



Interest on overdue principal and premium, if any, and (to the extent legally enforceable) on any overdue installment of interest on the Bond shall be payable at the Prime Rate, as adjusted from time to time, plus 2% per annum, or the maximum rate of interest allowed by law, whichever is less.

For the purpose of determining the amount of interest payable on each interest payment date occurring prior to the final maturity or the redemption of the Bond in whole, the Prime Rate in effect on the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date shall be deemed to be the Prime Rate in effect until the day prior to such interest payment date. If the Prime Rate changes during such period, the difference between the amount of interest that in fact accrues during such period and the amount of interest actually paid shall be added to or subtracted from, as the case may be, the interest otherwise payable for the next succeeding interest period. For the purpose of determining the amount of interest payable at the final maturity or upon redemption of the Bond in whole, all changes in the Prime Rate occurring on or prior to the day before the final maturity or such redemption date shall be taken into account.

The term "Prime Rate" shall mean the rate of interest announced from time to time by the Bondholder as its prime rate, with the understanding that the Bondholder's prime rate is one of its base rates established from time to time for lending purposes and is evidenced by the recording thereof after its announcement in such internal publication or publications as the Bondholder may designate. For the purpose of calculating the effective rate of interest on the Bond, any change in the Prime Rate shall be effective on the date such change is announced.



Interest on the Bond shall be deemed "Taxable" if interest on the Bond is includable in the gross income of the owner thereof for any reason other than the fact that such owner is a "substantial user" of the Project or a "related person" within the meaning of Section 103(b)(13) [or successor provision] of the Internal Revenue Code of 1954, as amended. A "Final Determination" that interest hereon is Taxable shall be deemed to exist when (i) the Lessees or the owner of the Bond shall determine in good faith, supported by an opinion of counsel, that interest on the Bond is Taxable or (ii) the Internal Revenue Service shall claim in writing that interest on the Bond is Taxable.

The principal of and interest on the Bond shall be payable in one hundred seventy-nine (179) equal monthly installments of $5,373.03 each, or such greater amount each month as may be required to pay in full interest accrued, commencing April 5, 1985 and continuing on the fifth day of each month of each year thereafter until February 5, 2000, or until the principal of and interest on this Bond shall have been paid in full, each such installment being applied first to the payment of interest accrued on the unpaid principal balance hereof and then to the reduction of such principal balance, and a final installment on March 5, 2000, unless sooner paid, equal to the entire unpaid principal balance hereof plus the interest accrued hereon to the date of payment.

This Bond is issued for the purpose of acquiring, constructing and equipping a building, facilities and improvements, and paying necessary expenses incidental thereto (such building, improvements, equipment, facilities and the land upon which such are located, as they may at any time exist, being herein called the "Project"). The Project is leased to Gordon Morrow, Jr. and Malcolm A. Morrow (herein called the "Lessees") under a Lease Agreement of even date herewith (herein called the "Lease Agreement"). This Bond is issued under and is secured and entitled to the protection given by a Mortgage and Indenture of even date herewith (herein called the "Indenture") duly executed and delivered by the Board to the Bondholder.

This Bond is subject to prepayment as follows:

(1) The principal of this Bond is subject to prepayment (without premium or penalty) in whole or in part on any installment payment date with money remaining in the Construction Fund (established under the Indenture) upon completion of the Project, as provided in Section 3.3 of the Indenture.



(2) The principal of this Bond is subject to prepayment (without premium or penalty) in whole or in part on any installment payment date in the event of (a) damage to or condemnation of the Project, as provided in Article V of the Lease Agreement, or (b) exercise by the Lessees of their option to purchase the Project, or parts thereof, as provided in Sections 9.3 and 9.5 of the Lease Agreement.

(3) The entire unpaid principal balance of this Bond or any lesser portion thereof not less than $1000 is subject to prepayment (without premium or penalty) at the option of the Board on any installment payment date.

(4) The Board shall be required to prepay this Bond in whole if interest on this Bond is determined to be subject to Federal income taxation, as provided in Article X of the Lease Agreement. In such event this Bond shall be prepaid upon written notice from the holder hereof to the Board and Lessees, as provided in Article X of the Lease Agreement, at a prepayment price equal to the entire unpaid principal balance of this bond, plus interest accrued hereon to the date of payment.

Written notice of any intended prepayment under paragraphs (1) through (3) above shall be given by the Board to the Bondholder at its principal office at least five days prior to the prepayment date.

Any partial prepayment of principal shall not postpone the due date nor change the amount of any subsequent monthly installments coming due hereunder prior to the payment in full of the principal and interest on this Bond.

This Bond is registered as to principal and interest in the name of the owner on the record of registration maintained for that purpose by the Board. The person in whose name this Bond is registered shall be deemed and regarded as the absolute owner hereof for all purposes and payment of the installments of principal and interest on this Bond shall be made only to or upon the order of the registered owner hereof or his legal representative, and neither the Board nor any agent of the Board shall be affected by any notice to the contrary. All such payments of principal or interest shall be valid and effectual to satisfy and discharge the liability of the Board upon this Bond to the extent of the sum or sums so paid.

This Bond may be transferred only upon the written request of the registered owner or his legal representative addressed to the Board, such transfer to be recorded on said record of registration and endorsed hereon by an officer of the Board. Upon presentation of this Bond to the Board for transfer, this Bond must be accompanied by a written instrument or instruments of transfer satisfactory to the Board, duly executed by the registered owner or his attorney duly authorized in writing, and the Board shall endorse on the schedule attached hereto for such purpose the principal amount of this Bond unpaid and the interest accrued hereon to the date of transfer. No charge shall be made for the privilege of transfer, but the owner of this Bond requesting any such transfer shall pay any tax or other governmental charge required to be paid with respect thereto.



If an Event of Default occurs, as defined in the Indenture, the entire unpaid principal balance of this Bond may be declared due and payable in the manner and with the effect provided in the Indenture.

This Bond is issued pursuant to and in full compliance with the Constitution and laws of the State of Alabama, particularly Article 2 of Chapter 20 of Title 11 of the CODE OF ALABAMA 1975 (Section 11-20-30 et seq.) and pursuant to a resolution adopted and approved by the Board, which resolution authorizes the execution and delivery of the Indenture. This Bond is a limited obligation of the Board and is payable solely out of the revenues and receipts derived from the leasing or sale of the Project. Rental payments under the Lease Agreement sufficient for the prompt payment when due of the installments on this Bond have been duly pledged for that purpose, and in addition the Project has been mortgaged under the Indenture to secure payment of this Bond. Shelby County (herein called the "County") shall not in any event be liable for the payment of this Bond or any other bonds of the Board, or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever which may be undertaken by the Board, and none of the bonds of the Board or any of its agreements or obligations shall be construed to constitute an indebtedness of the County within the meaning of any constitutional or statutory provision whatsoever.

No recourse shall be had for the payment of this Bond or for any claim based thereon or upon any obligation, covenant or agreement in the Indenture contained, against any incorporator of the Board, or against any past, present or future officer, employee or member of the board of directors of the Board or of any successor corporation, as such, either directly or through the Board or any successor corporation, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such incorporators, officers, employees, or members of the board of directors as such is hereby expressly waived and released as a condition of and in consideration for the execution of the Indenture and the issuance of this Bond.



IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the Lease Agreement and the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law; that the issuance of this Bond does not exceed or violate any constitutional or statutory limitation; and that the lease rentals, revenues and receipts pledged to the payment of this Bond will be sufficient in amount for that purpose.

This Bond and the income therefrom and also the Project and the income therefrom are exempt from all taxation in the State of Alabama.

IN WITNESS WHEREOF, The Industrial Development Board of Shelby County has caused this Bond to be executed in its name by the Chairman of its Board of Directors and attested by its Secretary, and has caused its corporate seal to be hereunto affixed, all as of the ___ day of September, 1984.

THE INDUSTRIAL DEVELOPMENT BOARD
OF SHELBY COUNTY

By______________________________
Chairman of its Board of
Directors

S E A L

Attest:______________________________
Secretary

## CERTIFICATE OF REGISTRATION

This Bond is registered on the registry records of The Industrial Development Board of Shelby County, Alabama, in the permanent records of the Board in the name of the last owner named below. The principal of and interest on this Bond shall be payable only to or upon the order of such registered owner.

| Date of Registration | In Whose Name Registered | Signature of Authorized Officer of Board |
|---|---|---|
| | | |
| | | |
| | | |
| | | |



## ENDORSEMENT OF UNPAID PRINCIPAL AND ACCRUED INTEREST ON DATE OF TRANSFER

| Date of Transfer | Principal Unpaid | Accrued Interest on date of Transfer | Signature Authorized Officer of Board |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |

## PREPAYMENT RECORD

| Date of Prepayment | Amount of Prepayment | Signature of Authorized Officer of Bondholder |
|---|---|---|
| | | |
| | | |
| | | |

WHEREAS, all things necessary to make the Bond, when issued as in this Indenture provided, the valid, binding and legal obligation of the Borrower according to the import thereof, and to make this Indenture a valid agreement of the Borrower, in accordance with its terms, and a lien on the properties mortgaged and a valid pledge of the lease rentals, revenues and receipts herein made to the payment of the Bond, have been done and performed, and the creation, execution and issuance of the Bond, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, THIS MORTGAGE AND INDENTURE WITNESSETH:

GRANTING CLAUSES

For and in consideration of the premises, the mutual covenants of the Borrower and the Bondholder and in order to secure the payment of the Bond according to its tenor and effect and the performance and observance by the Borrower of all the covenants expressed or implied herein and in the Bond, the Borrower does hereby grant, bargain, sell, convey, assign, mortgage and pledge unto the Bondholder and its assigns forever:

BOOK 002 PAGE 468

I.

The following described real estate and premises located in Shelby County, Alabama, together with all buildings, additions, improvements, structures and fixtures now or hereafter located thereon or therein, with the tenements, hereditaments, appurtenances, easements, rights, privileges and immunities thereunto belonging or appertaining, to wit:

A part of the SW 1/4 of the NE 1/4 and also a part of the SE 1/4 of the NE 1/4 of Section 29, Township 18 South, Range 1 West, Shelby County, Alabama, and being more particularly described as follows:

Commence at the Northwest corner of the SW 1/4 of the NE 1/4 of Section 29, Township 18 South, Range 1 West; thence run South along the West line of said 1/4-1/4 Section a distance of 977.37 feet; thence turn left and run North 89 deg. 28' 38" East a distance of 932.64 feet to the point of beginning of the property described herein; thence continue along the last described course a distance of 397.46 feet to the Westerly right of way line of County Highway #119; thence turn left and run North 25 deg. 19' 09" East along said right of way line a distance of 271.81

feet; thence turn left and run North 62 deg. 26' 44" West a distance of 375.00 feet; thence turn left and run South 23 deg. 12' 04" West a distance of 460.00 feet to the point of beginning.

Situated in Shelby County, Alabama.

According to survey of C. J. Richardson, Reg. No. 9225, dated September 4, 1984.

II.

All machinery, equipment and personal property acquired and installed in or about the Buildings or on the Mortgaged Realty pursuant to Article II of the Lease Agreement, including without limitation any machinery, equipment and personal property acquired with the proceeds from the sale of the Bond and the machinery, equipment and personal property described in Exhibit A attached hereto and made a part hereof, and any machinery, equipment and personal property acquired in substitution therefor or as a renewal or replacement thereof pursuant to the terms of the Lease Agreement and this Indenture.



III.

The rights of the Borrower under and pursuant to the Lease Agreement, all lease rentals, revenues and receipts derived by the Borrower from the leasing or sale of the Project, including without limitation all rentals, revenues and receipts to be received by the Borrower under and pursuant to the Lease Agreement.

IV.

Any and all other real or personal property of every kind and nature from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned or transferred, as and for additional security hereunder by the Borrower or by anyone in its behalf, or with its written consent to the Bondholder.

SUBJECT, HOWEVER, to Permitted Encumbrances;

TO HAVE AND TO HOLD all the same with all privileges and appurtenances hereby and hereafter conveyed and assigned, or agreed or intended so to be, to the Bondholder and its assigns forever;

PROVIDED, HOWEVER, that if the Borrower, its successors or assigns, shall well and truly pay, or cause to be paid, the installments of principal and interest due or to become due on the Bond, at the times and in the manner mentioned in the Bond according to the true intent and meaning thereof, and shall well and truly keep, perform and observe all the covenants and conditions of this Indenture to be kept, performed and observed by it, then this Indenture and the rights hereby granted shall cease, determine and be void; otherwise this Indenture to be and remain in full force and effect.

The terms and conditions upon which the Bond is to be issued, delivered, secured and accepted by the Bondholder, and the conditions upon which the Mortgaged Property is to be held and disposed of, which said conditions the Bondholder hereby accepts, and the terms and conditions to which the respective parties hereto covenant and agree, are as follows:



## ARTICLE I

### DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

Section 1.1 Definitions. In addition to the words and terms elsewhere defined in this Indenture, the following words and terms as used in this Indenture shall have the following meanings unless the context or use indicates another or different meaning or intent:

"Authorized Investments" means (i) Government Obligations, or (ii) certificates of deposit issued by the Bondholder or by any bank organized under the laws of the United States of America or any state thereof having at the time of issuance of such certificate of deposit combined capital, surplus and undivided profits of not less than $10,000,000.

"Bond" means the Bond of the Borrower to be issued hereunder.

"Bond Counsel" means Cabaniss, Johnston, Gardner, Dumas & O'Neal, Attorneys, Birmingham, Alabama, or such other firm of attorneys experienced in the field of municipal financing as shall be designated by the Borrower with the approval of the Bondholder.

"Bondholder" means the party of the second part hereto and its assigns.

"Borrower" means the party of the first part hereto and, subject to the provisions of Section 5.4 hereof, includes its successors and assigns and any corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party.

"Buildings" means (i) the buildings, structures and fixtures located on the Mortgaged Realty and acquired, constructed or improved pursuant to Article II of the Lease Agreement, and (ii) all other buildings, improvements, additions, structures and fixtures now or hereafter located on the Mortgaged Realty, as they may at any time exist.

"Code" means the Internal Revenue Code of 1954, as amended.



"Construction Fund" means the fund established under Section 3.2 hereof.

"County" means Shelby County, Alabama.

"Enabling Law" means Article 2 of Chapter 20 of Title 11 of the CODE OF ALABAMA 1975 (Section 11-20-30 et seq.).

"Equipment" means the machinery, equipment and personal property described in granting clause II hereof.

"Event of Default" means those events specified in and defined by Section 6.1 hereof.

"Government Obligations" means (a) direct obligations of the United States of America for the payment of which the full faith and credit of the United States of America is pledged, or (b) obligations issued by a person controlled or supervised by and acting as an instrumentality of the United States of America, the payment of the principal of, premium, if any, and interest on which is fully and unconditionally guaranteed as a full faith and credit obligation by the United States of America.

"Indenture" means these presents as from time to time supplemented and amended.

"Independent Counsel" means an attorney duly admitted to practice law in any state of the United States of America and not regularly employed by either the Borrower or the Lessees, or a firm of such attorneys.

"Lease Agreement" means the Lease Agreement executed by and between the Borrower and the Lessees of even date herewith, as such Lease Agreement may hereafter be supplemented or amended.

"Lessees" mean Gordon Morrow, Jr. and Malcolm A. Morrow, and their respective heirs, executors and assigns.

"Mortgaged Property" means (i) the Project, (ii) the rights of the Borrower under and pursuant to the Lease Agreement, (iii) all lease rentals, revenues and receipts derived by the Borrower from the leasing or sale of the Project, including without limitation all rentals, revenues and receipts derived by the Borrower under and pursuant to the Lease Agreement, and (iv) all properties which, under the terms hereof, are or subsequently become subject to the lien of this Indenture.

"Mortgaged Realty" means the real property described in granting clause I hereof.



"Permitted Encumbrances" means, as of any particular time, (i) the Lease Agreement, (ii) liens for taxes, assessments or other governmental charges or levies not due and payable or which are currently being contested in good faith by appropriate proceedings as permitted in the Lease Agreement, (iii) utility, access and other easements and rights of way, party walls, restrictions and exceptions that may be granted or are permitted under the Lease Agreement, (iv) any mechanic's, laborer's, materialman's, supplier's or vendor's lien or right or purchase money security interest if payment is not yet due and payable under the contract in question, and (v) such minor defects, irregularities, encumbrances, easements, rights of way, and clouds on title as do not, in the opinion of an Independent Counsel acceptable to the Bondholder, materially impair the Project for the purpose for which it was acquired or is held by the Borrower.

"Prime Rate" shall have the meaning ascribed on the face of the Bond.

"Project" means the Mortgaged Realty, the Buildings, and the Equipment, as they may at any time exist, and all other property and rights referred to or intended so to be in granting clauses I and II hereof.

"Project Costs" shall have the meaning ascribed in the Lease Agreement.

"State" means the State of Alabama.

Section 1.2 Use of Words and Phrases. "Herein", "hereby", "hereunder", "hereof", "hereinbefore", "hereinafter" and other equivalent words refer to this Indenture as a whole and not solely to the particular portion thereof in which any such word is used. "Person" includes natural persons, firms, associations, corporations and public bodies. The definitions set forth in Section 1.1 hereof include both singular and plural. Whenever used herein, any pronoun shall be deemed to include both singular and plural and to cover all genders.

Section 1.3 Applicable Provisions of Law. This Indenture shall be governed by and construed in accordance with the laws of the State.

Section 1.4 Captions. The captions or headings in this Indenture are for convenience only and in no way define, limit or describe the scope and intent of any provisions of this instrument.



Section 1.5 Successors and Assigns of Parties Hereto. All the covenants, stipulations, promises and agreements in this Indenture contained by or on behalf of the Borrower or the Bondholder or either of them shall inure to the benefit of and bind their respective successors and assigns.

Section 1.6 Limitation of Rights. Nothing expressed or mentioned in or to be implied from this Indenture or the Bond is intended or shall be construed to give any person other than the parties hereto and their successors hereunder and the Lessees any benefit or any legal or equitable right, remedy or claim under or in respect to this Indenture or any covenants, conditions and provisions herein contained; this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and their successors hereunder and the Lessees as herein provided.

No recourse shall be had for the payment of the principal of, premium (if any), or interest on the Bond or for any claims based thereon or upon any obligation, covenant or agreement in the Indenture contained, against any incorporator of the Borrower, or against any past, present or future officer, employee or member of the board of directors of the Borrower or any successor corporation, as such, either directly or through the Borrower or any successor corporation, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such incorporators, officers, employees or directors of the Borrower as such is hereby expressly waived and released as a condition of and in consideration for the execution of this Indenture and the issuance of the Bond.

## ARTICLE II

## THE BOND

Section 2.1 Source of Payment of Bond; County Not Liable. The Bond herein authorized and all payments by the Borrower hereunder are limited obligations payable solely from revenues and receipts derived from the leasing or sale of the Project and as authorized by the Enabling Law and provided herein. No covenant or agreement contained in this Indenture or the Bond nor any obligation herein or therein imposed upon the Borrower, or the breach thereof, shall constitute or give rise to or impose upon the Borrower a pecuniary liability or a charge upon its general credit or property other than the Mortgaged Property. All obligations for the payment of money incurred by the Borrower are payable solely from and are limited to the proper application of the proceeds of the sale of the Bond, the rentals, revenues and receipts derived from or in connection with the Project and the moneys received under the Lease Agreement, and nothing in the Bond or in this Indenture shall be considered as pledging any other funds or assets of the Borrower. The County is not liable for payment of the Bond or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever which is undertaken by the Borrower. Neither the Bond nor any agreement of the Borrower shall be construed to constitute an indebtedness of the County within the meaning of any constitutional or statutory provision whatever.



Section 2.2 Authorization of Bond. A single bond shall be issued hereunder in the principal amount of $500,000. The Bond shall be in such form, shall bear interest at such rates, shall be payable at such time or times and in such amounts, shall be subject to prepayment at such times and under such conditions, and shall contain such other terms as set forth in the form of the Bond in the recitals to this Indenture. The Bond shall be executed by the Chairman of the Board of Directors and shall be attested by the Secretary of the Borrower, and the official corporate seal of the Borrower shall be affixed thereto. The Bond shall be dated as of the date of delivery and payment therefor. No bonds other than the Bond shall be issued under or secured by this Indenture.

Section 2.3 Registration of Bond; Persons Treated as Owner. The Bond shall be registered in the name of the owner on the record of registration to be maintained for the purpose by the Board. The person in whose name the Bond is registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of the installments of principal and interest on the Bond shall be made only to or upon the order of the registered owner thereof, or his legal representative, and neither the Board nor any agent of the Board shall be affected by any notice to the contrary. All such payments of installments on the Bond shall be valid and effectual to satisfy and discharge the liability of the Board upon the Bond to the extent of the sum or sums so paid.



The Bond may be transferred only upon the written request of the registered owner or his legal representative addressed to the Board, such transfer to be recorded on said record of registration and endorsed on the Bond by an officer of the Board. Upon presentation of the Bond for transfer, the Bond must be accompanied by a written instrument or instruments of transfer satisfactory to the Board, duly executed by the registered owner or his attorney duly authorized in writing. Upon presentation of the Bond for transfer, the Board shall endorse thereon in the schedule attached to the Bond for such purpose, the principal amount of the Bond unpaid and interest accrued thereon to the date of transfer. No charge shall be made for the privilege of transfer but the holder of the Bond requesting any such transfer shall pay any tax or other governmental charge required to be paid with respect thereto.

## ARTICLE III

## DELIVERY OF THE BOND
## CUSTODY AND APPLICATION OF PROCEEDS OF BOND

Section 3.1 Delivery of Bond. The Bond shall be executed and delivered to the Bondholder upon payment of the purchase price thereof. The proceeds of the sale of the Bond shall be deposited in the Construction Fund and disbursed only as hereinafter provided.

Section 3.2 Construction Fund; Disbursements. There is hereby established with the Bondholder a special fund in the name of the Borrower to be designated the "Construction Fund". The proceeds from the sale of the Bond shall be deposited in the Construction Fund. Money in the Construction Fund shall be applied solely to the payment of Project Costs upon requisition as hereinafter provided, and pending such application shall be subject to a lien in favor of the Bondholder. The money in the Construction Fund shall be paid out by the Bondholder from time to time only upon receipt of

(a) A requisition or payment request signed by any duly authorized officer, employee or agent of the Borrower and stating with respect to each such payment, the amount requested to be paid and the name and address of the person to whom such payment is to be made,

(b) An endorsement on such requisition or payment request signed by the Lessees in which the Lessees shall (i) approve the payment thereby requested to be made. (ii) describe in reasonable detail the particular Project Cost, (iii) state that the purpose for which such payment is to be made is one for which Construction Fund money is authorized under the Lease Agreement to be expended. (iv) certify that such payment is for the acquisition. construction, reconstruction or improvement of land or property of a character subject to the allowance for depreciation or for paying expenses incurred in connection with the issuance, sale and delivery of the Bond, (v) certify that any property for which payment is to be made has been installed or is located on the Mortgaged Realty, (vi) certify that such payment will not result in any part of the proceeds of the Bond being used for the acquisition, construction, reconstruction or improvement of any property which would cause the average maturity of the Bond to exceed 120 percent of the average reasonably expected economic life of the facilities financed within the proceeds of the Bond, within the meaning of Section 103(b)(14) of the Code, (vii) certify that such payment will not result in any part of the proceeds of the Bond being used for the acquisition of (A) any real property or any interest therein, or (B) any property or any interest therein (including buildings, structures, facilities, improvements, equipment, machinery, or other personal property), the first use of which property was not pursuant to such acquisition with the proceeds of the Bond, and (viii) certify that such payment is not for the cost of acquiring any real or personal property the commitment to obtain which was made prior to July 24, 1984. If the payment requested to be made is for the cost of acquiring real or personal property the commitment to obtain which was made prior to July 24, 1984, the Lessees may, in lieu of the certification required by clause (vi) of this praragraph (b), file with the Bondholder an opinion of Bond Counsel stating that such payment will not cause or result in the loss of exemption of interest on the Bond from Federal income taxation.

(c) With respect to any withdrawal to pay for construction of the Buildings, a certificate by an architect (i) stating that the amount requested to be withdrawn is justly due to vendors, contractors, subcontractors, materialmen, architects or other persons (whose names and addresses shall be stated) who have performed necessary and appropriate work or services or furnished necessary and appropriate materials in the construction of the Buildings in accordance with plans and specifications approved by the Lessees, (ii) giving a brief description of such work and materials and the amount due to each such person in respect thereof, (iii) stating that the fair market value of such work, services or materials is not exceeded by the amount requested to be withdrawn, and (iv) with respect to any payments under any contract, that the amount is due and owing in accordance with the provisions thereof.



(d) An invoice or invoices from the payee named in such requisition or payment request (or, if the Lessees are requesting reimbursement for Project Costs, from the person to whom the Lessees made payments for Project Costs) showing that the amount requested to be paid is (or, if the Lessees are requesting reimbursement for Project Costs, was) due and payable for the purpose stated.

The provisions of the preceding paragraph to the contrary notwithstanding, if with respect to payment of any item of Project Cost from the Construction Fund the Lessees shall furnish to the Bondholder a certificate signed by the Project Supervisor (as defined in the Lease Agreement) stating that the Borrower has failed or refused, after reasonable request therefor made by the Lessees, to issue a payment requisition for payment of such item, the payment requisition therefor may be signed in the name of the Borrower by the Project Supervisor, and the Bondholder shall be fully protected in making the payment ordered made by such payment requisition as fully and completely as if it were signed by an authorized officer or other agent of the Borrower, provided that such payment requisition is accompanied by the endorsement and other documentation required by the provisions of the preceding paragraphs (b), (c) and (d) of this Section.

In addition to the documents required by this Section, the Bondholder may require as a condition precedent to any payment or withdrawal further evidence with respect thereto or with respect to the application of any money previously disbursed or as to the correctness of any statement made in any requisition, payment request or endorsement. The Bondholder shall not be liable for any misapplication of moneys in the Construction Fund if disbursed pursuant to the provisions of this Section of the Indenture and without knowledge or reason to believe that such disbursement constitutes a misapplication of funds.

Section 3.3 Completion of the Project. The completion of the Project and the payment of all costs and expenses incidental thereto shall be evidenced by the filing with the Bondholder of the certificate of the Borrower and of the Project Supervisor as required by the provisions of the Lease Agreement. Upon receipt of such certificate by the Bondholder, any balance remaining in the Construction Fund shall be held in escrow by the Bondholder and shall be applied to the prepayment of the principal of the Bond on the next ensuing installment payment date. Pending such application, the moneys so held in escrow by the Bondholder may be invested in Government Obligations, provided that the yield on such investments may not exceed the yield on the Bond, computed in accordance with Section 103(c) of the Code.

Section 3.4 Security for Construction Fund. The money at any time on deposit in the Construction Fund shall be and at all times remain public funds impressed with a trust for the purpose for which such fund was created. The Bondholder shall at all times keep the money on deposit in such fund continuously secured for the benefit of the Borrower, either

(i) by holding on deposit, as collateral security, Government Obligations or other marketable securities eligible as security for the deposit of public trust funds under regulations of the Comptroller of the Currency, United States Treasury, having a market value (exclusive of accrued interest) not less than the amount of money on deposit in such fund, or



(ii) if the furnishing of security in the manner provided by the foregoing clause (i) is not permitted by the then applicable law and regulations, then in such other manner as may be required or permitted by the then applicable state and federal laws and regulations respecting the security for, or granting a preference in the case of, the deposit of public trust funds;

provided, however, that it shall not be necessary for the Bondholder to secure any portion of the money on deposit in such fund that may be secured by the Federal Deposit Insurance Corporation or by any agency of the United States of America that may succeed to its functions, or to secure any portion of such money that is invested as hereinafter provided.

Section 3.5 Investment of Construction Fund Money. Any money held as part of the Construction Fund shall be invested and reinvested by the Bondholder in Authorized Investments in accordance with the instructions of the Lessees, as provided in the Lease Agreement. Any such investments shall be held by or under the control of the Bondholder and shall be deemed at all times a part of the Construction Fund and the interest accruing thereon and any profit realized from such investments shall be credited to such fund, and any loss resulting from such investments shall be charged to such fund. The Bondholder is directed to sell and reduce to cash funds a sufficient amount of such investments whenever the cash balance in the Construction Fund is insufficient to pay a requisition when presented.



Section 3.6 Bondholder's Responsibility; Non-Arbitrage Covenant. The Bondholder shall have no liability or responsibility for any loss resulting from investments of Construction Fund money made pursuant to this Indenture except liability for its own negligence. No investment shall be authorized or permitted under this Indenture which, if made, would constitute the Bond an "arbitrage bond" within the meaning of Section 103(c) of the Code.

## ARTICLE IV

## COVENANTS BY THE BORROWER

The Borrower, for itself, its successors and assigns, covenants and agrees with the Bondholder as follows:

Section 4.1 Construction and Acquisition of Project; Application of Proceeds of Bond. The Borrower will cause the construction and acquisition of the Project to be begun and to be continued to final completion with due diligence. All money derived from the sale of the Bond shall be used solely for the purposes authorized under this Indenture and not otherwise. The Borrower shall cause substantially all of the proceeds of the Bond to be used for the acquisition, construction, reconstruction or improvement of land or property of a character subject to the allowance for depreciation, within the meaning of Section 103(b)(6) of the Code.

Section 4.2 Cooperation with Lessees. The Borrower will cooperate with the Lessees to the end that the Project may be placed in operation at the earliest possible time and thereafter operated by the Lessees in the most successful and productive manner possible.

Section 4.3 <u>Cooperation of Borrower If Possession of Project Returned</u>. Should there be a default under the Lease Agreement with the result that the right of possession of the Project is returned to the Borrower, the Borrower shall fully cooperate with the Bondholder and shall diligently proceed in good faith and use its best efforts to secure another tenant for the Project to the end that at all times sufficient revenues and receipts will be derived from the Project promptly to meet and pay the installments of principal and interest on the Bond as the same become due and payable, as well as covering the cost of maintaining and insuring the Project. Nothing herein, however, shall be construed as requiring the Borrower to operate the Project. All leases shall be subject to the prior written approval of the Bondholder and shall be assigned to the Bondholder as security for the Bond.



Section 4.4 <u>Performance of Covenants by Borrower and Lessees; Defaults by Lessees</u>. The Borrower will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in the Bond, and in all proceedings of its Board of Directors pertaining thereto.

The Borrower will require the Lessees faithfully to perform at all times any and all covenants, undertakings, stipulations and provisions contained in the Lease Agreement. The Borrower will promptly notify the Bondholder in writing if, to the knowledge of the Borrower, the Lessees fail to perform or observe any of the agreements or covenants on their part contained in the Lease Agreement. The Borrower will promptly comply with the instructions or directions of the Bondholder with respect to the giving of notice of default to the Lessees and the exercise of rights and remedies in the event of default under the Lease Agreement. Unless so instructed or directed the Borrower will not give the Lessees a notice of default or exercise any right or remedy under the Lease Agreement.

Section 4.5 <u>Inspection of Project Books</u>. All books and documents in the Borrower's possession relating to the Project and the revenues and receipts derived from the Project including any financial statement or other report by the Lessees shall at all times be open to inspection by such accountants or other agents as the Bondholder may from time to time designate.

Section 4.6 Title to Project. The Borrower has title in fee simple to and the beneficial interest in and is lawfully possessed of the Project and has the rightful power and lawful authority to mortgage the same, subject only to Permitted Encumbrances. The Borrower will warrant and defend the title thereto and every part thereof to the Bondholder, its successor and assigns, against the claims and demands of all persons whomsoever, except those claiming under Permitted Encumbrances. All of the Project is free and clear of and from all and any liens and encumbrances of every nature and kind, except Permitted Encumbrances, and will be so kept except as herein otherwise permitted, and the Borrower will at all times maintain and preserve the lien and rank of this Indenture as herein provided.



Section 4.7 Title to Pledged Revenues. The Borrower has legal title to and the beneficial interest in the revenues and receipts from the Project herein pledged and in the Lease Agreement assigned and pledged and the rightful power and the lawful authority to pledge and assign the same. The Borrower will warrant and defend such pledge and assignment to the Bondholder, its successors and assigns, against the claims and demands of all persons whomsoever. The revenues, receipts and the Lease Agreement so pledged and assigned are now and will be kept free and clear of and from any and all liens and encumbrances of every nature and kind except as herein otherwise provided. The Borrower will at all times maintain and preserve the lien and rank of this Indenture as a first and prior lien upon revenues, receipts and the Lease Agreement so pledged and assigned.

Section 4.8 Further Assurances; Recording Indenture and Lease Agreement. The Borrower will at any time or times do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, all such further acts, deeds, conveyances, assignments, pledges, transfers and assurances in law as the Bondholder shall reasonably require for the better assuring, assigning, transferring, pledging and confirming unto the Bondholder the property and rights herein assigned, transferred and pledged or intended so to be. The Borrower will cause this Indenture, any and all additional instruments executed pursuant to the provisions hereof and all financing statements and other security instruments relative thereto at all times to be recorded and filed and kept recorded and filed in such public offices as may be required by any present or future law in order fully to preserve, continue and protect the security of the Bond and the rights and remedies of the Bondholder and to perfect the security interest created by the Lease Agreement. The Borrower will fully comply with all the requirements of any and every recording law or any other law affecting the due recording and filing of this Indenture or of any such additional instruments. The Borrower will also cause the Lease Agreement, all supplements thereto and all other leases of the Project to be filed and recorded in the office of the Judge of Probate of the county in which the Project is situated and will cause all financing statements and other security instruments relative thereto to be filed and recorded in such manner and in such places as may be required by any present or future law to protect the validity thereof and the lien of this Indenture.

Section 4.9 Taxation. As provided in the Enabling Law, the Bond and the income therefrom and also the Project and any revenues derived from any lease thereof, shall be exempt from all taxation in the State.



Section 4.10 Covenants and Representations Regarding Section 103 of the Code. The Borrower recognizes that the Bond is being sold on the basis that the interest payable on the Bond is excludable from gross income of the holder thereof under Section 103 of the Code. The Borrower accordingly hereby covenants and agrees with the Bondholder that (i) the proceeds of the Bond shall not be used or applied by it in such manner as to constitute the Bond an "arbitrage bond" as that term is defined in Section 103(c) of the Code, (ii) substantially all of the proceeds of the Bond will be used for the acquisition, construction, reconstruction, or improvement of land or property of a character subject to the allowance for depreciation, within the meaning of Section 103(b)(6) of the Code, (iii) none of the proceeds of the Bond will be used for the acquisition, construction, reconstruction or improvement of any property which would cause the average maturity of the Bond to exceed 120 percent of the average reasonably expected economic life of the Project financed with the proceeds of the Bond within the meaning of Section 103(b)(14) of the Code, (iv) neither the Bond nor any of the proceeds therefrom shall ever be federally guaranteed, within the meaning of Section 103(h) of the Code, except as expressly provided therein, and (v) none of the proceeds of the Bond shall be used to acquire (A) any real property (or any interest therein), or (B) any property, or any interest therein (including without limitation buildings, structures, facilities, improvements, equipment, machinery or other personal property) the first use of which property was not pursuant to such acquisition with the proceeds of the Bond.

ARTICLE V

POSSESSION, USE, DESTRUCTION, CONDEMNATION, SALE AND PARTIAL RELEASE OF MORTGAGED PROPERTY

Section 5.1 Lessees' Right to Possession of the Project. So long as the Lessees are not in default under the provisions of the Lease Agreement and the Borrower is not in default under the provisions of the Indenture, the Lessees shall be entitled to possession of the Project and all other rights granted to the Lessees under the Lease Agreement.

Section 5.2 Condemnation or Destruction of or Damage to Project. In the event of condemnation or destruction of or damage to the Project, provision is made in the Lease Agreement for the application of the Net Proceeds (as therein defined) of insurance or condemnation awards. All such proceeds shall be held and applied as provided in the Lease Agreement. Any such proceeds held by the Bondholder for the purpose of repairing, rebuilding or restoring the Project shall be deposited in the Construction Fund and withdrawals shall be made therefrom upon compliance with the provisions of this Indenture with reference to disbursements from said fund.



Section 5.3 Prohibition of Mortgages and Pledges. The Borrower will not mortgage, pledge or otherwise encumber the Mortgaged Property or any part thereof unless (a) such mortgage, pledge or other encumbrance is subordinate, junior and secondary in all respects to the pledge and lien of this Indenture and to all obligations set forth herein and (b) the Bondholder has given its written consent to such mortgage, pledge or encumbrance. The Borrower shall not incur any obligations nor issue any bonds or other securities payable from the revenues and receipts herein pledged which will have priority to or equality with the Bond with respect to payment from said revenues and receipts or from any money in the Construction Fund.

Section 5.4 Sale of Project Prohibited Except Under Certain Conditions; Consolidation or Merger of, or Transfer of Assets by, Borrower. The Borrower shall not sell or in any manner dispose of any part of the Project except as may be permitted by this Section and the following Section of this Indenture.

The Borrower may sell the Project or any part thereof to the Lessees as a result of the Lessees' exercise of an option to purchase granted it in the Lease Agreement.

If the laws of Alabama at the time shall permit such action to be taken, nothing contained in this Section shall prevent the consolidation of the Borrower with, or merger of the Borrower into, or the transfer by the Borrower of the Project as an entirety to the County, a municipality or to another public corporation whose property and income are not subject to Federal or Alabama taxation if the County, municipality or such public corporation has the authority to carry on the business of owning and leasing the Project; provided that upon any such consolidation, merger or transfer, the due and punctual payment of the Bond according to its tenor and the due and punctual performance and observance of all the agreements and conditions of the Indenture to be kept and performed by the Borrower shall be expressly assumed in writing by the County, municipality or the corporation resulting from such consolidation or surviving such merger or to which the Project shall be transferred as an entirety; and provided further, that such consolidation, merger or transfer shall not cause or result in any mortgage on or other lien being affixed to or imposed on or becoming a lien on the Project or the revenues and receipts therefrom that will be prior to the lien of the Indenture and of the pledge herein made for the benefit of the Bondholder or in the interest income on the Bond becoming subject to Federal or State income taxation.



Section 5.5 Release of Mortgaged Realty and Equipment. Parts of the Mortgaged Realty and Equipment may be released from the lien of this Indenture as provided in and upon compliance with, the provisions of Sections 9.5 and 4.2 of the Lease Agreement and, upon compliance with said provisions, the Bondholder shall execute and deliver to the Borrower and the Lessees any and all instruments that may be necessary to effect such release.

## ARTICLE VI

## DEFAULT PROVISIONS AND REMEDIES OF BONDHOLDER

Section 6.1 Events of Default. If any of the following events occurs, it is hereby defined as and declared to be and to constitute an "Event of Default":

(a) Failure by the Borrower to pay any installment of principal or interest on the Bond as and when the same becomes due as therein and herein provided, whether such shall become due by maturity or otherwise;

(b) Failure by the Borrower to perform any of the agreements on its part herein contained (other than its agreement to pay the installments of principal and interest on the Bond) after thirty days' written notice of such failure (which notice must state that it is a "Notice of Default" hereunder) made by the Bondholder to the Borrower, unless during such period or any extension thereof the Borrower has taken steps reasonably calculated to remedy such default;

(c) appointment by a court having jurisdiction of a receiver for the Borrower or approval by a court of competent jurisdiction of any petition for reorganization of the Borrower or rearrangement or readjustment of the obligations of the Borrower under any provisions of the bankruptcy laws of the United States and the continuation of such appointment or approval unstayed and in effect for a period of sixty consecutive days; or

(d) An event of default under the Lease Agreement.

Section 6.2 <u>Remedies on Default</u>. Whenever any Event of Default shall have happened and be subsisting:



(a) The Bondholder may by notice in writing delivered to the Borrower, declare the entire principal balance of the Bond and the interest accrued thereon immediately due and payble, and such principal and interest shall thereupon become and be immediately due and payable, anything in this Indenture or the Bond to the contrary notwithstanding; subject, however, to the discretionary right of the Bondholder to annul such declaration and destroy its effect at any time before the Project shall have been sold pursuant to any provision of the Indenture.

(b) The Bondholder may proceed to protect and enforce its rights hereunder and under the Bond, by a suit or suits, whether for the specific performance of any covenant or agreement herein contained or in execution or aid of any power granted herein or for the enforcement of any other proper, legal or equitable remedy, as the Bondholder shall deem most effectual to protect and enforce its rights hereunder.

(c) The Bondholder shall be entitled upon or at any time after the commencement of any proceedings instituted in the Event of Default, as a matter of strict right, upon the order of any court of competent jurisdiction, to the appointment of a receiver of the Project and of the rent, revenues and income from the Project, with power to lease the Project. Any such receiver shall, except as herein otherwise provided, have all the usual powers and duties of receivers in similar cases, with full power upon the order of such court to lease the Project, or any part thereof, upon any terms approved by the Court.

(d) The Bondholder may, in its discretion, enter upon and take possession of the Project and lease the same in the name and as the agent of the Borrower and from time to time maintain and restore and insure and keep insured the same, in the manner and to the same extent as is usual with like properties and likewise, from time to time, make all necessary repairs, renewals, replacements, alterations, additions and improvements thereto and thereon as may seem judicious and lease the same or any part thereof, as effectually as the Borrower could do, and the Bondholder shall be entitled to collect and receive all rents, revenues and income of the Project and every part thereof and, after paying the expense of leasing the same, including the expenses of maintenance, repairs and insurance or other charges thereon, as well as just and reasonable compensation for the services of the Bondholder and its agents, attorneys, receivers, or counsel, the Bondholder shall apply such rents, revenues and income to the payment of the Bond.



(e) The Bondholder, with or without entry, personally or by attorney, may in its discretion either

(1) sell, or cause to be sold, all and singular the Project, and all the estate, right, title and interest, claim and demand therein, such sale or sales to be made at public outcry at the main door of the County Courthouse of the County, at such time or times and upon such terms as may be required by law or as the Bondholder may determine after having first given notice of the time, place and terms of sale, together with a description of the property to be sold, by publication once a week for three (3) consecutive weeks prior to said sale in any newspaper then published in said County, or

(2) institute such suit or proceeding for the foreclosure of this Indenture, with or without further, other or incidental relief, such as the appointment of a receiver, the specific enforcement of covenants or obligations or an injunction to prevent violations or threatened violations of any covenant, obligation or agreement provided by the Indenture.

Section 6.3 <u>Sale of Project</u>. On any sale of the Project or any part thereof by the Bondholder pursuant to any of the foregoing powers or pursuant to judicial authority,

(a) The entire principal balance of the Bond shall forthwith become due, anything therein or herein to the contrary notwithstanding.

(b) The whole of the Project shall be sold in one parcel and as an entirety, unless the Bondholder shall deem such sale as an entirety to be illegal or impracticable or inadvisable by reason of some statute or other cause.

(c) Any machinery, equipment or personal property constituting a part of the Equipment may be sold without having such property at the place of sale, and the Borrower, for itself, its successors and assigns and for all persons hereafter claiming through or under it hereby expressly waives and releases all right to have the Equipment or any part thereof at the place of sale upon any foreclosure sale thereof.



(d) The Bondholder may adjourn, or cause to be adjourned, from time to time, any sale, whether made under the power of sale herein granted or under or by virtue of judicial proceedings, by announcement at the time and place appointed for such sale or for such adjourned sale or sales; and, except as otherwise provided by law, such sale may be made, without further notice or publication, at the time and place to which the same shall be so adjourned.

(e) The Bondholder may bid for and purchase the Project, or the portion thereof to be sold, at such sale.

(f) The Bondholder is hereby appointed, empowered and directed by the Borrower as its irrevocable attorney to convey, assign, transfer and deliver to the purchaser the property sold and make all necessary conveyances and transfers thereof, all of which the Borrower hereby ratifies. The entire right, title, interest, claim and demand, legal and equitable, of the Borrower in the property sold shall be completely divested by such sale and the same shall be a perpetual legal and equitable bar to any claim by the Borrower thereto. The Borrower, however, if and when requested, will execute and deliver to the purchaser such instruments as may be requested by the purchaser in further assurance of the title so acquired.

(g) The purchaser upon paying the purchase money to the Bondholder and receiving its receipt therefor need not inquire into the authorization, necessity, expediency or regularity of the sale and need not see to or in any way be responsible for the application by the Bondholder of any part of the purchase money.

Section 6.4 Rights and Remedies of Bondholder on Default under Lease. The Bondholder shall have the right in the name of the Borrower to declare any default and exercise any remedy or remedies under the Lease Agreement or any other lease of the Project, including the right to declare the entire rent reserved under such lease immediately due and payable and to take any available proceedings against any party liable upon any such lease for the payment thereof, including any guarantor, if any, of the Lessees' obligations.

Section 6.5 Rights and Remedies of Bondholder in the Event of Bankruptcy, Etc. of a Lessee or Guarantor. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, composition or other judicial proceeding relative to the Lessees, or any guarantor or other person obligated for rent on the Project or for payment of the Bond, the Bondholder (irrespective of whether there has been a default under this Indenture) shall be entitled and empowered to intervene in such proceedings, to file and prove a claim or claims for the whole amount owing and unpaid and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Bondholder allowed in any such judicial proceedings, to collect and receive any moneys or other property payable or deliverable on any such claims, and to take such other action therein as the Bondholder may deem necessary or appropriate to protect its interests.



Section 6.6 Rights of Lessees in Event of Default by Borrower under this Indenture. If the Lessees are not in default under the Lease Agreement and an Event of Default should occur under this Indenture, the Bondholder shall notify the Lessees in writing of the occurrence of such default and the Lessees shall have the right to remedy such default hereunder within thirty days after such written notice, provided the Lessees shall pay all expenses of remedying such default. The exercise of the remedies set forth in this Article is subject to the right of the Lessees under this Section to remedy a default as in this Section provided and limited.

Section 6.7 Application of Proceeds of Foreclosure Sale. Any money collected by the Bondholder pursuant to a foreclosure sale of the Project shall be applied as follows:

First. To the payment of all necessary expenses incident to said sale.

Second. To the payment of all amounts lawfully due and owing to the Bondholder under the Bond, this Indenture and the Lease Agreement.

Third. To the Borrower or whomsoever may be entitled thereto.

Section 6.8 Remedies Cumulative. No remedy herein conferred upon or reserved to the Bondholder is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

Section 6.9 Delay or Omission Not a Waiver. No delay or omission of the Bondholder to exercise any right or power accruing upon any default occurring and continuing as aforesaid shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Indenture to the Bondholder may be exercised from time to time and as often as may be deemed expedient by the Bondholder.



Section 6.10 Remedies Subject to Applicable Law. All rights, remedies and powers provided by this Article may be exercised only to the extent the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that they will not render this Indenture invalid or unenforceable.

## ARTICLE VII

## MISCELLANEOUS

Section 7.1 Notices. Any notice request, complaint, demand, communication or other paper shall be sufficiently given and shall be deemed given when delivered or mailed by registered or certified mail, postage prepaid, or sent by telegram, addressed as provided in the Lease Agreement. A duplicate copy of each notice required to be given hereunder by either the Borrower or the Bondholder shall also be given to the Lessees, and a duplicate copy of each notice required to be given hereunder by the Bondholder to either the Borrower or the Lessees shall also be given to the other. The Borrower, the Lessees and the Bondholder may, by notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 7.2 Consent of Guarantors to Amendment to Lease Agreement or Indenture. The consent of any guarantors of the Bond or of the Lessees' obligations under the Lease Agreement shall be obtained prior to the execution of any amendments or supplements to the Lease Agreement or this Indenture.

Section 7.3 Counterparts. This Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 7.4 Severability Clause. The invalidity of any one or more phrases, sentences, clauses, sections or paragraphs hereof shall not affect the remaining portions of this Indenture or any part thereof, all of which are inserted conditionally on being held valid in law; and in the event that one or more of the phrases, sentences, clauses, sections or paragraphs contained herein should be invalid, this instrument shall be construed as if such invalid phrase or phrases, sentence or sentences, clause or clauses, section or sections, paragraph or paragraphs had not been inserted.



IN WITNESS WHEREOF, the Borrower has caused this Indenture to be signed in its name and behalf by the Chairman of its Board of Directors and its corporate seal to be hereunto affixed and attested by its Secretary and to evidence its acceptance of the terms and conditions hereof, the Bondholder has caused this Indenture to be signed in its name and behalf by one of its officers, its official seal to be hereunto affixed and the same to be attested by one of its officers, both of whom are thereunto duly authorized, and the Borrower and the Bondholder have caused this Indenture to be dated this 1st day of September, 1984.

THE INDUSTRIAL DEVELOPMENT BOARD
OF SHELBY COUNTY

(SEAL)

By ______________________________
Chairman of its Board of Directors

Attest: ______________________________
Secretary

AMSOUTH BANK, NATIONAL ASSOCIATION
Birmingham, Alabama

S E A L

By John M. Cayler

Its Vice President

Attest: Frank M. Lynch II

Its Assistant Vice President

BOOK 002 PAGE 491

BOOK 002 PAGE 492

## ACKNOWLEDGMENT OF BORROWER

STATE OF ALABAMA
COUNTY OF Shelby

I, the undersigned, a Notary Public in and for said County in said State, do hereby certify that M.H. Argo, Jr., whose name as Chairman of the Board of Directors of The Industrial Development Board of Shelby County, a public corporation, is signed to the foregoing Mortgage and Indenture and who is known to me, acknowledged before me on this day that, being informed of the contents of said Mortgage and Indenture, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this the 13th day of September, 1984.

Betty C. Donald
Notary Public

NOTARIAL SEAL

My Commission expires: 6-24-87

## ACKNOWLEDGMENT OF BONDHOLDER

STATE OF ALABAMA
COUNTY OF JEFFERSON

I, the undersigned, a Notary Public in andfor said County, in said State, hereby certify that John M Campbell whose name as Vice President of AmSouth Bank, National Association is signed to the foregoing Mortgage and Indenture and who is known to me, acknowledged before me on this day that, being informed of the contents of the said Mortgage and Indenture, he, as such officer and with full authority, executed the same voluntarily for and as the act of said Bank.

Given under my hand this the 13th day of September, 1984.

Sybil B Kite
Notary Public

NOTARIAL SEAL

My commission expires: MY COMMISSION EXPIRES DECEMBER 13, 1986

EXHIBIT A
TO
MORTGAGE AND INDENTURE
BETWEEN
THE INDUSTRIAL DEVELOPMENT BOARD
OF SHELBY COUNTY
, AND
AMSOUTH BANK N.A.

---

Description of Personal Property and Fixtures

Office furniture and furnishings, including telephone equipment

Air Compressor

5-ton Crane

Lathe

Miscellaneous plant equipment

Heating and air conditioning equipment, electrical equipment, plumbing fixtures and building materials and supplies to be incorporated or used in the Buildings.

BOOK 002 PAGE 493

INSTRUMENT WAS FILED
1984 SEP 18 AM 9:04
JUDGE OF PROBATE

Rec. 95.00
1.00
96.00