

ARTICLES OF INCORPORATION

OF

MBT, INC.

For the purpose of forming a corporation under the Alabama Business Corporation Act and any act amendatory thereof, supplementary thereto or substituted therefor (hereinafter referred to as the "Act"), the undersigned does hereby sign and adopt these Articles of Incorporation, and, upon the filing for record of these Articles of Incorporation in the Office of the Judge of Probate of the county in which the initial registered office is established under Article V hereof, the existence of a corporation (hereinafter referred to as the "Corporation"), under the name set forth in Article I hereof, shall commence.

ARTICLE I.

NAME

1.1 The name of the Corporation shall be MBT, Inc.

ARTICLE II.

PERIOD OF DURATION

2.1 The duration of the Corporation shall be perpetual.

ARTICLE III.

PURPOSES, OBJECTS AND POWERS

3.1 The purposes and objects and powers of the Corporation are:

(a) To engage in any lawful business, act or activity for which a corporation may be organized under the Act, it being the purpose and intent of this Article III to invest the Corporation with the broadest purposes, objects and powers lawfully permitted a corporation formed under the Act.

(b) To carry on any and all aspects, ordinary or extraordinary, of any lawful business and to enter into and carry out any transaction, ordinary or extraordinary, permitted by law, having and exercising in connection therewith all powers given to corporations by the laws of the State of Alabama.

Kenworth of Birmingham, Inc.  
3330 - 5th Avenue, North  
P. O. Box 698  
Birmingham, Alabama 35201

(205) 328-6170

(c) Without limiting the scope and generality of the foregoing, the Corporation shall have the following specific purposes, objects and powers:

(1) To engage in the business of owning and leasing equipment, and to engage in any and all activities, and acquire, own and operate any and all property, necessary or incidental to such activity.

(2) To have and to exercise any and all of the powers specifically granted in the business corporation laws of the State of Alabama, none of which shall be deemed to be inconsistent with the nature, character or object of the Corporation and none of which are denied to it by these Articles of Incorporation.

(3) To build, manufacture or otherwise process or produce; to acquire, own, manage, operate, improve or deal with; to sell, lease, mortgage, pledge, distribute or otherwise deal in and dispose of, property of every kind and wheresoever situated.

(4) To purchase, lease or otherwise acquire any interest in the properties and rights of any person, firm, corporation or governmental unit; to pay for the same in cash, in shares of stock, bonds, or other securities, evidences of indebtedness or property of this Corporation or of any other person, firm, corporation or governmental unit.

(5) To be a promotor or incorporator, to subscribe for, purchase, deal in and dispose of, any stock, bond, obligation or other security, of any person, firm, corporation, or governmental unit, and while the owner and holder thereof to exercise all rights of possession and ownership.

(6) To purchase or otherwise acquire (including, without limitation, to purchase its own shares to the extent of unreserved and unrestricted capital surplus available therefor) to the fullest extent permitted by the Act, and to sell, pledge or otherwise deal in or dispose of shares of its own stock, bonds, obligations or other securities.

(7) To borrow money from any person, firm, corporation or governmental unit and to secure any debt by mortgage or pledge of any property of the Corporation; to make contracts, guarantees, and indemnity agreements and incur liabilities and issue its notes if not inconsistent with the provisions of the Constitution of Alabama as the same may be amended from time to time.

(8) To lend money, or aid or extend credit, to, or use its credit to assist, any person, firm, corporation, or

governmental unit, including, without limitation, its employees and directors and those of any subsidiary, in accordance with the Act.

(9) To guarantee any indebtedness and other obligations of, and to lend its aid and credit to, any person, firm, corporation, or governmental unit, and to secure the same by mortgage or pledge of, or security interest in, any property of the Corporation.

(10) To consolidate, merge or otherwise reorganize in any manner permitted by law; to engage in one or more partnerships and joint ventures as general or limited partner.

(11) To carry on its business anywhere in the United States and in foreign countries.

(12) To elect or appoint officers and agents and define their duties and fix their compensation; to pay pensions and establish pension plans, pension trusts, profit sharing plans, stock bonus plans, stock option plans, and other incentive or deferred compensation plans for any or all of its directors, officers and employees.

(13) To make donations for the public welfare or for charitable, scientific, or educational purposes; to transact any lawful business which the Board of Directors shall find to be in aid of governmental policy.

3.2 All words, phrases and provisions appearing in this Article III are used in their broadest sense, are not limited by reference to or inference from any other words, phrases or provisions and shall be so construed.

#### ARTICLE IV.

##### CAPITAL STOCK

4.1 The aggregate number of shares of capital stock which the Corporation shall have authority to issue shall be 1,000 shares of the par value of \$1.00 per share.

#### ARTICLE V.

##### REGISTERED OFFICE AND REGISTERED AGENT; PRINCIPAL OFFICE

5.1 The location and mailing address of the initial registered office of the Corporation shall be 716 Whippoorwill Drive, Riverchase, Alabama 35244.

5.2 The initial registered agent at such address shall be Robert L. Mitchell.

5.3 The principal office of the Corporation in the State of Alabama shall be 716 Whippoorwill Drive, Riverchase, Alabama 35244.

## ARTICLE VI.

### INITIAL BOARD OF DIRECTORS

6.1 The number of directors constituting the initial Board of Directors shall be three.

6.2 The names and addresses of the persons who are to serve as directors until the first annual meeting of shareholders or until their successors be elected and qualify are:

<u>DIRECTORS</u>	<u>ADDRESS</u>
B. B. Mitchell	3330 Fifth Avenue North Birmingham, Alabama 35222
Robert L. Mitchell	716 Whippoorwill Drive Riverchase, Alabama 35244
W. Thomas Mitchell	3330 Fifth Avenue North Birmingham, Alabama 35222

## ARTICLE VII.

### INCORPORATOR

7.1 The name and address of the incorporator is:

<u>NAME</u>	<u>ADDRESS</u>
Robert L. Mitchell	716 Whippoorwill Drive Riverchase, Alabama 35244

## ARTICLE VIII.

### INTERNAL AFFAIRS

8.0 The following provisions for the regulation of the business and for the conduct of the affairs of the Corporation, the directors and the shareholders are hereby adopted:

8.1 The initial by-laws of the Corporation shall be adopted by the shareholders. The power to alter, amend, or

repeal the by-laws or adopt new by-laws shall be vested in the Board of Directors and the shareholders, or either of them, which power may be exercised in the manner and to the extent provided in the by-laws, provided, however, that the Board of Directors may not alter, amend or repeal any by-law establishing the number of directors, the time or place of shareholders' meetings, or what constitutes a quorum at such shareholders' meetings, or which was adopted by the shareholders and specifically provides that it cannot be altered, amended or repealed by the Board of Directors. The by-laws may contain any provisions for the regulation of the business and for the conduct of the affairs of the Corporation, the directors and shareholders not inconsistent with the Act or these Articles of Incorporation.

8.2 The business and affairs of the Corporation shall be managed by the Board of Directors. The number of directors comprising the initial Board of Directors shall be the number of persons listed as directors in Article VI hereof. Thereafter, the number of directors of the Corporation shall be fixed from time to time by the by-laws, or, in the absence of a by-law fixing the number of directors, the number of directors shall be the same as the number comprising the initial Board of Directors. The number of directors may be increased or decreased from time to time by amendment to the by-laws, provided that the Board of Directors shall consist of not less than one natural person, and that no decrease shall have the effect of shortening the term of any incumbent director.

8.3 Any contract or other transaction which is fair and reasonable to the Corporation between the Corporation and one or more of its directors, or between the Corporation and any firm of which one or more of its directors are members or employees, or in which they are financially interested, or between the Corporation and any corporation or association of which one or more of its directors are shareholders, members, directors, officers, or employees, or in which they are financially interested, shall be valid for all purposes, notwithstanding the presence of the director or directors at the meeting of the Board of Directors of the Corporation or any committee thereof that acts upon, or in reference to, the contract or transaction if either the fact of such interest shall be disclosed or known to the Board of Directors or such committee, as the case may be, and the Board of Directors or such committee shall, nevertheless, authorize or ratify the contract or transaction or the fact of such relationship or interest is disclosed to the shareholders entitled to vote and they authorize, approve or ratify such contract or transaction by vote or written consent. The interested director or directors shall not be counted in determining whether a quorum is present and shall not be entitled to vote on such authorization or ratification. This section shall not be construed to invalidate any contract or other transaction that would otherwise be valid

under the common and statutory law applicable to it. Each and every person who may become a director of the Corporation is hereby relieved from any liability that might otherwise arise by reason of his contracting with the Corporation for the benefit of himself or any firm or corporation in which he may be in any wise interested.

8.4 (a) The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action, suit or proceeding, whether civil, criminal, administrative or investigative, including appeals (other than an action by or in the right of the Corporation), by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such claim, action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any claim, action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(b) The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Corporation unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances



of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

(c) To the extent that a director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subsections (a) and (b), or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith, notwithstanding that he has not been successful on any other claim, issue or matter in any such action, suit or proceeding.

(d) Any indemnification under subsections (a) and (b) (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in subsections (a) and (b). Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to, or who have been wholly successful on the merits or otherwise with respect to, such claim, action, suit or proceeding, or (2) if such a quorum is not obtainable, or even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (3) by the shareholders.

(e) Expenses (including attorneys' fees) incurred in defending a civil or criminal claim, action, suit or proceeding may be paid by the Corporation in advance of the final disposition of such claim, action, suit or proceeding as authorized in the manner provided in subsection (d) upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount if and to the extent that it shall ultimately be determined that he is not entitled to be indemnified by the Corporation as authorized in this Section.

(f) The indemnification authorized by this Section shall not be deemed exclusive of and shall be in addition to any other rights to which those indemnified may be entitled under any statute, rule of law, provision of articles or certificate of incorporation, by-law, agreement, vote of shareholders or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

(g) The Corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is

or was serving at the request of the Corporation as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of this Section.

8.5 The Corporation reserves the right from time to time to amend, alter or repeal each and every provision contained in these Articles of Incorporation, or to add one or more additional provisions, in the manner now or hereafter prescribed or permitted by the Act, and all rights conferred upon shareholders at any time are granted subject to this reservation.

IN TESTIMONY WHEREOF, witness the hand of the undersigned incorporator on this the 28 day of November, 1984.

  
Robert L. Mitchell

This instrument prepared by:

Roy J. Crawford  
Cabaniss, Johnston, Gardner,  
Dumas & O'Neal  
1900 First National-Southern  
Natural Building  
Birmingham, Alabama 35203





# STATE OF ALABAMA

I, Don Siegelman, Secretary of State, of the State of Alabama, having custody of the Great and Principal Seal of said State, do hereby certify that pursuant to the provisions

of Section 10-2A-26, Code of Alabama 1975, the corporate name \_\_\_\_\_

MBT, Inc.

BOOK 26 PAGE 912 is reserved as available based only upon an examination of the corporation records on file in this office for the exclusive use of MBT, Inc. for a period of one hundred twenty days from this date. In the case of a domestic corporation, the name of the county in which the corporation was or is proposed to be incorporated is Shelby. I further certify that as set out in the application for reservation of corporate name, the Secretary of State's office does not assume any responsibility for the availability of the corporate name requested nor for any duplication which might occur.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State, at the Capitol, in the City of Montgomery, on this day.

November 13, 1984 - expires 3-14-85

Date

Don Siegelman

Secretary of State

# State of Alabama

SHELBY

## County

### CERTIFICATE OF INCORPORATION

OF  
MBT, INC.

The undersigned, as Judge of Probate of SHELBY County, State of Alabama, hereby certifies that duplicate originals of Articles of Incorporation for the incorporation of MBT, INC., duly signed pursuant to the provisions of Section 64 of the Alabama Business Corporation Act, have been received in this office and are found to conform to law.

ACCORDINGLY the undersigned, as such Judge of Probate, and by virtue of the authority vested in him by law, hereby issues this Certificate of Incorporation of MBT, INC., and attaches hereto a duplicate original of the Articles of Incorporation.

GIVEN Under My Hand and Official Seal on this the 29th day of NOVEMBER, 1984.

STATE OF ALA. SHELBY CO.  
I CERTIFY THIS  
INSTRUMENT WAS FILED

1984 NOV 29 AM 11:08

*Thomas A. Snowden, Jr.*

Judge of Probate

*Thomas A. Snowden, Jr.*  
JUDGE OF PROBATE

Rec 35.00  
Ind 1.00  
36.00

