

2219

33-5

[EXECUTION COPY]

MORTGAGE SECURING GUARANTY

Dated October 1, 1985

by

ALLIED FLEXIBLE PRODUCTS, INC.

BOOK 044 PAGE 335

This Mortgage Securing Guaranty is given as additional security to that certain Trust Indenture recorded in the office of the Judge of Probate of Shelby County, Alabama at ~~Mortgage~~ Book 44, Page 205-285
Real

Jack A

STATE OF ALABAMA)

SHELBY COUNTY)

MORTGAGE SECURING GUARANTY

This indenture dated October 1, 1985 is made and entered into by and between ALLIED FLEXIBLE PRODUCTS, INC., a corporation organized under the laws of the State of Alabama (the "Corporate Guarantor"), for the benefit of AMSOUTH BANK N.A., a national banking association with its principal office in the City of Birmingham, Alabama (the "Trustee"), as trustee under the Indenture referred to below, and the Holders of all Series A Bonds issued pursuant to the Indenture.

Recitals

The Industrial Development Board of the Town of Alabaster, a public corporation organized under the laws of the State of Alabama (the "Issuer"), has entered into a Trust Indenture dated October 1, 1985 (the "Indenture") with the Trustee providing for the issuance of its revenue bonds in one or more series (the "Bonds").

The first series of Bonds to be issued under the Indenture shall be the Issuer's \$1,000,000 Industrial Development Revenue Bonds (Harold P. Leader Project), Series A (the "Series A Bonds"). The Series A Bonds shall be issued simultaneously with the delivery of this Agreement. The proceeds of the Series A Bonds shall be applied by the Issuer to pay the costs of acquiring, constructing and equipping certain industrial facilities referred to in the Indenture as the "Project".

Pursuant to a Lease Agreement dated October 1, 1985 (the "Lease Agreement") between the Issuer and Harold P. Leader (the "User"), the Issuer has agreed to lease the Project to the User, and the User has agreed to pay rentals to the Issuer at times and in amounts sufficient to pay the principal of, premium (if any) and interest on the Bonds ("Debt Service") when due. The Project will be subleased by the User to the Corporate Guarantor.

The Bonds shall be limited obligations of the Issuer payable solely out of the rentals payable by the User pursuant to the Lease Agreement and any other revenues, rentals or receipts derived by the Issuer from the leasing or sale of the Project (the "Pledged Revenues"). Pursuant to the Indenture the Issuer shall assign and

pledge to the Trustee all right, title and interest of the Issuer in and to the Pledged Revenues and the Lease Agreement (except for certain rights personal to the Issuer) and shall mortgage the Project to the Trustee as security for the payment of the Bond and all other indebtedness secured by the Indenture (the "Indenture Indebtedness").

As additional security for the payment of Debt Service on the Series A Bonds, the User and the Corporate Guarantor have agreed to enter into a Guaranty Agreement (the "Series A Guaranty"), whereby the User and the Corporate Guarantor will jointly and severally guarantee payment of Debt Service on the Series A Bonds when due.

As security for its obligations under the Series A Guaranty, the Corporate Guarantor has agreed to execute this mortgage (the "Mortgage") in favor of the Trustee covering certain real property owned by the Corporate Guarantor.

Agreement

In consideration of the premises, other good and valuable consideration and the payment of the sum of \$10.00, the receipt whereof is hereby acknowledged, and to secure the prompt payment and true and faithful performance of all of the Corporate Guarantor's liabilities and obligations under the Series A Guaranty, including without limitation, the following:

(1) the full and prompt payment of the principal of the Series A Bonds and the premium (if any) payable upon redemption thereof, as and when the same shall become due, whether at the stated maturity thereof, by acceleration, call for redemption or otherwise;

(2) the full and prompt payment of the interest on the Series A Bonds, as and when the same shall become due; and

(3) the full and prompt payment of all amounts payable to the holder or former holders of the Series A Bonds under Sections 7.03 and 7.05 of the Lease Agreement, as and when such payments shall become due;

(hereinafter all of the Corporate Guarantor's liabilities and obligations under the Series A Guaranty being collectively called the "Obligations") and the compliance with all the stipulations and conditions herein contained, the Corporate Guarantor does hereby grant, bargain, sell and convey unto the Trustee, the real estate, situated in Shelby County, Alabama described on Exhibit A attached

hereto and made a part hereof (said real estate being hereinafter called "Real Estate"), together with all the rights, privileges, tenements, appurtenances and fixtures appertaining to the Real Estate, all of which shall be deemed Real Estate and conveyed by this Mortgage.

To have and to hold the Real Estate unto the Trustee, its successors and assigns forever. The Corporate Guarantor covenants with the Trustee that it is lawfully seized in fee simple of the Real Estate and has a good right to sell and convey the Real Estate as aforesaid; that the Real Estate is free of all encumbrances, except as set forth on Exhibit B attached hereto and made a part hereof, and that the Corporate Guarantor will warrant and forever defend the title to the Real Estate unto the Trustee, against the lawful claims of all persons.

This Mortgage is junior and subordinate to the mortgage or mortgages, if any, described on Exhibit B. It is specifically agreed that in the event default should be made in the payment of principal, interest or any other sums payable under the terms and provisions of any such prior mortgage, the Trustee shall have the right, without notice to anyone, to make good such default by paying whatever amounts may be due under the terms of any such prior mortgage so as to put the same in good standing, and any and all payments so made, together with interest thereon, shall be added to the indebtedness secured by this Mortgage, and the same, with interest thereon, shall be immediately due and payable; and, in the event such amounts are not paid in full when due, at the option of the Trustee, this Mortgage shall be subject to immediate foreclosure in all respects as provided by law and by the provisions hereof.

The Corporate Guarantor hereby authorizes the holder of any such prior mortgage encumbering the Real Estate to disclose to the Trustee the following information: (1) the amount of indebtedness secured by such mortgage; (2) the amount of such indebtedness that is unpaid; (3) whether any amount owed on such indebtedness is or has been in arrears; (4) whether there is or has been any default with respect to such mortgage or the indebtedness secured thereby; and (5) any other information regarding such mortgage or the indebtedness secured thereby that the Trustee may request from time to time.

For the purpose of further securing the Obligations, the Corporate Guarantor agrees to: (1) pay all taxes, assessments, and other non-consensual liens taking priority over this Mortgage (hereinafter jointly called "Liens"), and if default is made in the payment of the

Liens, or any part thereof, the Trustee, at its option, may pay the same; (2) keep the Real Estate continuously insured, in such manner and with such companies as may be satisfactory to the Trustee, against loss by fire, vandalism, malicious mischief and other perils usually covered by a fire insurance policy with standard extended coverage endorsement, with loss, if any, payable to the Trustee, as its interest may appear; subject, however, to the rights and interests of the holder or holders of any prior mortgage or mortgages, if any, described on Exhibit B. Such insurance shall be in an amount at least equal to (a) the amount of the Obligations, plus the aggregate amount of indebtedness secured by any prior mortgage or mortgages covering the Real Estate or (b) the full insurable value of the improvements located on the Real Estate, whichever shall be less. The insurance policy must provide that it may not be canceled without the insurer's giving at least ten days' prior written notice of such cancellation to the Trustee. The Corporate Guarantor hereby assigns and pledges to the Trustee, as further security for the Obligations, each and every policy of hazard insurance now or hereafter in effect which insures said improvements, or any part thereof, together with all the right, title and interest of the Corporate Guarantor in and to each and every such policy, including but not limited to, all of the Corporate Guarantor's right, title and interest in and to any premiums paid on such hazard insurance, including all rights to returned premiums; subject, however, to the rights and interests of the holder or holders of any prior mortgage or mortgages described on Exhibit B. If the Corporate Guarantor fails to keep the Real Estate insured as specified above, then, at the election of the Trustee, this Mortgage may be foreclosed as hereinafter provided; and, the Trustee may, but shall not be obligated to, insure the Real Estate for its full insurable value (or for such lesser amount as the Trustee may wish) against such risks of loss, for its own benefit, the proceeds from such insurance (less the cost of collecting the same), if collected, to be credited against the Obligations secured by the lien of this Mortgage, or, at the election of the Trustee, such proceeds may be used in repairing or reconstructing the improvements located on the Real Estate. All amounts spent by the Trustee for insurance or for the payment of Liens shall become a debt due by the Corporate Guarantor and at once payable, without demand upon or notice to the Corporate Guarantor, and shall be secured by the lien of this Mortgage, and shall bear interest from date of payment by the Trustee until paid at the per annum rate equal to the Prime Rate (as defined in the Indenture) plus 2% or the highest rate permitted by law, whichever is less.

As further security for the payment and performance of the Obligations by the Corporate Guarantor, the Corporate Guarantor hereby assigns and pledges to the Trustee, subject to the rights of the holder or holders of any prior mortgage described on Exhibit B, the following described property, rights, claims, rents, profits, issues and revenues:

1. all rents, profits, issues, and revenues of the Real Estate from time to time accruing, whether under leases or tenancies now existing or hereafter created, reserving to the Corporate Guarantor, so long as the Corporate Guarantor is not in default hereunder, the right to receive and retain such rents, profits, issues and revenues;

2. all judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the Real Estate, or any part thereof, under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the Real Estate, or any part thereof, or to any rights appurtenant thereto, including any award for change of grade of streets, and all payments made for the voluntary sale of the Real Estate, or any part thereof, in lieu of the exercise of the power of eminent domain. The Trustee is hereby authorized on behalf of, and in the name of, the Corporate Guarantor to execute and deliver valid acquittances for, and appeal from, any such judgments or awards. The Trustee may apply all such sums so received, or any part thereof, after the payment of all the Trustee's expenses, including court costs and attorneys' fees, on the indebtedness secured by the lien of this Mortgage in such manner as the Trustee elects, or, at the Trustee's option, the entire amount or any part thereof so received may be released or may be used to rebuild, repair or restore any or all of the improvements located on the Real Estate.

The Corporate Guarantor agrees to take good care of the Real Estate and all improvements located thereon and not to commit or permit any waste thereon, and at all times to maintain such improvements in as good condition as they now are, reasonable wear and tear excepted.

The Corporate Guarantor agrees that no delay or failure of the Trustee to exercise any option, or right granted hereunder shall be deemed a waiver of the Trustee's right to exercise such option or right, either as to any past or present default, and it is agreed that no terms or conditions contained in this Mortgage may be

waived, altered or changed except by a written instrument signed by the Corporate Guarantor and the Trustee.

After default on the part of the Corporate Guarantor, the Trustee, upon bill filed or other proper legal proceeding being commenced for the foreclosure of this Mortgage, shall be entitled to the appointment by any competent court, without notice to any party, of a receiver for the rents, issues and profits of the Real Estate, with power to lease and control the Real Estate, and with such other powers as may be deemed necessary.

Upon condition, however, that if the Corporate Guarantor shall truly and faithfully comply with all the terms and provisions of the Series A Guaranty, including, without limitation, the prompt payment and true and faithful performance of the Obligations (which Obligations include all of the Corporate Guarantor's liabilities and obligations under the Series A Guaranty, including, without limitation, the prompt payment in full of all indebtedness, liabilities and obligations now or hereafter covered by the Series A Guaranty), and if the Corporate Guarantor pays and reimburses the Trustee for any amounts the Trustee has advanced in payment of Liens or insurance premiums, and interest thereon, and fulfills all obligations under this Mortgage, this conveyance shall be null and void. But if any warranty or representation made in this Mortgage is breached or proves false in any material respect, or if default is made in the due performance of any covenant or agreement of the Corporate Guarantor under this Mortgage, or if default is made in the payment to the Trustee of any sum paid by the Trustee under the authority of any provision of this Mortgage, or if the Corporate Guarantor shall fail to comply with the terms and provisions of the Series A Guaranty (including, without limitation, the prompt payment and true and faithful performance of the Obligations), or if an event of default shall occur under the Series A Guaranty, or if the interest of the Trustee in the Real Estate becomes endangered by reason of the enforcement of any prior lien or encumbrance thereon, or if any statement of lien is filed against the Real Estate, or any part thereof, under the statutes of Alabama relating to the liens of mechanics and materialmen, or if any law is passed imposing or authorizing the imposition of any specific tax upon this Mortgage or the indebtedness secured by the lien of this Mortgage or permitting or authorizing the deduction of any such tax from the principal or interest of such indebtedness, or by virtue of which any tax, lien or assessment upon the Real Estate shall be chargeable against the owner of this Mortgage, or if any of the stipulations contained in this Mortgage is declared invalid or inoperative by any court of competent

BOOK 044 PAGE 342

jurisdiction, and any such default shall not be cured or remedied within seven days following the date on which the Corporate Guarantor shall receive notice thereof from Trustee; then upon the happening of any one or more of said events, at the option of the Trustee, this Mortgage shall be subject to foreclosure and may be foreclosed as now provided by law in case of past-due mortgages; and the Trustee shall be authorized to take possession of the Real Estate, and after giving at least twenty-one days' notice of the time, place and terms of sale by publication once a week for three consecutive weeks in some newspaper published in the county in which the Real Estate is located, to sell the Real Estate in front of the courthouse door of said county, at public outcry, to the highest bidder for cash, and to apply the proceeds of said sale as follows: first, to the expense of advertising, selling and conveying the Real Estate and foreclosing this Mortgage, including a reasonable attorneys' fee as provided herein; second, to the payment of any amounts that have been spent, or that it may then be necessary to spend, in paying insurance premiums, Liens, amounts due on any prior mortgages or other encumbrances, with interest thereon; third, to the payment in full of the balance of the Obligations; fourth, to a non-interest bearing reserve fund to be held by the Trustee in an amount equal to, and as security for, all of the Obligations that are not then due and payable; and, fifth, the balance, if any, to be paid to the party or parties appearing of record to be the owner of the Real Estate at the time of the sale, after deducting the cost of ascertaining who is such owner. The Corporate Guarantor agrees that the Trustee may bid at any sale had under the terms of this Mortgage and may purchase the Real Estate if the highest bidder therefor. At the foreclosure sale the Real Estate may be offered for sale and sold as a whole without first offering it in any other manner or it may be offered for sale and sold in any other manner the Trustee may elect.

The Corporate Guarantor agrees to pay all costs, including reasonable attorneys' fees, incurred by the Trustee in collecting or securing or attempting to collect or secure the Obligations, or any part thereof, or in defending or attempting to defend the priority of this Mortgage against any lien or encumbrance on the Real Estate, except to the extent this Mortgage is herein expressly made subject to any such lien or encumbrance, and/or all costs incurred in the foreclosure of this Mortgage, either under the power of sale contained herein, or by virtue of the decree of any court of competent jurisdiction. The full amount of such costs incurred by the Trustee shall be secured by this Mortgage. The purchaser at any such sale shall be under no obligation to

see to the proper application of the purchase money. In the event of a sale hereunder, the Trustee, or its assigns, or auctioneer, shall execute to the purchaser, for and in the name of the Corporate Guarantor, a good and sufficient deed to the Real Estate.

All covenants and agreements herein made by the Corporate Guarantor shall bind its successors and assigns; and every option, right and privilege herein reserved or secured to the Trustee, shall inure to the benefit of the Trustee's successors and assigns.

The date of this Mortgage is intended as and for a date for the convenient identification of this Mortgage and is not intended to indicate that this Mortgage was executed and delivered on said date.

This instrument may be executed in any number of counterparts, each of which so executed shall be deemed an original, but all such counterparts shall together constitute but one and the same instrument.

This Mortgage shall be construed in accordance with and governed by the laws of the State of Alabama.

IN WITNESS WHEREOF, the undersigned Corporate Guarantor has caused this instrument to be executed by its duly authorized officer.

ALLIED FLEXIBLE PRODUCTS, INC.

By Harold P. Leader
Its President

ATTEST:

Blair E. Leader
Secretary



STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned authority, in and for said County and in said State, hereby certify that Harold P. Leader, whose name as President of Allied Flexible Products, Inc., a corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this 8th day of October, 1985.

Mary Jo Danner
Notary Public

My commission expires:

8-29-88

AFFIX SEAL

BOOK 044 PAGE 344

This instrument was prepared by:

Kathleen A. Collier
Maynard, Cooper, Frierson & Gale, P.C.
12th Floor, Watts Building
Birmingham, Alabama 35203
(205) 252-2889

EXHIBIT A

Description of Real Estate

PARCEL #1:

A part of the NW1/4 of SE1/4 of Section 15, Township 20 South, Range 3 West, more particularly described as follows: Commence at the SE corner of the NE1/4 of SE1/4 of Section 15, and run Westerly along South line a distance of 871.46 feet; thence continue Westerly along South line a distance of 1317.5 feet; thence turn angle to right of 78 deg. 20' and run 339.02 feet, more or less, to North line of a 50-foot road, for the point of beginning; thence continue in the same direction a distance of 287.58 feet to the SW corner of property sold to Allied Flexible Products, Inc.; thence turn an angle to right of 101 deg. 39' and run Easterly along South line of Allied Flexible Products, Inc. property 811.23 feet to the NW corner of property sold to August Leonard Armstrong and Merle S. Armstrong, as described in Deed Book 251, on Page 402, in Probate Office of Shelby County, Alabama; thence turn an angle to right of 100 deg. 19' 30" and run 292.25 feet to North right of way line of a 50-foot road- way; thence run Westerly along North line of said 50-foot roadway 696.10 feet to point of beginning.

PARCEL #2:

From the Southwest corner of the NW1/4 of the SE1/4 of Section 15, Township 20 South, Range 3 West, run Easterly along the South line of said quarter-quarter Section for a distance of 455.21 feet; thence turn left an angle of 101 deg. 40 min. and run Northwesterly 626.60 feet to the point of beginning of the land herein described; thence continue Northwesterly 715.51 feet to the South right-of-way of L & N Railroad; thence turn right an angle of 90 deg. 22 min. and run Northeasterly 477 feet; thence turn right an angle of 124 deg. 39 min. and run Southwesterly 78.94 feet; thence turn left an angle of 16 deg. 09 min. and run Southwesterly 156.74 feet; thence turn left an angle of 59 deg. 22 min. and run Southeasterly 151.36 feet; thence turn left an angle of 53 deg. 48 min. North-easterly 249.73 feet; thence turn right an angle of 43 deg. 56 min. 20 sec. and run Southeasterly 176.79 feet; thence turn right an angle of 3 deg. 35 min. 20 sec. and run Southeasterly 200.88 feet; thence turn right an angle of 54 deg. 14 min. and run Southeasterly 160.09 feet; thence turn right an angle of 44 deg. 31 min. and run Southwesterly 247.19 feet; thence

turn right an angle of 49 deg. 34 min. and run Westerly 811.23 feet to the point of beginning.

Also, including all the land that lies West of the center of Prairie Branch and the above described land.

THERE IS EXCEPTED FROM SAID DESCRIPTION, the following described property: EXCEPTING therefrom the lot and right-of-way owned by the Water Works Board of the Town of Helena, being described as follows: Commencing at the point where the South right-of-way line of the L & N Railroad crosses the center of Prairie Branch in the N1/2 of NW1/4 of SE1/4 of Section 15, Township 20 South, Range 3 West, and run in a Westerly direction along the right-of-way line 190-1/2 feet to the point of beginning of the parcel described in this exception: thence turn an angle of 96 deg. 20 min. to the left and run 244.20 feet; thence turn an angle of 90 deg. to the left and run 17-1/2 feet; thence turn an angle of 90 deg. to the right and run 50 feet; thence turn an angle of 90 deg. to the right and run 50 feet; thence turn an angle of 90 deg. to the right and run 50 feet; thence turn an angle of 90 deg. to the right and run 17-1/2 feet; thence turn an angle of 90 deg. to the left and run 244.20 feet to said right of way line of said railroad; thence along same in an Easterly direction 15 feet to the point of beginning.

Also EXCEPT a 10-foot right-of-way being 5 feet on either side of the following described line: Commence at a point where the center line of First Avenue intersects the East line of Rolling Mill Street, said point being 665 feet East of the East property line of Main Street in the Town of Helena, Alabama, sight Southly along said right-of-way line of Rolling Mill Street; thence turn an angle of 89 deg. 5 min. to the left and run a line of 889.5 feet to the center line of Cobb Spring Branch to the point of beginning; thence continue Easterly and in the same direction 150 feet to a point; thence turn an angle of 4 deg. 4 min. to the left and run 133 feet; being situated in the N1/2 of NW1/4 of SE1/4 of said Section 15, Township 20 South, Range 3 West.

Situated in Shelby County, Alabama.

BOOK 044 PAGE 346

EXHIBIT B

Prior Encumbrances

1. Right of way to Alabama Power Company as recorded in Deed Book 54, Page 166, and in Deed Book 54, Page 168, and Deed Book 57, Page 88, and transmission line permit to Alabama Power Company as recorded in Deed Book 146, Page 304; and Deed Book 199, Page 446, in Probate Office of Shelby County, Alabama.
2. Pipe line easement to Plantation Pipe Line Company dated 16th August 1941 and recorded in Deed Book 112, Page 296, in Probate Office.
3. Mortgage to Jefferson Federal Savings and Loan Association of Birmingham dated January 26, 1984 and recorded in Mortgage Book 442, Page 605, in the Probate Office of Shelby County.
4. Ad valorem taxes for the current year which are a lien but not yet due and payable.

BOOK 044 PAGE 347

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

1985 OCT -9 AM 9:17

Thomas A. Snowden, Jr.
JUDGE OF PROBATE

RECORDING FEES

Recording Fee	\$ 32.50
Index Fee	1.00
TOTAL	\$ 33.50