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LEASE AGREEMENT

between

**THE INDUSTRIAL DEVELOPMENT BOARD
OF THE TOWN OF PELHAM**

and

DEAN HOFFMAN

Dated as of October 1, 1985

BOOK 045 PAGE 788

Relating to

\$140,000

**THE INDUSTRIAL DEVELOPMENT BOARD
OF THE TOWN OF PELHAM**

**First Mortgage Industrial Revenue Bonds
(Engineered Control Systems Project)
Series 1985**

HASKELL SLAUGHTER YOUNG & LEWIS
PROFESSIONAL ASSOCIATION
800 FIRST NATIONAL-SOUTHERN NATURAL BUILDING
BIRMINGHAM, ALABAMA 35203

TABLE OF CONTENTS*

to
LEASE AGREEMENT
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OF THE TOWN OF PELHAM**
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	<u>PAGE</u>
Parties	1
Recitals	1

ARTICLE I

DEFINITIONS AND USE OF PHRASES

Section 1.1	Definitions	1
Section 1.2	Definitions Contained in the Indenture	11
Section 1.3	Use of Phrases	11

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1	Representations and Warranties by the Board	12
Section 2.2	Representations and Warranties by the Lessee	14

ARTICLE III

DEMISING CLAUSES

Section 3.1	Demising Clauses	17
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***This Table of Contents appears here for convenience only and should not be considered a part of the Lease Agreement.**

BOOK 045 PAGE 780

ARTICLE IV

CONCERNING THE PROJECT DEVELOPMENT WORK;
ISSUANCE OF THE SERIES 1985 BONDS

Section 4.1	Performance of the Project Development Work	18
Section 4.2	Agreement to Issue Series 1985 Bonds	21
Section 4.3	Disbursement of Moneys from Construction Fund	21
Section 4.4	No Warranty of Suitability by the Board. Lessee Required to Make Arrangements for Payment of Project Costs	22
Section 4.5	Board to Pursue Rights Against Suppliers and Contractors, etc.	23
Section 4.6	Certification of Completion Date	23
Section 4.7	Supplemental Agreement on Completion	24

ARTICLE V

DURATION OF LEASE TERM AND RENTAL PROVISIONS

Section 5.1	Duration of Lease Term	24
Section 5.2	Basic Rent	24
Section 5.3	Additional Rent - Trustee's Fees and Expenses	26
Section 5.4	Additional Rent - Board's Expenses	26
Section 5.5	Additional Rent - Bond Preference Taxes	26
Section 5.6	Mandatory Payment of Basic Rent in the Event of a Series 1985 Determination of Taxability	27
Section 5.7	Mandatory Purchase of the Series 1985 Bonds in the Event of an Adjudication of Invalidity	28
Section 5.8	Optional Prepayment of Basic Rent	29
Section 5.9	General Provisions Concerning Prepayment of Basic Rent	29
Section 5.10	Obligations of Lessee Unconditional	30
Section 5.11	Municipal Service Fee	30

BOOK 045 PAGE 790

BOOK 045 PAGE 791

ARTICLE VI

PROVISIONS CONCERNING MAINTENANCE,
ADDITIONS, PARTY WALLS,
REMOVAL OF PROJECT EQUIPMENT,
INSURANCE AND TAXES

Section 6.1	Maintenance, Additions, Alterations, Improvements and Modifications	31
Section 6.2	Party Wall Provisions	33
Section 6.3	Removal of Project Equipment	34
Section 6.4	Payment of Claims, Judgments, Taxes, Other Governmental Charges and Utility Charges	37
Section 6.5	Insurance Required	38
Section 6.6	Performance by Board or Trustee of Certain Lessee Obligations. Reimbursement of Expenses	40

ARTICLE VII

PROVISIONS RESPECTING
DAMAGE, DESTRUCTION AND CONDEMNATION

Section 7.1	Damage and Destruction Provisions	40
Section 7.2	Condemnation Provisions	43
Section 7.3	Condemnation of Right to Use of the Project for Limited Period	47
Section 7.4	Condemnation of Lessee-Owned Property	48
Section 7.5	Cooperation of the Board in the Conduct of Condemnation Proceedings	48
Section 7.6	Cooperation of the Board with respect to Restoration of the Project in the Event of Casualty or Condemnation	48
Section 7.7	Provisions Relating to the Incurring of Certain Expenses after Indenture Indebtedness Paid	48

ARTICLE VIII

PARTICULAR COVENANTS OF THE LESSEE

Section 8.1	General Covenants	49
Section 8.2	Release and Indemnification Covenants	49
Section 8.3	Inspection of Project	51

Section 8.4	Agreement to Remain Subject to Suit in State of Alabama	51
Section 8.5	Covenants With Respect to Exemption of Interest on Series 1985 Bonds from Federal Income Taxation	52
Section 8.6	No-Arbitrage Covenants	52
Section 8.7	Financial Statement	53
Section 8.8	Transfer of Stock in the Company	53
Section 8.9	Financing and Continuation Statements	53
Section 8.10	Further Assurances	53

ARTICLE IX

CERTAIN PROVISIONS RELATING TO
ASSIGNMENT, SUBLEASING AND MORTGAGING
AND TO THE BONDS

Section 9.1	Provisions Relating to Assignment and Subleasing by Lessee	53
Section 9.2	Mortgaging of the Project by Board	54
Section 9.3	References to Bonds Ineffective after Indenture Indebtedness Paid	54
Section 9.4	Concerning Issuance of Additional Parity Bonds	55
Section 9.5	Disposition of Trust Fund Moneys after Full Payment of Indenture Indebtedness	55

ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

Section 10.1	Events of Default Defined	56
Section 10.2	Remedies on Default	58
Section 10.3	No Remedy Exclusive	58
Section 10.4	Agreement to Pay Attorneys' Fees	59
Section 10.5	No Additional Waiver Implied by One Waiver	59

ARTICLE XI

OPTIONS

Section 11.1	Options to Terminate the Lease During the Lease Term	59
--------------	---	----

BOOK 045 PAGE 792

Section 11.2	Option to Purchase Prior to Payment of Bonds	60
Section 11.3	Option to Purchase After Payment of Bonds	61
Section 11.4	Options - In General	61

ARTICLE XII

MISCELLANEOUS

Section 12.1	Covenant of Quiet Enjoyment	62
Section 12.2	Retention of Title to Project by Board. Granting of Easements	62
Section 12.3	Exemption from Taxation	63
Section 12.4	This Lease a Net Lease	63
Section 12.5	Statement of Intention Regarding Certain Tax Matters	63
Section 12.6	Notices	63
Section 12.7	Certain Prior and Contemporaneous Agreements Cancelled	64
Section 12.8	Limited Liability of Board	64
Section 12.9	Binding Effect	65
Section 12.10	Severability	65
Section 12.11	Article and Section Captions	65
Section 12.12	Governing Law	65
Testimonium		65
Signatures		66
Acknowledgments		67

BOOK 045 PAGE 793

LEASE AGREEMENT between THE INDUSTRIAL DEVELOPMENT BOARD OF THE TOWN OF PELHAM, a public corporation organized and existing under the laws of the State of Alabama, party of the first part (herein called the "Board"), and DEAN HOFFMAN, an individual, party of the second part (herein called the "Lessee"),

RECITALS

Pursuant to this Lease Agreement the Board is undertaking to acquire, construct and install the "Project" hereinafter defined, and the Lessee is undertaking to lease said Project from the Board for use as an industrial facility. In order to finance the costs of acquiring, constructing and installing said Project, the Board will issue \$140,000 principal amount of its First Mortgage Industrial Revenue Bonds (Engineered Control Systems Project), Series 1985 (herein called the "Series 1985 Bonds"), under a Mortgage and Trust Indenture dated as of October 1, 1985 (herein called the "Indenture"), between the Board and Central Bank of the South, as Trustee (herein called the "Trustee"). In order to secure the payment of the principal of and the interest on the Series 1985 Bonds, the Board will mortgage said Project under the Indenture and will pledge and assign thereunder the Board's interest in this Lease Agreement (other than certain expense payment and indemnification rights and certain rights which are herein expressly provided to be exercised by the Board), including particularly the "Basic Rent" payable hereunder by the Lessee for the use of said Project.

NOW, THEREFORE, THIS LEASE AGREEMENT

WITNESSETH:

That in consideration of the respective representations, warranties and agreements herein contained, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS AND USE OF PHRASES

Section 1.1 Definitions. Unless the context clearly indicates a different meaning, the following words and phrases, as used herein, shall have the following respective meanings:

"Act" means the statutes codified as Code of Alabama 1975, Title 11, Chapter 54, Article 4, as amended and supplemented and at the time in force and effect.

HASKELL SLAUGHTER YOUNG & LEWIS
PROFESSIONAL ASSOCIATION
800 FIRST NATIONAL-SOUTHERN NATURAL BUILDING
BIRMINGHAM, ALABAMA 35203

BOOK 045 PAGE 79A

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"Additional Bonds" means bonds of the Board authorized in Article VIII of the Indenture to be issued thereunder and secured thereby on a parity with the Series 1985 Bonds.

"Adjudication of Invalidity", when used with reference to the Series 1985 Bonds, means a final adjudication by a court of competent jurisdiction from which no further appeal exists, binding upon the Lessee or the Board or, if not binding upon the Lessee or the Board, applicable to the Series 1985 Bonds in the opinion of Bond Counsel acceptable to the Trustee, that the Board lacks the power to issue the Series 1985 Bonds or to enter into the Lease or the Indenture or that the Series 1985 Bonds are otherwise invalid for any reason whatsoever, including, without limitation, any invalidity or irregularity in any proceedings relating to the issuance thereof.

"Affiliate" of any designated Person means any Person which, directly or indirectly, controls, or is controlled by, or is under common control with, such designated Person. For the purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person whether through the ownership of voting securities or by contract or otherwise.

"Authorized Board Representative" means the person or persons at the time designated as such by the Board; provided however, that neither the Lessee nor any employee or Affiliate of the Lessee may at any time be designated as an Authorized Board Representative.

"Authorized Lessee Representative" means the person or persons at the time designated as such by written certificate furnished to the Board and the Trustee, containing the specimen signature or signatures of such person or persons and signed by the Lessee.

"Basic Rent" means (i) the moneys payable by the Lessee pursuant to the provisions of Section 5.2 hereof, (ii) any other moneys payable by the Lessee pursuant to the Lease to provide for the payment of the principal of and the interest and premium (if any) on the Bonds (other than the aforesaid moneys payable pursuant to Section 5.2 hereof), and (iii) any other moneys payable by the Lessee pursuant to the Lease that are therein referred to as Basic Rent.

"Board" means the party of the first part hereto and, subject to the provisions of Section 11.6 of the Indenture, includes its successors and assigns and any public corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party.

"Bond Counsel" means Independent Counsel whose opinions respecting the legality or validity of securities issued by or on behalf of states or political subdivisions thereof are nationally recognized.

"Bond Fund" means the Engineered Control Systems Project Bond Principal and Interest Fund created in Section 10.1 of the Indenture.

"Bonds" means all bonds of the Board issued under the Indenture.

"Book Value", when used with reference to any tangible property (whether or not then constituting part of the Project), means the cost thereof less accumulated depreciation calculated in accordance with generally accepted accounting principles, as said cost and depreciation are determined by the Lessee for financial reporting purposes.

"City" means the City of Pelham, Alabama, or any municipal corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party.

"Code" means the Internal Revenue Code of 1954, as amended and at the time in force and effect.

"Company" means Engineered Control Systems, Inc., an Alabama corporation, and its successors and assigns.

"Completion Date" means the date on which the completion of the Project Development Work and the satisfaction of the other conditions referred to in Section 4.6 hereof are certified to the Trustee and the Board in accordance with the provisions of said Section 4.6.

"Component Completion Date" when used with reference to any part of the Project constituting a "project" within the meaning of Section 1.266-1(c) of the United States Treasury Regulations or successor regulations under Section 266 of the Code, means the date on which an election to capitalize expenditures with respect to such "project" would no longer be effective under Section 266 of the Code.

"Construction Fund" means the Engineered Control Systems Project Construction Fund created in Section 9.2 of the Indenture.

"Counsel" means any attorney duly admitted to practice before the highest court of any state of the United States of America or the District of Columbia (including any director, officer or employee of, or any attorney regularly employed or retained by, the Board or the Lessee or any Affiliate of the Lessee who is so admitted to practice), it being understood that "Counsel" may also mean a firm of attorneys all of whose members are so admitted to practice.

"Eminent Domain", when used herein with reference to any taking of property, means the power (actual or claimed) of any governmental authority or any person, firm or corporation acting under governmental authority (actual or claimed) to take such property, and for purposes of the Lease, a taking of property under the exercise of the power of Eminent Domain shall include a conveyance made, or a use granted or taken, under either the threat or the fact of the exercise of governmental authority.

"Event of Default" means an "Event of Default" as specified in Section 10.1 hereof.

"fully paid", "payment in full" or any similar expression with respect to the Indenture Indebtedness, means that the entire Indenture Indebtedness has been paid in full or duly provided for pursuant to Section 16.1 of the Indenture and that the

045 796

lien of the Indenture has been cancelled, satisfied and discharged in accordance with the provisions of said Section 16.1 thereof.

"Holder", when used in conjunction with a Bond, means the Person in whose name such Bond is registered on the registry books of the Trustee pertaining to the Bonds.

"Indenture" means the Mortgage and Trust Indenture between the Board and Central Bank of the South, as Trustee, dated as of October 1, 1985, under which (i) the Series 1985 Bonds are authorized to be issued, and (ii) the Board's interest in this Lease Agreement and the revenues and receipts to be derived by the Board from any leasing or sale of the Project are to be assigned, and the Project is to be mortgaged, as security for payment of the principal of and the interest and premium (if any) on the Bonds, as said Mortgage and Trust Indenture now exists and as it may hereafter be supplemented and amended.

"Indenture Indebtedness" means all indebtedness of the Board at the time secured by the Indenture, including, without limitation, (i) all principal of and interest and premium (if any) on the Bonds and (ii) all reasonable and proper fees, charges and disbursements of the Trustee for services performed under the Indenture and all payments by the Trustee pursuant to Section 14.4 of the Indenture.

"Independent Counsel" means Counsel having no continuing employment or business relationship or other connection with the Board or the Lessee or an Affiliate thereof which, in the opinion of the Trustee, might compromise or interfere with the independent judgment of such Counsel in the performance of any services to be performed hereunder as Independent Counsel.

"Inducement Agreement" means that certain Inducement and Loan Agreement dated as of June 1, 1985, between the Board and the Lessee in which the Board agreed, among other things, to acquire, construct and install the Project, to issue the Series 1985 Bonds to finance the costs of such undertakings and to lease the Project to the Lessee.

"Lease" or "this Lease Agreement" means this Lease Agreement as it now exists and as it may from time to time be modified, supplemented or amended as permitted by Article XV of the Indenture.

"Lease Term" means the period beginning on the date of the delivery of this Lease Agreement and continuing until 11:59 o'clock, P.M., on December 1, 2000.

"Lessee" means the party of the second part hereto and includes his heirs, legal representatives, successors and assigns.

"Local Facilities" means "facilities" (as the term "facilities" is used in Section 103(b)(6) of the Code and the applicable regulations thereunder) of which the Lessee or a Related Person thereto is or will be the Principal User and which are located wholly within the corporate limits of the City. For purposes of this definition, a contiguous or integrated "facility" located on both sides of the border between any two or more political jurisdictions shall be considered as being located wholly within each such political jurisdiction.

"Net Condemnation Award" means the total amount received as compensation for any part of the Project taken under the exercise of the power of Eminent Domain, plus damages to any part of the Project not taken (including any compensation referable to the interest of the Lessee in the part of the Project taken and as damages to the interest of the Lessee in any part thereof not taken, but not including any compensation belonging to the Lessee pursuant to the provisions of Section 7.4 hereof), which compensation shall consist of (i) all awards received pursuant to administrative or judicial proceedings conducted in connection with the exercise of the power of Eminent Domain, plus (ii) all amounts received as the result of any settlement of compensation claims (whether in whole or in part) negotiated with the condemning authority, less (iii) all attorneys' fees and other expenses incurred in connection with the receipt of such compensation, including attorneys' fees and expenses relating to such administrative or judicial proceedings and to such settlement negotiations (other than any that may be paid directly by the Lessee).

"Net Insurance Proceeds" means the total insurance proceeds recovered by the Board, the Lessee and the Trustee on account of any damage to or destruction of the Project or any part thereof, less all expenses (including attorneys' fees and any extraordinary expenses of the Trustee) incurred in the collection of such proceeds.

"outstanding", when used with reference to any of the Bonds, means, at any date as of which the amount of such Bonds outstanding is to be determined, all such Bonds which have been theretofore authenticated and delivered by the Trustee under the Indenture, except (i) those of such Bonds purchased for retirement which have been delivered to and cancelled by the Trustee, (ii) those of such Bonds cancelled by the Trustee because of payment at or after their respective maturities or redemption prior to their respective maturities, (iii) those of such Bonds for the payment or redemption of which provisions shall have been made with the Trustee as provided in Section 18.1 of the Indenture, and (iv) those of such Bonds in exchange for which, or in lieu of which, other Bonds have been authenticated and delivered under the Indenture. In determining whether the Holders of a requisite aggregate principal amount of outstanding Bonds have concurred in any request, demand, authorization, direction, notice, consent or waiver under the provisions of the Indenture, Bonds which are owned by the Lessee or any Affiliate thereof shall be disregarded and deemed not to be outstanding hereunder for the purpose of any such determination.

"Permitted Encumbrances" means, as of any particular time, any of the following: (i) the Lease and the Indenture; (ii) liens imposed by law, such as mechanics', workmen's, materialmen's, carriers' and other like liens arising in the ordinary course of business, securing obligations which are not overdue or which are being contested in good faith and by appropriate proceedings (so long as there have been set aside on the books of the Lessee with respect to any such obligation so contested reserves which are adequate in the opinion of the Lessee); (iii) liens for property taxes not delinquent or for taxes which are being contested in good faith and by appropriate proceedings (so long as there shall have been set aside on the books of the Lessee with respect to any such taxes so contested reserves which are adequate in the opinion of the Lessee); (iv) attachments remaining undischarged for no longer than thirty (30) days after written or actual notice thereof has been received by the Lessee or in connection with litigation which is being defended in good faith and by appropriate proceedings; (v) liens in respect of judgments or awards relative to claims which (A) are fully covered by insurance, or (B) have been in force for less than the

BOOK 045 PAGE 798

applicable appeal period, provided execution is not levied thereunder, and/or (C) with respect to which an appeal or proceeding for review is being prosecuted in good faith and a stay of execution has been obtained pending such appeal or review; and (vi) utility, access, drainage and other easements and rights-of-way, mineral rights, covenants running with the land, zoning restrictions, environmental regulations and other restrictions and encumbrances affecting the use of real property, minor encroachments shown by survey or minor irregularities in the title to real property, none of the foregoing of which, individually or in the aggregate, materially impair the title of the Board to any part of the Project or the use of the Project for the purpose for which it was acquired or is held by the Board.

"Person" means any natural person, corporation, partnership, trust, government or governmental body, political subdivision, or other legal entity as in the context may be possible or appropriate.

"premium", when used with reference to the redemption or purchase for retirement of any of the Bonds, means the amount (if any) by which the redemption or purchase price (in all cases exclusive of accrued interest) of such Bonds exceeds the principal of the Bonds so redeemed or purchased for retirement, as the case may be.

"Prime Rate" means a reference rate established and denominated as such by the Series 1985 Original Purchaser for computing and adjusting interest, and quoted by the Series 1985 Original Purchaser as such to the public upon request or inquiry, which rate is subject to change (increase or decrease) at the discretion of the Series 1985 Original Purchaser, and which is only one of the reference rates or indices that the Series 1985 Original Purchaser uses for such purposes, as said reference rate shall be in effect from time to time.

"Principal User" means, with respect to any "facilities" (as the term "facilities" is used in Section 103(b)(6) of the Code), a "principal user" of such "facilities" within the meaning of Section 103(b)(6) of the Code and the applicable regulations thereunder.

"Project" means the Project Site, the Project Building and the Project Equipment, as they may at any time exist, and all other property and rights of every kind that are or become subject to the demise of the Lease.

"Project Building" means that certain building and related improvements which are required by the Lease to be constructed on the Project Site, as such building and related improvements may at any time exist.

"Project Costs" means the following: (i) all costs and expenses incurred in connection with the planning, development and design of the Project, including the costs of preliminary investigations, surveys, estimates and plans and specifications; (ii) all costs of acquiring, preparing and landscaping the Project Site; (iii) all costs and expenses of constructing the Project Building, including the cost to the Lessee of supervising construction, payments to contractors and materialmen and fees for professional or other specialized services; (iv) all costs and expenses of acquiring the Project Equipment and of installing the same in or about the Project Building or elsewhere on the Project Site; (v) the costs of contract bonds and of insurance of all

kinds which may be necessary or desirable in connection with the Project Development Work and which are not paid by any contractor or otherwise provided for; (vi) all expenses incurred in connection with the issuance and sale of the Series 1985 Bonds including (without limitation) all legal, accounting, financial, underwriting, printing, recording and filing fees and expenses and the initial charge of the Trustee; (vii) the charges of the Trustee for the disbursement of moneys from the Construction Fund; (viii) all other costs which the Board shall be required to pay, under the terms of any contract or contracts, in connection with the Project Development Work; (ix) interest paid or accrued prior to the issuance of the Series 1985 Bonds on obligations of the Lessee for money borrowed to pay any Project Costs; (x) interest on the Series 1985 Bonds to the extent that the cumulative amount thereof paid out of the proceeds of the Series 1985 Bonds, together with the accrued interest received by the Board upon the sale of the Series 1985 Bonds, does not exceed the total interest that will accrue on the Series 1985 Bonds from their date until and including the Completion Date, and (xi) the reimbursement to the Lessee of all amounts paid directly by the Lessee in respect of any of the aforesaid costs and expenses and of all amounts advanced by the Lessee to the Board for the payment of such costs and expenses.

"Project Development Work" means (i) the acquisition of the Project Site and the preparation and improvement thereof to the extent that the Lessee deems necessary or desirable, (ii) the planning, design and construction of the Project Building in accordance with the provisions hereof and (iii) the planning, design and acquisition of the Project Equipment and the installation thereof in or about the Project Building or elsewhere on the Project Site, all in accordance with the provisions hereof.

"Project Equipment" means (i) all items (whether or not fixtures) of furniture, furnishings, fixtures, machinery, equipment or other personal property the costs of which, in whole or in part, are paid by the Board out of the proceeds of any of the Bonds and (ii) all items (whether or not fixtures) of machinery, equipment or other personal property at any time installed in or about the Project Building or elsewhere on the Project Site that are acquired by the Board in substitution for or replacement of items of furniture, furnishings, fixtures, machinery, equipment or other personal property theretofore constituting part of the Project Equipment and that, under the provisions of the Lease and the Indenture, are to constitute part of the Project Equipment.

"Project Site" means (i) the parcel of land specifically described under the heading "I" in Section 3.1 hereof (to the extent that such parcel is at the time subject to the demise hereof) and (ii) any other land that, at the time and under the terms hereof, constitutes a part of the Project Site.

"Public Securities" means bonds, notes or other obligations of a state, territory or a possession or any political subdivision of the United States of America or any political subdivision of any of the foregoing or of the District of Columbia.

"Qualifying Project Costs" means Project Costs that are expended solely for the purpose of acquiring, constructing, reconstructing or improving land or property of a character subject to the allowance for depreciation within the meaning

BOOK 045 PAGE 800

of Section 103(b)(6) of the Code and the applicable regulations thereunder, including (without limitation) the following: (a) all Project Costs described in clauses (i), (ii), (iii), (iv) and (v) of the definition of Project Costs herein to the extent that such costs are properly chargeable by the Lessee to capital account or would be so chargeable either with a proper election by the Lessee or but for a proper election by the Lessee to deduct such costs in the computation of his federal income tax; (b) with respect to any part of the Project constituting a "project" as such term is used in the definition of Component Completion Date,

(i) property taxes assessed against such "project" during the period from the commencement of acquisition or construction thereof until the Component Completion Date pertaining thereto,

(ii) interest on obligations of the Lessee for money borrowed to pay the costs of acquiring, constructing and installing such "project" to the extent that such interest accrued during the period from the commencement of acquisition or construction of such "project" until the earlier of the Component Completion Date with respect thereto or the issuance of the Series 1985 Bonds, and

(iii) with respect to that proportionate part of the Series 1985 Bonds the proceeds of which were used to pay the costs of acquiring, constructing and installing such "project", interest on such part of the Series 1985 Bonds during the period beginning with the issuance of the Series 1985 Bonds or the commencement of acquisition or construction of such "project", whichever date occurs later, and continuing until the Component Completion Date with respect thereto; and

(c) all amounts necessary to reimburse the Lessee (without duplication of any amounts paid by the Board out of the proceeds of the Series 1985 Bonds) for moneys paid or advanced by the Lessee for any of the aforesaid costs and expenses.

"Related Person", when used with reference to any Principal User or any Substantial User, means a "related person" within the meaning of Section 103(b)(6) of the Code and the applicable regulations thereunder.

"Series 1985 Bonds" means those certain First Mortgage Industrial Revenue Bonds (Engineered Control Systems Project), Series 1985, authorized to be issued under the Indenture in the principal amount of \$140,000.

"Series 1985 Company Guaranty" means that certain Guaranty Agreement dated as of October 1, 1985, between the Company and the Trustee in and by which the Company has unconditionally guaranteed the payment by the Board of the principal of and the interest on the Series 1985 Bonds, as such Guaranty Agreement may from time to time be amended in accordance with the provisions thereof.

"Series 1985 Determination of Taxability" means a determination that the interest income on any of the Series 1985 Bonds is subject to federal income taxation as a result of the occurrence of a Series 1985 Event of Taxability, which determina-

BOOK 045 PAGE 801

tion shall be deemed to have been made upon the occurrence of the first to occur of the following:

(a) the date on which the Lessee shall file a statement with the Trustee to the effect that the interest income on the Series 1985 Bonds is subject to federal income taxation, which statement shall be accompanied (i) by such documentation as shall be necessary to confirm the occurrence of a Series 1985 Event of Taxability and (ii) by an opinion of Independent Counsel acceptable to the Trustee that the interest income on the Series 1985 Bonds is subject to federal income taxation as a result of the occurrence of a Series 1985 Event of Taxability; or

(b) the date on which the Lessee or any Holder or former Holder of any of the Series 1985 Bonds shall be advised by public or private ruling, technical advice or any other written communication from an authorized official of the Internal Revenue Service that, based upon any filings of the Lessee, or upon any review or audit of the Lessee, or upon any other grounds whatsoever, a Series 1985 Event of Taxability has occurred; or

(c) the date on which the Lessee shall receive notice from the Trustee in writing that the Trustee has been advised (i) by any Holder or former Holder of any Series 1985 Bonds that the Internal Revenue Service has assessed as includable in the gross income of such Holder or former Holder the interest on such Series 1985 Bonds due to the occurrence of a Series 1985 Event of Taxability, or (ii) by any authorized official of the Internal Revenue Service that the interest on the Series 1985 Bonds is includable in the gross income of any Holder or former Holder thereof due to the occurrence of a Series 1985 Event of Taxability; or

(d) the date on which the Lessee is advised in writing that a final determination, from which no further right of appeal exists, has been made by a court of competent jurisdiction in the United States of America that the interest on the Series 1985 Bonds is includable in the gross income of any Holder due to the occurrence of a Series 1985 Event of Taxability; or

(e) the date on which an opinion of Bond Counsel shall be delivered to the Lessee and the Trustee to the effect that, after consideration of all available facts and circumstances, a Series 1985 Event of Taxability has occurred;

provided that no Series 1985 Determination of Taxability shall be deemed to have occurred as a result of events described in either of the preceding clauses (b) and (c) unless and until the Lessee has been afforded a reasonable opportunity, at his expense, to contest such determination either through his own action (if permitted by law) or by or on behalf of one or more of the Holders of the Series 1985 Bonds and, further, no Series 1985 Determination of Taxability shall occur until such contest, if made, has been finally determined, and further, no Series 1985 Determination of Taxability shall occur under subparagraph (e) above if, within fifteen (15) days after receipt by the Lessee and the Trustee of the opinion referred to in subparagraph (e)

BOOK 045 PAGE 802

above, the Lessee shall deliver an opinion of Bond Counsel (which shall be acceptable to the Trustee) to the Trustee and each Holder and former Holder of any Series 1985 Bonds to the effect that, after consideration of all available facts and circumstances, the interest income on the Series 1985 Bonds is and has continuously remained exempt from federal income taxation. The Lessee shall be deemed to have been afforded the opportunity to contest if he shall have been permitted to commence and maintain any action in the name of any Holder or former Holder of any Series 1985 Bonds to judgment and through any appeals therefrom or other proceedings related thereto; provided however, that prior to instituting any such contest the Lessee shall take out and file with the Trustee an appropriate bond for payment of the amounts required to be paid pursuant to this Lease or the Indenture in the event the contest (including any appeals) is ultimately determined adversely to the Lessee.

"Series 1985 Event of Taxability" means any event, occurrence, condition or circumstance which is the cause of, or which results in, the interest income on the Series 1985 Bonds being or becoming subject to federal income taxation, including, without limitation, any of the following events, occurrences, conditions or circumstances:

(a) the Series 1985 Bonds constitute "arbitrage bonds" within the meaning of Section 103(c) of the Code; or

(b) the taking of any action by the Board or the Lessee, or the failure of the Board or the Lessee to take any action, or any mistake in or untruthfulness of any representation of the Board or the Lessee contained in the Lease or in any certificate of the Board or the Lessee delivered pursuant to the Lease or the Indenture or in connection with the issuance of the Series 1985 Bonds, if such act or omission, or such mistake in or untruthfulness of such representation, has the effect of causing the interest income on the Series 1985 Bonds to be or become subject to federal income taxation; or

(c) a change in federal tax law or the applicable regulations thereunder or any other change in law occurring after the issuance of the Series 1985 Bonds; or

(d) a final adjudication by a court of competent jurisdiction from which no further appeal exists, binding upon the Lessee or the Board or, if not binding upon the Lessee or the Board, applicable to the Series 1985 Bonds in the opinion of Independent Counsel acceptable to the Trustee, that the Board lacks the power to issue the Series 1985 Bonds or to enter into the Lease or the Indenture or that the Series 1985 Bonds are otherwise invalid for any reason whatsoever, including, without limitation, any invalidity or irregularity in any proceeding relating to the issuance thereof;

provided that no Series 1985 Event of Taxability shall be deemed to have occurred with respect to any Series 1985 Bond if the interest income thereon shall be subject to federal income taxation for any period solely because during that period such bond was held by a person who is a Substantial User of the Project or by a Related Person to such Substantial User.

BOOK 045 PAGE 803

"Series 1985 Investment Proceeds" means the net income derived from the investment and reinvestment of proceeds of the Series 1985 Bonds (including income derived from the investment and reinvestment of previously derived income), it being understood that such net income shall consist of the aggregate interest received from investments plus any profit actually realized from the purchase of investments at a discount, less any accrued interest and any premium paid as a part of the purchase price of any investments. As used herein the term "Series 1985 Investment Proceeds" includes the net income derived from the investment of moneys transferred from the Construction Fund to the Bond Fund Escrow Account, as well as the net income derived from the investment of moneys held in the Construction Fund.

"Series 1985 Issuance Expenses" means the expenses of issuing the Series 1985 Bonds to the extent, and only to the extent, that, in determining the amounts of the "proceeds" of the Series 1985 Bonds for purposes of the "substantially all" test provided by Treasury Regulations §1.103-8(a)(1)(i) and §1.103-10(b)(1)(ii), such expenses are properly deductible from the aggregate amount (excluding accrued interest) received by the Board from the sale of the Series 1985 Bonds.

"Series 1985 Lessee Guaranty" means that certain Guaranty Agreement dated as of October 1, 1985, between the Lessee and the Trustee in and by which the Lessee has unconditionally guaranteed the payment by the Board of the principal of and the interest on the Series 1985 Bonds, as such Guaranty Agreement may from time to time be amended in accordance with the provisions thereof.

"Series 1985 Original Purchaser" means Central Bank of the South, the original purchaser of the Series 1985 Bonds from the Board.

"Series 1985 Principal Proceeds" means the aggregate amount (excluding accrued interest, if any) received by the Board from the sale of the Series 1985 Bonds, less the Series 1985 Issuance Expenses.

"Substantial User" means, with respect to any "facilities" (as the term "facilities" is used in Section 103(b)(6) of the Code), a "substantial user" of such "facilities" within the meaning of Section 103(b)(13) of the Code and the applicable regulations thereunder.

"Test Period Beneficiary" means a "test period beneficiary" within the meaning of Section 103(b)(15) of the Code and the applicable regulations thereunder.

"Trustee" means the Trustee at the time serving as such under the Indenture.

Section 1.2 Definitions Contained in the Indenture. Unless the context clearly indicates a different meaning, any words, terms or phrases that are used in the Lease as defined terms without being herein defined and that are defined in the Indenture shall have the meanings respectively given them in the Indenture.

Section 1.3 Use of Phrases. "Herein", "hereby", "hereunder", "hereof", "hereinbefore", "hereinafter" and other equivalent words refer to the Lease as an

BOOK 045 PAGE 804

entirety and not solely to the particular portion in which any such word is used. 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.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1 **Representations and Warranties by the Board.** The Board makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) **Organization.** The Board is a public corporation duly organized and validly existing under the provisions of the Act, as now existing, by reason of its certificate of incorporation duly filed for record in the office of the Judge of Probate of Shelby County, Alabama. The said Certificate of Incorporation has been amended and, as so amended, is in full force and effect. The Board is not in default under any of the provisions contained in said Certificate of Incorporation or its Bylaws or in the laws of the State of Alabama. The Board has not initiated any proceedings or taken any action for its dissolution.

(b) **Litigation.** There are no actions, suits or proceedings pending (nor, to the knowledge of the Board, are any actions, suits or proceedings threatened) against or affecting the Board or any property of the Board in any court, or before an arbitrator of any kind, or before or by any governmental body, which might materially and adversely affect the transactions contemplated by this Lease Agreement or which might adversely affect the validity or enforceability of this Lease Agreement or any other agreement or instrument to which the Board is or is to be a party relating to the transactions contemplated by this Lease Agreement.

(c) **Sale and Other Transactions are Legal and Authorized.** The sale and issuance of the Series 1985 Bonds, the execution and delivery of this Lease Agreement and the Indenture, and the compliance with all the provisions of each thereof and of the Series 1985 Bonds by the Board (i) are within the power and authority of the Board, (ii) will not conflict with or result in a breach of any of the provisions of, or constitute a default under, or result in or require the creation of any lien or encumbrance (other than Permitted Encumbrances) upon any property of the Board under, the Act, the Certificate of Incorporation or the Bylaws of the Board, any agreement or other instrument to which the Board is a party or by which it may be bound, or any license, judgment, decree, order, law, statute, ordinance or governmental regulation applicable to the Board, and (iii) have been duly authorized by all necessary corporate action on the part of the Board.

(d) **Governmental Consents.** Neither the nature of the Board, nor any of its activities or properties, nor any relationship between the Board and any other Person, nor any circumstance in connection with the offering, sale, issuance or delivery of any of the Series 1985 Bonds is such as to require a consent, approval or authorization of, or filing, registration or qualification with, any governmental body

on the part of the Board in connection with the execution, delivery and performance of either this Lease Agreement or the Indenture or the offering, sale, issuance or delivery of any of the Series 1985 Bonds, other than (i) the filing with the Alabama Securities Commission of the notification of the Board's intention to issue the Series 1985 Bonds required by Act No. 586 enacted at the 1978 Regular Session of the Legislature of the State of Alabama and the issuance by the Director of the Alabama Securities Commission of such Certificate of Notification as may be required by said Act No. 586 in connection with the issuance of the Series 1985 Bonds, (ii) the due filing and/or recording of the deed by which the Board acquired title to the Project Site, the Lease and the Indenture, (iii) the due filing of requisite Uniform Commercial Code financing statements, (iv) the approval by the City of the issuance of the Series 1985 Bonds referred to in subsection 2.1(e) hereof, (v) an allocation for the Series 1985 Bonds under the Alabama 1985 Bond Allocation Plan for "private activity bonds" and (vi) the filing of Form 8038, Information Return for Private Activity Bond Issues, with the Internal Revenue Service. The Board has filed with the Alabama Securities Commission the notification of its intention to issue the Series 1985 Bonds as required by said Act No. 586, and the Director of the Alabama Securities Commission has issued a Certificate of Notification applicable to the issuance of the Series 1985 Bonds which has not been revoked or rescinded and continues in full force and effect. The State Industrial Development Authority has issued a Notice of Allocation with respect to the Series 1985 Bonds.

(e) Public Approval. The issuance of the Series 1985 Bonds has been approved by the City (the City being the governmental unit on behalf of which the Series 1985 Bonds are being issued and the only such governmental unit having jurisdiction over the area in which the Project is located), said approval having been given by the applicable elected representative of such governmental unit after a public hearing following reasonable public notice, all in accordance with the provisions of Section 103(k) of the Code and the applicable regulations thereunder.

(f) No Default. No event has occurred and no condition exists which would constitute an "Event of Default" under the Indenture, as "Event of Default" is therein defined, or which would become such an "Event of Default" with the passage of time or with the giving of notice or both. The Board is not in default under the Act, its certificate of incorporation, its bylaws, or any agreement or instrument to which it is a party or by which it is bound, or any judgment, order, rule or regulation of any court or other governmental body applicable to it, to the extent in any such case that the default in question would adversely affect the existence of the Board, its corporate power to carry out the transactions contemplated by this Lease Agreement or the validity of any of the Series 1985 Bonds or the security therefor.

(g) The Series 1985 Bonds. The Series 1985 Bonds, when issued and paid for in accordance with this Lease Agreement and the Indenture and when duly authenticated by the Trustee, will constitute legal, valid and binding special obligations of the Board payable solely from the sources provided in the Indenture.

(h) Tax Exempt Status of Series 1985 Bonds. The Board intends for the Series 1985 Bonds to be issued in compliance with the conditions necessary for the interest income thereon to be exempt from federal income taxation under Section 103(b)(6) of the Code, and the Board understands that such exemption constitutes a principal inducement to the purchase of the Series 1985 Bonds by the Series 1985

Original Purchaser and will constitute a principal inducement to the purchase of any of the Series 1985 Bonds by any subsequent purchaser thereof.

(i) Title to Project. The Board has good and marketable title to the Project Site, subject only to Permitted Encumbrances.

(j) Nature and Location of Project. The Project will qualify as a "project" within the meaning of the Act, as now existing. The Project Site is located wholly within the now existing corporate limits of the City.

(k) Fulfillment of Purposes of Act. The Board has determined that the issuance of the Series 1985 Bonds, the performance of the Project Development Work and the leasing of the Project to the Lessee will promote industry, develop trade, further the use of the natural and human resources of the State of Alabama and the City of Pelham therein and otherwise fulfill the purposes of the Act, as now existing.

Section 2.2 Representations and Warranties by the Lessee. The Lessee makes the following representations and warranties as the basis for the undertakings on his part herein contained:

(a) Validity of Lease Agreement. When duly executed and delivered by the respective parties thereto, this Lease Agreement will constitute a legal, valid and binding obligation of the Lessee, enforceable in accordance with its terms.

(b) Burdensome and Conflicting Agreements. The Lessee is not a party to any instrument or agreement or subject to any judgment, order, rule or regulation of any court or governmental body which materially and adversely affects, or in the future may (so far as the Lessee can now foresee) materially and adversely affect the business, prospects, operations, properties, assets or condition (financial or otherwise) of the Lessee. Neither the execution and delivery of this Lease Agreement, nor the offering, sale and issuance of any of the Series 1985 Bonds, nor the consummation of the transactions herein contemplated, nor the fulfillment of or compliance with the terms and provisions hereof conflicts with, or results in a breach of, or constitutes a default under, or results in or requires the creation of any lien in respect of any properties or assets of the Lessee pursuant to, or requires any authorization, consent, approval, exemption or other action by, or any notice to, any Person (other than those already obtained, taken or made and which continue in full force and effect) pursuant to the terms, conditions or provisions of any applicable law, rule, regulation, corporate charter, bylaw, agreement, instrument, judgment or order by which the Lessee is bound or to which the Lessee or any of his properties is subject.

(c) Governmental Consents. Neither the business or property of the Lessee, nor any relationship between the Lessee and any other Person nor any circumstance in connection with the offering, sale, issuance or delivery of any of the Series 1985 Bonds is such as to require on the part of the Lessee any consent, approval, permit, exemption, action, order or authorization of, or filing, registration or qualification with, or with respect to, any court, regulatory agency or other governmental body in connection with the execution and delivery of this Lease Agreement or the offering, sale, issuance or delivery of any of the Series 1985 Bonds

(other than those already obtained, taken or made and which continue in full force and effect).

(d) Litigation. There is no action, suit, inquiry, investigation or proceeding pending or overtly threatened against or affecting the Lessee at law or in equity or before or by any court or governmental body (nor, to the best knowledge and belief of the Lessee, is there any basis therefor) which might result in any material adverse change in the business, prospects, operations, properties or assets or in the condition (financial or otherwise) of the Lessee, or which might materially and adversely affect the transactions contemplated by this Lease Agreement, or which might impair the ability of the Lessee to comply with his obligations hereunder.

(e) No Defaults. No event has occurred and no condition exists which, upon the issuance of any of the Series 1985 Bonds, would constitute an Event of Default or which would become such an Event of Default with the passage of time or with the giving of notice or both. To the best of the knowledge of the Lessee, no event has occurred and no condition exists which would constitute an "Event of Default" under the Indenture, as "Event of Default" is therein defined, or which would become such an "Event of Default" with the passage of time or with the giving of notice or both. The Lessee is not in default in any respect under any agreement or other instrument to which he is a party or by which he is bound, on any judgment, order, rule or regulation of any court or other governmental body applicable to him, to the extent in any such case that the default in question would materially and adversely affect the transactions contemplated by this Lease Agreement or would impair the ability of the Lessee to comply with his obligations hereunder. The Lessee is not in default under the payment of the principal of or the interest on any of his indebtedness and is not in default under any instrument or agreement under and subject to which any indebtedness of the Lessee has been incurred, and no event has occurred or is continuing under the provisions of any such instrument or agreement which constitute or will constitute an event of default thereunder.

(f) Licenses, Permits, Etc. All licenses, permits or other approvals required in connection with the acquisition, construction, installation and operation of the Project have been duly obtained and are in full force and effect except for any such licenses, permits or other approvals (i) which are not yet required and which will be duly obtained not later than the time required or (ii) the failure to obtain which will not materially and adversely affect the acquisition, construction, installation and operation of the Project.

(g) Project's Compliance with Statutes and Regulations. To the best of the knowledge and judgment of the Lessee, the operation of the Project for the purpose for which it was designed and acquired will not conflict with any zoning, planning or similar regulations applicable thereto and will comply in all material respects with all applicable statutes, regulations, orders and restrictions.

(h) Full Disclosure. Neither any information furnished by the Lessee to the Series 1985 Original Purchaser in connection with the sale and issuance of the Series 1985 Bonds and the other transactions contemplated by this Lease Agreement, nor the representations and warranties made by the Lessee in this Lease Agreement or in any document in writing furnished by the Lessee in connection with the transactions contemplated hereby, contain (except to the extent, as to any such

representation or warranty not made in this Lease Agreement or in a document required to be furnished pursuant to this Lease Agreement, corrected in any other written communication subsequently furnished by the Lessee prior to the execution and delivery of this Lease Agreement) any untrue statement of a material fact or omit a material fact necessary to make the statements contained thereon or herein, in light of the circumstances in which they were made, not misleading at the times they were made. There is no fact known to the Lessee or which in the exercise of reasonable diligence should have been known to the Lessee which the Lessee has not disclosed in writing prior to the execution and delivery of this Lease Agreement which materially adversely affects or, so far as the Lessee can now in the exercise of his reasonable business judgment foresee, will materially adversely affect the Project, the condition (financial or otherwise) of the Lessee or the ability of the Lessee to perform his obligations hereunder or under any agreement contemplated hereby.

(i) Date of Acquisition of Project. No property which constitutes or is to constitute part of the Project was acquired by the Board or by the Lessee or any Related Person to the Lessee prior to the effective date of the Inducement Agreement.

(j) Nature and Location of Project. The Project will qualify as a "project" within the meaning of the Act, as now existing. The Project Site is located wholly within the now existing corporate limits of the City.

(k) Title to Project. The Board has good and marketable title to the Project Site, subject only to Permitted Encumbrances.

(l) Private Offering of the Bond. Neither the Lessee nor the Board nor any agent acting on behalf of either of them has offered the Series 1985 Bonds for sale to, or solicited offers to buy the Series 1985 Bonds from, or otherwise approached or negotiated with respect thereto with any prospective purchasers other than the Series 1985 Original Purchaser. The Series 1985 Bonds will not be further offered for issuance or sale to anyone, nor will any offers be solicited from anyone to acquire the Series 1985 Bonds so as to make the issuance or sale of the Series 1985 Bonds a transaction not exempted by Section 4(2) of the Securities Act of 1933, as amended, from the registration requirements of Section 5 of said Act.

(m) Relationship of Qualifying Project Costs to Principal Amount of Series 1985 Bonds. Based upon reasonable estimates as of the date of the delivery of this Lease Agreement, those costs of acquiring, constructing and installing the Project that constitute Qualifying Project Costs are expected to amount, in the aggregate, to not less than ninety percent (90%) of the Series 1985 Principal Proceeds.

(n) Use of the Project. As of the date of the delivery of this Lease Agreement, the Lessee does not have any plans and is not a party to any arrangement which, if consummated, would result in the Project being used by any Principal User other than the Lessee or a Related Person thereto. The issuance of the Series 1985 Bonds will not result in the aggregate authorized face amount of the Series 1985 Bonds allocated to a Test Period Beneficiary (when increased by the outstanding tax-exempt "industrial development bonds" allocable to such Test Period Beneficiary)

exceeding \$40,000,000, all within the meaning of Section 103(b)(15) of the Code and the applicable regulations thereunder.

(o) Tax Exempt Status of the Series 1985 Bonds. The Lessee intends for the Series 1985 Bonds to be issued in compliance with the conditions necessary for the interest income thereon to be exempt from federal income taxation under Section 103(b)(6) of the Code, and the Lessee understands that such exemption constitutes a principal inducement to the purchase of the Series 1985 Bonds by the Series 1985 Original Purchaser and will constitute a principal inducement to the purchase of any of the Series 1985 Bonds by any subsequent purchaser thereof.

(p) Average Maturity of the Series 1985 Bonds. The "average maturity" of the Series 1985 Bonds does not exceed one hundred twenty percent (120%) of the average reasonably expected economic life of the facilities being financed with the proceeds of the Series 1985 Bonds, all within the meaning of Section 103(b)(14) of the Code and the applicable regulations thereunder.

(q) Series 1985 Proceeds Used for Purchase of Land. Based upon reasonable estimates as of the date of the delivery of this Lease Agreement, not more than twenty-five percent (25%) of the proceeds of the Series 1985 Bonds will be used for the purchase of land.

(r) No Previously Issued Public Securities. Except for the Series 1985 Bonds, no Public Securities have been issued since April 30, 1968, and are now outstanding, the proceeds of which have been or are to be used primarily with respect to Local Facilities.

(s) Inducement to Locate Project in Alabama. The undertakings by the Board to acquire, construct and install the Project and to lease the same to the Lessee pursuant to this Lease Agreement have induced the Lessee to expand its operations and to locate a new industrial facility in the State of Alabama and in the City of Pelham therein.

ARTICLE III

DEMISING CLAUSES

Section 3.1 Demising Clauses. For and during the Lease Term, the Board hereby demises and leases to the Lessee, subject to Permitted Encumbrances, and the Lessee hereby rents from the Board, subject to Permitted Encumbrances, the following described properties and related rights:

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The following described parcel of land situated in the City:

Part of the E 1/2 of SW 1/4 of Section 30, Township 19 South, Range 2 West, Shelby County, Alabama, being more particularly described as

BOOK 045 PAGE 910

follows: From the Southwest corner of Lot 3B, 2nd Amendment Commercial Subdivision Riverchase East First Sector, a map of which is recorded in the Office of the Judge of Probate of Shelby County, Alabama, in Map Book 6, page 139, run in a Northerly direction along the West line of said Lot 3B, for a distance of 28.21 feet to an existing iron pin, being the point of beginning; thence continue in a Northerly direction along said West line of Lot 3B for a distance of 134.64 feet to an existing iron pin; thence turn an angle to the left of 90 degrees and run in a Westerly direction for a distance of 323.48 feet to a point on the East right of way line of Business Center Drive; thence turn an angle to the left of 89 degrees 57 minutes and run in a Southerly direction along said East right of way line for a distance of 134.64 feet to an existing iron pin; thence turn an angle to the left of 90 degrees 03 minutes and run in an Easterly direction for a distance of 323.60 feet to the point of beginning.

II

The Project Building and all other buildings, structures and other improvements now or hereafter situated on the Project Site, all permits, easements, licenses, rights-of-way, contracts, leases, privileges, immunities and hereditaments pertaining or applicable to the Project Site and all fixtures now or hereafter owned by the Board and installed on the Project Site or in the Project Building or in any of such other buildings, structures and improvements now or hereafter located on the Project Site, it being the intention hereof that all property, rights and privileges hereafter acquired by the Board for use as a part of or in connection with or as an improvement to the Project Site shall be as fully covered hereby as if such property, rights and privileges were now owned by the Board and were specifically described herein.

III

All items (whether or not fixtures) of furniture, furnishings, fixtures, machinery, equipment and other personal property that at any time, under the provisions of the Lease, constitute the Project Equipment, excluding, however, any equipment or other personal property that, under the provisions of the Lease, is, or is to become (prior to the termination of the Lease), the sole property of the Lessee or third parties.

ARTICLE IV

CONCERNING THE PROJECT DEVELOPMENT WORK; ISSUANCE OF THE SERIES 1985 BONDS

Section 4.1 Performance of the Project Development Work. The Board and the Lessee will undertake and complete, or will cause to be undertaken and completed, the following work with respect to the Project:

BOOK 045 PAGE 811

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(a) the construction on the Project Site of a building containing approximately 4,500 square feet in accordance with plans and specifications prepared by the Lessee and his agents,

(b) the improvement of the Project Site in such manner and to such extent as the Lessee may deem necessary or desirable, and

(c) the acquisition and installation in or about the Project Building or elsewhere on the Project Site of such items of furniture, furnishings, fixtures, machinery, equipment and other personal property necessary for or useful in the operation of the Project as shall be specified by the Lessee.

045 MAR 812

The Board and the Lessee will use their best efforts to complete the Project Development Work, or to cause the same to be completed, as promptly as practicable, delays incident to strikes, riots, acts of God or the public enemy or other acts beyond the reasonable control of the Board or the Lessee only excepted; provided however, that no liability on the part of the Board nor any reduction in or postponement of any rentals payable by the Lessee hereunder shall result from any delay in the completion of any of the Project Development Work or from the failure of such work to be completed in accordance with the plans, specifications and directions furnished by the Lessee.

The Board acknowledges that the Project is to be acquired, constructed and installed in accordance with the requirements of the Lessee, and it is therefore agreed and understood that the Lessee, at any time and from time to time after the delivery of this Lease Agreement, may cause such changes to be made in the design of the Project Building or in the design of any other improvements to be constructed on the Project Site as he, in the exercise of his sole judgment, may deem necessary or desirable; provided however, that (i) the Project Building and such other improvements, as finally constructed in accordance with the requirements of the Lessee, shall be of a size and quality substantially equivalent to that contemplated by the Lessee at the time of the delivery of this Lease Agreement and (ii) the character of the Project Building and such other improvements shall be such as is necessary for the Project to qualify as a "project" within the meaning of the Act. Further, the Lessee may, after the delivery of this Lease Agreement, cause such changes to be made in the Project Equipment, including additions thereto, deletions therefrom and substitutions therefor, as he may desire. Except as provided in the foregoing provisions of this paragraph, neither the Lessee nor the Board will cause or permit any changes to be made in the design of the Project Building or in the design of any other improvements to be constructed on the Project Site or in the composition of the Project Equipment. The rights of the Lessee under this paragraph to cause changes to be made in the Project Equipment shall apply only to the selection of such equipment prior to its installation in or about the Project Building or elsewhere on the Project Site, and nothing herein contained shall be construed to enlarge, restrict or otherwise alter the terms and conditions contained in Section 6.3 of this Lease Agreement respecting the removal from the Project Site of any item of the Project Equipment.

The Board will execute and deliver, or cause to be executed and delivered, all contracts, orders, requisitions, instructions and other written instruments and do, or cause to be done, all other acts or things that may be necessary or proper to carry out the Project Development Work and to perform fully its obligations under this Lease Agreement. In no event, however, will the Board hereafter enter into any contract with respect to the Project Development Work or any part thereof unless there is endorsed thereon a legend indicating that the Lessee has approved both the form and substance of such contract and such legend is signed on behalf of the Lessee by an Authorized Lessee Representative.

The Board acknowledges that, in the Inducement Agreement, it appointed and authorized the Lessee to act as the agent of the Board in carrying out certain aspects of the Project Development Work, and the Board and the Lessee hereby agree that, subject to the last sentence of this paragraph, all provisions of the Inducement Agreement respecting the right and authority of the Lessee to act as agent for the Board shall continue in full force and effect until the Project Development Work has been completed. In order to give further assurances to the Lessee and without derogation of the agency powers conferred upon the Lessee in the Inducement Agreement, the Board hereby appoints the Lessee as its true and lawful agent to act and do all things on behalf of the Board required to carry out the Project Development Work to completion. The appointment of the Lessee to act as agent for the Board and the authority thereby conferred on the Lessee shall irrevocably continue in effect until the Project Development Work has been completed in every respect; provided however, that the Board may, upon the occurrence of an Event of Default and notwithstanding the preceding provisions of this paragraph, terminate both the agency relationship created hereby and that created in the Inducement Agreement.

The Board hereby ratifies and confirms all actions heretofore taken by it pursuant to the Inducement Agreement, and assumes and adopts all contracts heretofore entered into by the Lessee, whether in the name and behalf of the Board or in the name and behalf of the Lessee, with respect to the Project Development Work; provided however, that any obligations for the payment of money incurred or assumed by the Board with respect to any such contract shall be payable solely from the proceeds derived by the Board from the sale of the Series 1985 Bonds, from income earned by the Board from the investment of such proceeds or from any moneys made available to the Board by the Lessee for the payment of such obligation.

The Board and the Lessee shall each appoint by written instrument an agent or agents authorized to act for each respectively in any or all matters arising under the Lease or the Indenture which, by the specific terms of the Lease or the Indenture, require action by such agents. Each agent so appointed to act for the Board shall be designated an Authorized Board Representative, and each agent so appointed to act for the Lessee shall be designated an Authorized Lessee Representative. All officers of the Board are hereby designated as Authorized Board Representatives. Either the Board or the Lessee may from time to time, by written notice to the other party hereto and to the Trustee, revoke, amend or otherwise limit

BOOK 045 PAGE 813

the authorization of any agent appointed by him or it to act on his or its behalf or designate another agent or agents to act on his or its behalf, provided that with reference to all the foregoing matters there shall be at all times at least one Authorized Board Representative authorized to act on behalf of the Board and at least one Authorized Lessee Representative authorized to act on behalf of the Lessee.

Section 4.2 Agreement to Issue Series 1985 Bonds. In order to finance the Project Costs, the Board will, simultaneously with the delivery hereof, issue and sell the Series 1985 Bonds and, as security therefor, execute and deliver the Indenture. All the terms and conditions of the Indenture (including, without limitation, those relating to the amounts and maturity date or dates of the principal of the Series 1985 Bonds, the interest rate or rates thereof and the provisions for redemption thereof prior to their respective maturities) are hereby approved by the Lessee, and to the extent that any provision of the Indenture is relevant to the calculation of any rental or other amount payable by the Lessee hereunder or to the determination of any other obligation of the Lessee hereunder, the Lessee hereby agrees that such provision of the Indenture shall be deemed a part hereof as fully and completely as if set out herein.

Section 4.3 Disbursement of Moneys from Construction Fund. Subject to the conditions of Section 4.4 hereof, the Board will pay, or cause to be paid, all Project Costs, but such costs shall be paid solely out of the principal proceeds from the sale of the Series 1985 Bonds, income earned from the investment of such proceeds and any other moneys which the Lessee may cause to be deposited in the Construction Fund. The Lessee, as agent for the Board, will cause such requisitions to be prepared and submitted to the Trustee as shall be necessary to enable the Trustee to pay, out of moneys held in the Construction Fund in accordance with the provisions of Section 9.2 of the Indenture, all the Project Costs. The Lessee, upon request, will furnish a copy of each such requisition to the Board. Anything to the contrary herein contained notwithstanding, the Board shall not be obligated to pay or cause to be paid, and the Lessee will not submit or cause to be submitted to the Trustee any requisition for the payment of, any cost which, if paid, would result, as of the making of such payment, in the use for any purpose other than the payment of Qualifying Project Costs of more than ten percent (10%) of the cumulative amount of Series 1985 Principal Proceeds and Series 1985 Investment Proceeds theretofore disbursed from the Construction Fund.

As provided in the Inducement Agreement, the Board will, simultaneously with the issuance of the Series 1985 Bonds or as soon thereafter as may be practicable, cause the Trustee, upon submission of requisitions satisfying the requirements of the Indenture, to reimburse the Lessee, out of the proceeds of the Series 1985 Bonds deposited in the Construction Fund, for (i) all costs and expenses that the Lessee may have heretofore paid or incurred in connection with the Project Development Work, and (ii) all advances and loans to the Board heretofore made by the Lessee in order to enable the Board to pay Project Costs. The Lessee hereby acknowledges and agrees that the failure by the Board to reimburse the Lessee, or to cause the Lessee to be reimbursed, in full for all such costs and expenses and all such advances (whether such failure results from insufficient moneys being available in the

BOOK 045 PAGE 814

Construction Fund for such purpose, a decision by the Lessee not to request such reimbursement or any other cause) shall not result in any diminution or postponement of any rentals payable by the Lessee hereunder, or in the vesting of title to any of the Project in the Lessee, or in the imposition of a lien in favor of the Lessee upon any part of the Project.

Section 4.4 No Warranty of Suitability by the Board. Lessee Required to Make Arrangements for Payment of Project Costs. The Lessee recognizes that the Project Development Work has been or is to be planned and carried out under his control and in accordance with his requirements, and the Board can, therefore, make no warranty, either express or implied, or offer any assurances that such work, when completed, will be suitable for the Lessee's purposes or needs or that the proceeds derived from the sale of the Series 1985 Bonds, together with the income (if any) earned from the investment of such proceeds, will be sufficient to pay in full all the Project Costs. In the event such proceeds and investment income (if any) are insufficient to pay all the Project Costs, the Lessee

(a) will, subject to the provisions of Section 4.1 hereof, cause such changes to be made in the scope of the Project Development Work (including changes in the design of the Project Building, or in the design of any other improvements to be constructed on the Project Site, or in the composition of the Project Equipment) as will result in the aggregate Project Costs not exceeding such proceeds and investment income, or

(b) will himself complete the Project Development Work as originally planned and will pay that portion of the Project Costs in excess of such proceeds and investment income, or

(c) will pay into the Construction Fund such moneys as are necessary for the payment of all Project Costs, in which case the Board will complete the Project Development Work, or

(d) will, to the extent legally and economically possible, cause the Board to sell and issue Additional Bonds, in accordance with the provisions of the Indenture, in whatever principal amount is necessary to provide for payment of all Project Costs, in which case the Board will complete the Project Development Work, or

(e) will take action pursuant to any two or more of the courses of action described in the preceding clauses (a), (b), (c) or (d),

all to the end that all obligations incurred by the Board in connection with the Project Development Work shall be paid in full and that the acquisition, construction and installation of the Project shall be completed to the extent required for (i) the use of the proceeds of the Series 1985 Bonds to comply with the conditions necessary for the interest on the Series 1985 Bonds to be exempt from federal income taxation pursuant to Section 103(b)(6) of the Code and the applicable regulations thereunder and (ii) the Project to qualify as a "project" within the meaning of the Act. The Lessee shall not, by reason of (1) his direct payment of any excess Project Costs, (2) his payment of any moneys into the Construction Fund for the payment of any such

BOOK 045 PAGE 815

costs or (3) any other arrangements made by him for the payment of such costs, be entitled to any reimbursement from the Board (except out of the proceeds from the sale of any Additional Bonds that may hereafter be issued by the Board for the purpose of funding the payment of any such excess costs) or to any diminution or postponement of any rentals payable by the Lessee hereunder. Further, the fact that the Lessee directly pays, or directly or indirectly furnishes money to the Board for the payment of, any part of the Project Costs shall not result in the Lessee's acquisition of title to any part of the Project or in the imposition of a lien in favor of the Lessee upon any part of the Project, it being understood and agreed (A) that title to all the Project shall, as between the Board and the Lessee, be fully and solely vested in the Board and (B) that any such lien in favor of the Lessee that might so result is hereby expressly waived and released by the Lessee.

Section 4.5 Board to Pursue Rights Against Suppliers and Contractors, etc. In the event of default by any supplier, contractor or subcontractor under any contract with the Board for the performance of the Project Development Work or any part thereof, the Board will, upon written request made to it by the Lessee, proceed, either separately or in conjunction with others, to exhaust all remedies the Board may have against such supplier, contractor or subcontractor so in default and against each surety (if any) for the performance of such contract, but all actions taken by the Board to exhaust such remedies shall be at the expense of the Lessee. Further, in the event the Board proceeds in an arbitration proceeding or by an action at law or in equity against any such supplier, contractor, subcontractor or surety pursuant to the provisions of this section or in the event any such supplier, contractor, subcontractor or surety brings any such proceeding or action against the Board in connection with or relating to the Project Development Work, the Board will follow all reasonable directions given to it by the Lessee in connection with such proceeding or action, and the Lessee shall have full and complete control thereof, but any Counsel selected by the Lessee for the Board shall be subject to the approval of the Board. The net amount recovered by the Board in any such proceeding or action shall be paid into the Construction Fund or, if such amount is recovered after the Completion Date, to the Lessee, unless an Event of Default shall have occurred and be continuing, in which case such amount shall be paid into the Bond Fund.

The Board hereby transfers and assigns to the Lessee all the Board's rights and interests in, to and under any maintenance or surety bonds or warranties respecting quality, durability or workmanship obtained by or vested in the Board in connection with the Project Development Work, and grants to the Lessee the right to take action, in the name of either the Board or the Lessee, but at the Lessee's sole cost and expense, for the enforcement of such bonds and warranties. The net amount recovered in any such action shall be paid into the Construction Fund or, if such amount is recovered after the Completion Date, to the Lessee, unless an Event of Default shall have occurred and be continuing, in which case such amount shall be paid into the Bond Fund.

Section 4.6 Certification of Completion Date. The Completion Date shall be evidenced to the Trustee and the Board by a certificate signed by an Authorized Lessee Representative stating that

BOOK 045 PAGE 816

(a) the acquisition, construction and installation of the Project and all other Project Development Work have been completed in accordance with the applicable plans, specifications and directions furnished by the Lessee,

(b) all the Project Costs have been paid in full, except for amounts retained by the Trustee at the Lessee's direction for any such costs not then due and payable or the liability for payment of which is being contested or disputed by the Lessee or by the Board at the Lessee's direction, and

(c) the Project is operational for the purpose for which it was designed.

Section 4.7 **Supplemental Agreement on Completion.** Upon completion of the acquisition and installation of the Project Equipment, the Board and the Lessee will enter into a supplemental agreement identifying, with such particularity as the Trustee shall specify, the items of Project Equipment installed in or about the Project Building or elsewhere on the Project Site and confirming the demise thereof to the Lessee hereunder.

ARTICLE V

DURATION OF LEASE TERM AND RENTAL PROVISIONS

Section 5.1 **Duration of Lease Term.** The Lease Term shall begin on the date of the delivery of this Lease Agreement and, subject to the provisions hereof, shall continue until 11:59 o'clock, P.M., on December 1, 2000. The Board will deliver to the Lessee sole and exclusive possession of the Project (or such portion or portions thereof as are then in existence) on the commencement date of the Lease Term, subject to the inspection and other rights reserved in Section 8.3 hereof, and the Lessee will accept possession thereof at such time; provided however, that the Board will be permitted such access to the Project as shall be necessary and convenient for it to accomplish the undertakings on its part contained in Section 4.1 hereof; and provided further, that the Board will be permitted such possession of the Project as shall be necessary and convenient for it to make any repairs, restorations, additions or improvements required or permitted to be made by the Board pursuant to the provisions of the Lease.

Section 5.2 **Basic Rent.** For the use and occupancy of the Project during the Lease Term, the Lessee will, not later than 10:00 o'clock, A.M., on the first day of each calendar month beginning with November in the year 1985 and continuing until and including December in the year 2000, pay to the Trustee at its principal office, for the account of the Board, monthly installments of Basic Rent. Each installment of Basic Rent shall be paid in immediately available funds and shall be in an amount equal to the principal of and the interest on the Series 1985 Bonds coming due on such date. The principal portion of any installment of Basic Rent due

hereunder that is not paid when due shall bear interest from such due date, until paid at the same rate of interest borne by the Series 1985 Bonds.

Anything to the contrary contained in the Lease notwithstanding, there shall be credited against any installment of Basic Rent due hereunder (including components of principal and interest) any amount then held in the Bond Fund to the extent that such amount has not theretofore been credited on a previously due installment of Basic Rent; provided however, that moneys in the Bond Fund shall not be credited against any such installment if such moneys (i) are held therein for payment of matured but unpaid Bonds, Bonds called for redemption but not yet redeemed and matured but unpaid interest on the Bonds, (ii) are held therein pursuant to instructions from the Lessee for the future redemption or purchase of Bonds, (iii) are held therein subject to the restrictions contained in the last paragraph of Section 10.1 of the Indenture and cannot be applied as a credit against such installment without violating such restrictions or (iv) are held therein for the payment of unmatured Bonds not called for redemption if such Bonds are considered fully paid pursuant to the provisions of Section 16.1 of the Indenture by reason of the fact that such moneys are so held in the Bond Fund.

Anything to the contrary contained in the Lease notwithstanding, if for any reason, after the payment by the Lessee of such installments of Basic Rent as are required to be paid by it pursuant to any provisions of the Lease, the moneys then held by and available to the Trustee for payment or redemption of the principal of and the interest and premium (if any) on the Bonds are not sufficient to pay, on the due or required redemption date thereof, the principal maturing or required to be redeemed with respect to the Bonds plus the interest and premium (if any) due with respect to the Bonds, the Lessee will promptly pay to the Trustee (for the account of the Board) such additional Basic Rent as, when added to the aforesaid moneys held by and available to the Trustee, will equal an amount sufficient to pay such principal, interest and premium (if any).

Nothing herein contained shall be construed as imposing on the Board or on the Trustee any duty or responsibility of giving any notice to the Lessee of the amount on deposit in the Bond Fund, or of the amount of any credits against Basic Rent available to the Lessee, as of any rent payment date, but the Board will cause the Trustee to respond to any reasonable requests that the Lessee may make for such information. Neither the Board nor the Trustee shall be obligated to give any prior notice to the Lessee of the due date or amount of any installment of Basic Rent, and failure to receive any such prior notice, even if customarily given by the Board or the Trustee, shall not relieve the Lessee of his obligation to pay such installment of Basic Rent when it is due and payable.

The Board will, promptly following the designation of any successor or interim successor Trustee under the Indenture, give written notice to the Lessee of the name and location of the principal corporate trust office of such successor or interim successor Trustee, or it will cause such notice to be promptly given. In the event the due date of any installment of Basic Rent payable hereunder is a Saturday, Sunday or legal holiday in the state in which the principal corporate office of the Trustee is located or a day on which the bank that is then acting as Trustee is legally authorized to close, such installment shall be due in immediately available funds no

later than the close of business by the Trustee on the last business day next preceding such due date.

Section 5.3 Additional Rent - Trustee's Fees and Expenses. In addition to the Basic Rent and all other rental payments due from the Lessee hereunder, the Lessee will also pay, as additional rent, (i) the annual fee of the Trustee for the ordinary services of the Trustee rendered and its ordinary expenses incurred under the Indenture, (ii) the reasonable fees and charges of the Trustee as registrar, transfer agent and paying agent with respect to the Bonds, as well as the fees and charges of any other paying agent with respect to the Bonds who shall act as such agent in accordance with the provisions of the Indenture, (iii) the reasonable fees and expenses of the Trustee in connection with the issuance of a new Bond upon the partial redemption of any Bond (including, without limitation, the expenses of printing such new Bond), (iv) the reasonable fees and expenses of the Trustee in connection with any other registration, transfer or exchange of any of the Bonds if the Trustee is not permitted by Section 5.4 of the Indenture to charge the Holder of such Bonds for such fees and expenses, and (v) the reasonable fees, charges and expenses of the Trustee for necessary extraordinary services rendered by it and necessary extraordinary expenses incurred by it under the Indenture. All such fees, charges and expenses shall be paid directly to the Trustee, for its own account upon presentation of its statements therefor, but the Lessee may, without creating a default hereunder, contest in good faith the necessity for any of the extraordinary services performed by the Trustee or the reasonableness of the fees, charges or expenses of the Trustee in connection therewith.

Section 5.4 Additional Rent - Board's Expenses. In addition to the Basic Rent and all other rental payments due from the Lessee hereunder, the Lessee will also pay, as additional rent, the reasonable and necessary expenses, not otherwise provided for, which may be incurred by the Board, or for which the Board may in any way become liable, as a result of issuing any of the Bonds, acquiring the Project and leasing the same to the Lessee, or being a party to the Lease or the Indenture; provided however, that so long as no Event of Default shall have occurred and be continuing, the Lessee's liability under this Section 5.4 shall not include expenses voluntarily incurred by the Board without prior request or approval by the Lessee, unless such expenses are necessary to enable the Board to perform its obligations under the Lease and the Indenture.

Section 5.5 Additional Rent - Bond Preference Taxes. If any law, rule, regulation or executive order is enacted or promulgated by any public body or governmental agency which (i) changes the basis of taxation of receipt or payment of principal of or interest on the Series 1985 Bonds or causes a reduction in yield [other than by reason of a change in the rate of interest on the Series 1985 Bonds as a result of a change in the maximum marginal federal corporate income tax rate as described in the second paragraph of Section 7.1 of the Indenture] to any Holder or former Holder of any Series 1985 Bonds with respect to the principal or interest payable on the Series 1985 Bonds, including without limitation the imposition of any excise tax, surcharge, preference tax, excess profits tax or any other tax or charge measured in whole or in part with reference to interest on or principal of the Series 1985 Bonds or

any amount of indebtedness deemed attributable to the purchase or carrying of tax-exempt obligations, or (ii) requires by reason of the ownership of, borrowing money to invest in, or receiving principal of or interest on the Series 1985 Bonds, or for any reason attributable to the purchase or carrying of the Series 1985 Bonds, that any payment be made by any Holder or former Holder of any Series 1985 Bonds, or denies any federal, state or local income tax deduction or exemption to any Holder or former Holder of any Series 1985 Bonds, with the result that the Board is required to make a payment to such Holder pursuant to the provisions of Section 7.1 of the Indenture, then the Lessee shall pay or reimburse any such Holder or former Holder (for the account of the Board), within five (5) days after receipt by the Lessee of written demand therefor, an amount which, after deduction of all federal, state and local income taxes payable by such Holder or former Holder with respect to the receipt of such payment (assuming in each case that the highest marginal tax rate is applicable to such Holder or former Holder), shall equal the amounts, costs and expenses payable, directly or indirectly, by such Holder or former Holder, or the loss of income or amount of reduction in yield resulting to such Holder or former Holder, as a consequence of any event described in clauses (i) or (ii) above.

The provisions of this section shall survive any termination of the Lease (including, without limitation, any termination pursuant to the provisions of any of Sections 7.2(a), 10.2(b) and 11.1 hereof, any termination resulting from the exercise of either of the options to purchase the Project granted in Sections 11.2 and 11.3 hereof, or any termination resulting from the expiration of the Lease Term), and if the obligation to make any such payment arises after such termination, the Lessee shall be obligated to make such payment in addition to all Basic Rent paid prior to or at the termination of the Lease.

Section 5.6 Mandatory Payment of Basic Rent in the Event of a Series 1985 Determination of Taxability. It is understood by the parties hereto, on the basis of representations, warranties and covenants contained in Sections 2.1, 2.2, 8.5 and 8.6 hereof,

(a) that the interest income on the Series 1985 Bonds will (except as provided in Section 103(b)(9) of the Code) be exempt from federal income taxation under the provisions of Section 103 of the Code,

(b) that the general rule of Section 103(b)(1) of the Code - denying to the interest income on Public Securities of the general nature of the Series 1985 Bonds exemption from federal income taxation - is not now applicable to the Series 1985 Bonds because they are an issue in the aggregate authorized face amount of \$1,000,000 or less, determined as provided in Section 103(b)(6) of the Code, and

(c) that the Series 1985 Bonds will not be "arbitrage bonds" within the meaning of Section 103(c) of the Code.

The Lessee understands and agrees (i) that one of the principal inducements to the purchase of the Series 1985 Bonds by the Series 1985 Original Purchaser is that under existing law the interest income thereon will be exempt from federal income taxation, and (ii) that, as a result of a mistake in any one or more of the aforesaid

representations, or as a result of the breach of any one or more of the aforesaid warranties or covenants, or as a result of certain other events, occurrences, conditions or circumstances affecting the Series 1985 Bonds, the interest income on the Series 1985 Bonds may, under the provisions of Section 103 of the Code, be or become subject to federal income taxation. Therefore, upon the occurrence of a Series 1985 Determination of Taxability, the Lessee will pay to the Trustee, for the account of the Board and as a special installment of Basic Rent, an amount equal to the additional interest coming due on the Series 1985 Bonds which the Board is required to pay by the terms of Section 7.1 of the Indenture as a result of a Series 1985 Event of Taxability.

The special installment of Basic Rent required to be paid by the Lessee pursuant to this section shall be paid in immediately available funds not later than ten (10) days following the date of such Series 1985 Determination of Taxability; provided that if any of the moneys then held in the Construction Fund or the Bond Fund (exclusive of any moneys held therein for the payment of matured but unpaid Bonds, Bonds called for redemption but not yet redeemed and matured but unpaid interest) are not restricted to other purposes and can be applied to the payment of such special installment of Basic Rent, there shall be credited against such special installment of Basic Rent so much of such moneys as the Lessee may specify in writing to the Board and the Trustee.

In addition to the obligations contained in the foregoing provisions of this section, the Lessee will pay to each Holder and former Holder of any Series 1985 Bonds (a) the amount of any interest, penalties or additions to federal income tax which have been paid or are payable by such Holder or former Holder as a consequence of a Series 1985 Determination of Taxability plus (b) the reasonable costs and expenses (including fees and expenses of attorneys, accountants and other professional advisors) incurred by each such Holder or former Holder as a consequence of a Series 1985 Determination of Taxability. Such payment shall be made not later than ten (10) days after receipt by the Lessee from any Holder or former Holder of any Series 1985 Bonds of an invoice reflecting in reasonable detail its payment of such amounts or the obligation therefor.

The provisions of this section shall survive any termination of the Lease (including, without limitation, any termination pursuant to the provisions of any of Sections 7.2(a), 10.2(b) and 11.1 hereof, any termination resulting from the exercise of either of the options to purchase the Project granted in Sections 11.2 and 11.3 hereof, or any termination resulting from the expiration of the Lease Term), and if any Series 1985 Determination of Taxability occurs after such termination, the Lessee shall be obligated to pay such installment in addition to all Basic Rent paid prior to or at the termination of the Lease.

Section 5.7 Mandatory Purchase of the Series 1985 Bonds in the Event of an Adjudication of Invalidity. If, at any time and for any reason whatsoever, there shall occur an Adjudication of Invalidity with respect to the Series 1985 Bonds, the Lessee will indemnify and save harmless the Holders of the Series 1985 Bonds from the consequences of such occurrence by purchasing the outstanding Series 1985 Bonds of all requesting Holders at a price equal to the principal amount thereof plus interest accrued thereon to the date of purchase. As promptly as possible after the

occurrence of an Adjudication of Invalidity, but in no event later than ten (10) days thereafter, the Lessee will give written notice of such adjudication to the Trustee, whereupon the Trustee will promptly give to all Holders of outstanding Series 1985 Bonds written notice of such adjudication and of the Lessee's obligation to purchase the Series 1985 Bonds as a result thereof. The Lessee will purchase any or all of the outstanding Series 1985 Bonds as herein provided within fifteen (15) days after being requested in writing to do so by the respective Holders thereof. The Lessee shall be obligated to purchase the Series 1985 Bonds upon the occurrence of an Adjudication of Invalidity without the necessity of any showings or proofs on the part of any requesting Holders that they have suffered any losses or damages (such losses and damages being conclusively presumed upon the occurrence of an Adjudication of Invalidity). In addition to the foregoing obligation of the Lessee to purchase the Series 1985 Bonds, the Lessee will pay and indemnify and save the Trustee and each Holder of the Series 1985 Bonds harmless from all other damage, loss, cost or expense (including attorneys' fees) which the Trustee or any such Holder may incur or be subject to as a consequence, direct or indirect, of an Adjudication of Invalidity, including, without limitation, the defense or contest of any legal action or proceeding commenced to challenge the validity of the Series 1985 Bonds.

Section 5.8 Optional Prepayment of Basic Rent. The Lessee may, at his option at any time and from time to time, prepay directly to the Trustee, for the account of the Board, such amount of Basic Rent as shall be sufficient to enable the Board to redeem and retire, in advance of maturity, any or all the Bonds in accordance with their terms and the terms of the Indenture. In the event of such prepayment, the Board will cause the amount of Basic Rent so prepaid to be applied to redemption and retirement of Bonds, in accordance with the provisions of the Indenture, on the earliest practicable date after receipt of such prepaid Basic Rent on which, under their terms and the terms of the Indenture, such Bonds may be redeemed, and will (upon being notified by the Lessee in writing of the Lessee's intention in this respect and without the necessity of the moneys therefor being deposited with the Trustee) take all action necessary under the provisions of the Indenture to effect such redemption. Prepayments of Basic Rent referable to the Series 1985 Bonds shall be applied to the redemption of Series 1985 Bonds at the redemption prices and in accordance with the other terms and conditions set forth in Section 7.3 of the Indenture. If less than all the outstanding Series 1985 Bonds are redeemed at any one time with a prepayment of Basic Rent, the principal amount of Series 1985 Bonds so redeemed shall be credited in inverse chronological order against the monthly installments of principal of the Series 1985 Bonds provided for in Section 7.1 of the Indenture, and no such prepayment of Basic Rent shall result in a postponement of the due date of or a reduction of the amount of any installment of Basic Rent referable to the principal of the Series 1985 Bonds.

Section 5.9 General Provisions Concerning Prepayment of Basic Rent. The prepayment of Basic Rent pursuant to any provision of the Lease will result in a total or partial abatement of the Basic Rent that would thereafter have come due had it not been for such prepayment. After the prepayment of Basic Rent sufficient to pay, redeem and retire all the outstanding Bonds, the Lessee shall be entitled to the use and possession of the Project without the payment of any further Basic Rent but otherwise on all the same terms and conditions of the Lease.

of the Lease and (ii) to the lien of the Indenture if the Indenture Indebtedness has not been fully paid, or

(c) be located wholly within the boundaries of the Project Site and such other adjacent land.

- Prior to the payment in full of the Indenture Indebtedness, no additions, alterations, improvements or modifications to the Project shall be located, in whole or in part, on any land adjacent to the Project Site in accordance with the preceding clauses (b) and (c) unless the Board and the Trustee shall have been furnished either (i) an opinion of Independent Counsel satisfactory to the Trustee to the effect that the Board has good and marketable title to such land, subject only to Permitted Encumbrances, or (ii) a policy or policies of title insurance written by an insurer satisfactory to the Trustee and insuring the mortgage interest of the Trustee in such land, except with respect to Permitted Encumbrances, in an amount approximately equal to the cost of such land and the improvements located or to be located thereon. Any such adjacent land so subjected to the demise hereof and to the lien of the Indenture shall henceforth be considered, for purposes of the Lease and the Indenture, as part of the Project Site. All such additions, alterations, improvements and modifications to the Project so made, or caused to be made, by the Lessee shall become a part of the Project.

In the event that, after the completion of the original acquisition, construction and installation of the Project, the Lessee determines to make, or to cause to be made, any additions, alterations, improvements or modifications to the Project pursuant to the second paragraph of this section, then the Board will execute and deliver, or cause to be executed and delivered, all contracts, orders, requisitions, instructions and other written instruments and do, or cause to be done, all other acts that may be necessary or proper in making such additions, alterations, improvements or modifications. In no event, however, will the Board hereafter enter into any contract with respect to any such additions, alterations, improvements or modifications unless there is endorsed thereon a legend indicating that the Lessee has approved both the form and substance of such contract and such legend is signed on behalf of the Lessee by an Authorized Lessee Representative. Any obligation for the payment of money incurred or assumed by the Board in connection with such additions, alterations, improvements or modifications shall be payable solely from any moneys made available to the Board by the Lessee for such purpose.

The Lessee will not permit any mechanics' or other liens to stand against the Project for labor, materials, equipment or supplies furnished in connection with the original acquisition, improvement and equipment of the Project or in connection with any additions, alterations, improvements, modifications, repairs or renewals that may subsequently be made thereto. The Lessee may, however, at his own expense and in good faith, contest any such mechanics' or other liens and in the event of any such contest may permit any such liens to remain unsatisfied and undischarged during the period of such contest and any appeal therefrom unless by such action the lien of the Indenture to any part of the Project shall be endangered or any part of the Project shall be subject to loss or forfeiture, in either of which events such mechanics' or other liens shall (unless they are bonded or superseded in a manner satisfactory to the Trustee) be satisfied promptly.

At any time and from time to time, the Lessee may, at his own cost and expense, install in the Project Building or elsewhere on the Project Site any equipment or other personal property which does not constitute part of the Project Equipment and which in the Lessee's judgment is necessary or convenient for his use and operation of the Project, provided that the installation of such equipment or other personal property does not significantly impair the value or utility of the Project. Any such equipment or personal property owned (or leased pursuant to any lease contract other than the Lease) by the Lessee may be removed by the Lessee at any time and from time to time without responsibility or accountability to the Board or the Trustee, but the Lessee shall promptly repair at his own expense any damage to the Project caused by the removal of any such equipment or other personal property.

Section 6.2 Party Wall Provisions. If the Lessee purchases, leases or otherwise acquires any other land adjacent to the Project Site, all building walls now standing or hereafter erected on or contiguous to any common boundary between the Project Site and any land adjacent to the Project Site that has been purchased, leased or otherwise acquired by the Lessee shall be party walls, and each parcel of land on either side of such common boundary shall be subject to a reciprocal easement for the benefit of the other parcel, which easement on each side of such common boundary shall extend out fifteen feet from such boundary and shall be for the purposes of construction, inspection, maintenance, repair and replacement of any party wall now or hereafter erected on or contiguous to such common boundary.

To the extent permitted by applicable building codes and accepted principles of structural design, new buildings or other structures located on either side of any such common boundary may be structurally connected to any such party wall then in existence, but any party exercising such right of connection to an existing party wall shall indemnify and hold harmless the owner, mortgagee and lessee of the parcel of land on which such party wall was erected (as well as any other person having an interest in said parcel) against any and all losses and damages that may in any way result from the construction and connection of adjacent buildings and other structures to such party wall, including damage or loss occurring after the completion of construction as well as any that may occur during construction.

If a building or other structure now or hereafter located on a parcel of land on either side of any such common boundary utilizes a party wall with a building or other structure now or hereafter located on the parcel of land on the other side of such common boundary, and if all buildings or other structures utilizing such party wall are leased by the same person or are otherwise operated under common control, then such party wall may be constructed or modified to permit such openness between the buildings or other structures utilizing such party wall as may be deemed desirable by the person exercising common control over such buildings or structures, and the utilities serving either of such parcels may be tied in or connected with the utilities serving the other of such parcels, but in the event that such parcels thereafter cease to be leased by the same person or otherwise operated under common control, the openings in such party wall shall be closed by using any materials or construction methods which will produce a completed wall of a structural quality equivalent to or better than the structural quality of the Project

BOOK 045 PAGE 826

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Building, as it then exists, and separate utilities shall be provided for each of such parcels of land.

The covenants and agreements on the part of the Board and the Lessee contained in this section shall run with all separate parcels of land into which the parcel of land described in the demising clauses of the Lease may be hereafter divided and shall be enforceable for the benefit of each such parcel by all present and future owners, lessees and mortgagees thereof.

Section 6.3 Removal of Project Equipment. The Lessee may, if no Event of Default shall have occurred and be continuing, remove and dispose of any item of the Project Equipment upon compliance with the conditions set forth in either subparagraph (a) or (b) below:

(a) Such item of the Project Equipment may be removed from the Project Site and used by the Lessee in his other business operations or sold or otherwise disposed of in any way the Lessee may see fit, free of the demise of the Lease and of the lien of the Indenture and without the Lessee having any responsibility or accountability to the Board or the Trustee therefor, provided that the Lessee substitutes and installs in the Project Building or elsewhere on the Project Site (whether before, on or after the date of such removal but in no event later than sixty (60) days after the date of such removal) other equipment or other personal property not then constituting part of the Project Equipment and having utility (but not necessarily the same value or function) in the operation of the Project equal to or greater than the utility of the item of Project Equipment so removed, it being understood (i) that no part of the Book Value of such substituted equipment or other personal property shall have been credited on a payment theretofore due to be made into the Bond Fund pursuant to the provisions of subparagraph (b) of this paragraph and (ii) that all such substituted equipment or other personal property shall be free of all liens and encumbrances (other than Permitted Encumbrances), shall be the sole property of the Board, shall be and become a part of the Project Equipment subject to the demise of the Lease and to the lien of the Indenture and shall be held by the Lessee on the same terms and conditions as the items originally constituting the Project Equipment.

(b) Such item of the Project Equipment may be removed from the Project Site and used by the Lessee in his other business operations or sold or otherwise disposed of in any way the Lessee may see fit, free of the demise of the Lease and of the lien of the Indenture and without the Lessee having any responsibility or accountability to the Board or the Trustee therefor or being required to substitute other property therefor, provided that (i) in the case of the sale of such item of Project Equipment to anyone other than the Lessee or an Affiliate thereof, or in the case of the scrapping thereof, the Lessee pays into the Bond Fund the proceeds from such sale or the scrap value thereof, respectively, (ii) in the case of the trade-in or exchange of such item of Project Equipment for other property not to be substituted therefor pursuant to the provisions of subparagraph (a) of this paragraph, the Lessee pays into the Bond Fund an

BOOK 045 PAGE 927

amount in cash equal to the credit received for such trade-in or exchange, and (iii) in the case of the sale of such item of Project Equipment to the Lessee or an Affiliate thereof, or in the case of any other disposition thereof (including the Lessee's use thereof in any other business operations conducted by him or any of his Affiliates), the Lessee pays into the Bond Fund an amount equal to the Book Value thereof as of the date of such sale or other disposition.

The amount of any payment that, under the provisions of subparagraph (b) above, is due to be made into the Bond Fund by the Lessee may be reduced by a credit equal to the then Book Value of any equipment or other personal property then installed in the Project Building or elsewhere on the Project Site that does not then constitute part of the Project Equipment and is owned by the Lessee free from all liens and encumbrances (other than Permitted Encumbrances), but if any such payment into the Bond Fund is reduced by a credit against the Book Value of any such equipment or other personal property, the same shall immediately become the sole property of the Board and part of the Project Equipment subject to the demise of the Lease and to the lien of the Indenture and shall be held by the Lessee on the same terms and conditions as the items originally constituting the Project Equipment.

If, at the time of the removal of any Project Equipment from the Project Site, there is then installed in or about the Project Building or elsewhere on the Project Site other equipment or personal property not then constituting part of the Project, and if such other equipment or personal property has utility (though not necessarily the same value or function) in the operation of the Project equal to or greater than that of the Project Equipment to be removed and is free of all liens and encumbrances (other than Permitted Encumbrances), and if no part of the Book Value of such other equipment or personal property has been credited on a payment theretofore due to be made into the Bond Fund pursuant to subparagraph (b) of the first paragraph of this section, the Lessee may, by failing to make the substitution or the cash payment alternatively prescribed by subparagraphs (a) and (b) of the first paragraph of this section, elect to have such provisions not apply to such removal, but with the result, however, that from and after such removal such other equipment or personal property shall be and become the sole property of the Board and part of the Project Equipment subject to the demise of the Lease and to the lien of the Indenture and shall be held by the Lessee on the same terms and conditions as the items originally constituting the Project Equipment.

The Lessee will not remove any items of the Project Equipment pursuant to either subparagraph (a) or (b) of the first paragraph of this section if the operating utility of the Project will be significantly impaired by such removal or if such removal changes the character of the Project to such an extent that it no longer qualifies as a "project" within the meaning of the Act. In any case where the Lessee is herein required to purchase, install and substitute in or about the Project Building or elsewhere on the Project Site any item of equipment or other personal property he may, in lieu of purchasing and installing said equipment or other personal property himself, advance to the Board the funds necessary therefor, whereupon the Board will purchase and install such equipment or other personal property in or about the Project Building or elsewhere on the Project Site.

BOOK 045 PAGE 828

In furtherance of the preceding provisions of this section, the Lessee will do the following:

(1) If the Lessee elects to remove any item of the Project Equipment pursuant to subparagraph (b) of the first paragraph of this section, he will pay to the Trustee such amounts as are required thereby to be paid into the Bond Fund promptly after the sale or other disposition of the item requiring such payment.

(2) The Lessee will execute and deliver to the Board and the Trustee such documents as the Trustee may from time to time require to confirm the title of the Board (subject to the Lease) to, and the lien of the Indenture with respect to, any items of equipment and other personal property that under the provisions of this section are to become a part of the Project Equipment.

(3) The Lessee will pay all costs (including attorneys' fees) incurred in subjecting to the demise of the Lease and to the lien of the Indenture any items of equipment and other personal property that under the provisions of this section are to become a part of the Project Equipment.

BOOK 045 PAGE 829

The Lessee will not remove, or permit the removal of, any of the Project Equipment from the Project Site except in accordance with the provisions of this section. The Lessee shall not, by reason of the removal of any items of the Project Equipment pursuant to this section, or any substitutions made for any items of the Project Equipment so removed, or any payments made to the Trustee on account of any items of the Project Equipment so removed, be entitled to any diminution or abatement of the rent payable by the Lessee hereunder.

Upon receipt of a written confirmation from the Trustee that any item of Project Equipment has been removed from the Project Site in compliance with the conditions of this section, the Board will convey title to such item to the Lessee by bill of sale or other appropriate conveyance. Further, in accordance with agreements with the Trustee contained in the Indenture, the Board will cause the Trustee to execute and deliver to the Lessee all instruments that may be necessary to release from the lien of the Indenture any item of Project Equipment removed from the Project Site in compliance with the conditions of this section. The Lessee will reimburse the Board and the Trustee for their respective reasonable expenses incurred in connection with the conveyance of such title and the execution and delivery of such instruments.

The preceding provisions of this section shall apply only so long as any of the Indenture Indebtedness remains unpaid. After full payment of the Indenture Indebtedness and the cancellation, satisfaction and discharge of the lien of the Indenture in accordance with the provisions thereof, the Lessee may, in his sole discretion he determines that any or all items of the Project Equipment have become unsuitable or unnecessary for his use and operation of the Project, remove such items of the Project Equipment from the Project Site and (on behalf of the Board) sell or otherwise dispose of such items, without any responsibility or accountability to the Board therefor and without being required to install in or about the Project Building

or elsewhere on the Project Site equipment or other personal property in substitution therefor, and may retain any money or other consideration received by him upon any disposition of such items of Project Equipment.

Nothing contained herein shall prohibit the Lessee, at any time during which no Event of Default shall have occurred and be continuing, from removing from the Project Site any equipment or other personal property that is owned by him or leased by him from third parties and that does not constitute part of the Project Equipment; provided however, that if any such equipment or other personal property owned by the Lessee or leased by him from third parties is removed from the Project Site prior to full payment of the Indenture Indebtedness, the Lessee will promptly repair at his own expense any damage to the Project caused by such removal.

Section 6.4 Payment of Claims, Judgments, Taxes, Other Governmental Charges and Utility Charges. The Board and the Lessee acknowledge (i) that, under present law, the Project, so long as it is owned by the Board, is exempt from ad valorem taxation by the State of Alabama or by any political or taxing subdivision thereof and that, under present law, the revenues, income and profits (if any) of the Board from the Project are exempt from both federal and state taxation, (ii) that, as provided in Section 12.3 hereof, the exemption of the Project, as well as the revenues of the Board from the leasing or sale thereof, from taxation by the State of Alabama and its political subdivisions constitute part of the contract between the Board and the Lessee contained in this Lease Agreement, and (iii) that these factors, among others, induced the Lessee to enter into this Lease Agreement.

The Lessee warrants and covenants that the lien of the Indenture on the Project shall be prior and superior to any other lien or encumbrance on the Project except Permitted Encumbrances. The Lessee will not create, or knowingly suffer to exist, any liens, charges or encumbrances on the Project, other than Permitted Encumbrances, and it will duly pay and discharge, or cause to be paid and discharged, as the same respectively becomes due,

(a) all claims or judgments giving rise to a lien or charge on the Project, which, if not paid or discharged, would be prior to the lien of the Indenture,

(b) all taxes and governmental charges of any kind whatsoever that may lawfully be assessed or levied against or with respect to the Project, including, without limiting the generality of the foregoing, any taxes levied upon or with respect to any part of the receipts, income or profits of the Board from the Project and any other taxes levied upon or with respect to the Project which, if not paid, would become a lien on the Project prior to or on a parity with the lien of the Indenture or a charge on the revenues and receipts therefrom prior to or on a parity with the charge thereon and pledge and assignment thereof made in the Indenture, and

(c) all assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Project; provided that with respect to special assessments or other

governmental charges that may lawfully be paid in installments over a period of years, the Lessee shall be obligated to pay only such installments as are required to be paid during any period while the Lease shall be in effect.

The Board will forward to the Lessee any bills, statements, assessments, notices or other instruments asserting or otherwise relating to any such taxes, assessments or charges.

The Lessee may, at his own expense and in his own name and behalf or in the name and behalf of the Board, in good faith contest any such taxes, assessments and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless by such action the lien of the Indenture as to any part of the Project shall be materially endangered, or the Project or any part thereof shall become subject to loss or forfeiture, or the revenues of the Board from the Project shall become subject to a lien or charge thereon prior to or on a parity with the pledge and assignment thereof made in the Indenture, in any of which cases such taxes, assessments or charges shall (unless they are bonded or are superseded in a manner satisfactory to the Trustee) be paid prior to their becoming delinquent. The Board will cooperate fully with the Lessee in any such contest.

The Lessee will also pay, as the same respectively become due, all utility and other similar charges incurred in the operation, maintenance, use and upkeep of the Project.

Section 6.5 Insurance Required. The Lessee will, not later than the date of delivery of this Lease Agreement, take out and thereafter continuously maintain in effect or cause to be taken out and thereafter continuously maintained in effect, insurance with respect to the Project against such risks as are customarily insured against by Persons owning properties of like size and type as the Project, paying as the same become due all premiums with respect thereto, including, but not necessarily limited to, the following:

(a) until such time as the construction of the Project Building and the other improvements to be constructed initially on the Project Site shall have been completed, builder's risk insurance with respect to the Project Building, such improvements and the Project Equipment to such extent as is necessary to provide for the full payment of the costs of repairing, restoring or replacing the property damaged or destroyed or, if insurance to such extent is not available, to the extent of the full insurable value (as determined by a recognized insurer) of the Project Building, such other improvements and the Project Equipment;

(b) insurance against loss or damage to the Project Building, as so improved, all other improvements located on the Project Site and the Project Equipment by fire, lightning, vandalism and malicious mischief, with uniform standard extended coverage endorsement limited only as may be provided in the standard form of extended coverage endorsement at the time in use in the State of Alabama, to such extent as is necessary

BOOK 045 PAGE 832

to provide (i) for full payment of the costs of repairing, restoring or replacing, the property damaged or destroyed or, if insurance to such extent is not available, to the extent of the full insurable value (as determined by a recognized insurer) of the Project Building, such improvements and the Project Equipment, or (ii) for the recovery of such lesser amount as may be required for the full payment of the Indenture Indebtedness then outstanding; provided however, that the Lessee shall not be required to put into effect the insurance required by this clause (b) with respect to the Project Building or any other property until the construction thereof has been completed to such extent that the Project Building or other property in question is no longer covered by the builder's risk insurance required by the preceding clause (a); and

(c) comprehensive general liability insurance against liability for personal or bodily injury to or death of persons and for damage to or loss of property occurring on or about the Project Site or in any way related to the use, occupancy or operation of the Project, in the minimum amount of \$500,000 combined single limit coverage.

All policies evidencing the insurance required by the terms of the preceding paragraph shall be taken out and maintained in generally recognized responsible insurance companies, qualified under the laws of the State of Alabama to assume the respective risks undertaken, shall contain an agreement on the part of the insurer issuing such policy that the same shall not be cancelled, terminated or permitted to lapse by such insurer unless thirty (30) days' prior written notice of such cancellation, termination or lapse in coverage shall have been given to the Trustee, and may be written with co-insurance provisions and deductible amounts comparable to those applicable to similar policies carried by Persons engaged in businesses of like size and type as the Lessee.

All insurance policies evidencing the insurance required by clauses (a) and (b) of the first paragraph of this section shall name as insureds the Board, the Trustee and the Lessee (as their respective interests shall appear) and shall contain standard mortgage clauses providing for all recoveries thereunder in respect of losses greater than \$10,000 to be paid to the Trustee; provided that all recoveries (including those in respect of losses greater than \$10,000) may be adjusted by the Lessee, subject, in the case of the recovery in respect of a loss greater than \$10,000, to the approval of the Trustee. The insurance required by clause (c) of the preceding paragraph and such other insurance against liability for injury to or death of persons or damage to property of others shall cover the liability, in the several respects indicated, both of the Board and of the Lessee.

All policies evidencing the insurance required to be carried by this section shall be satisfactory to the Trustee in all respects and shall be deposited with the Trustee. Prior to the expiration or cancellation of any such policy, the Lessee will furnish to the Trustee evidence reasonably satisfactory to the Trustee that such policy has been renewed or replaced by another policy or that there is no necessity therefor under the Lease. Anything herein to the contrary notwithstanding, any insurance required by the provisions hereof may be evidenced by a blanket policy covering risks in addition to those hereby required to be covered, but if and only if

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appropriate allocation certificates and loss payable endorsements are furnished to the Board and the Trustee.

Section 6.6 Performance by Board or Trustee of Certain Lessee Obligations. Reimbursement of Expenses. In the event the Lessee fails to take out or maintain the full insurance coverage required by the Lease, fails to pay the taxes and other charges herein required to be paid at or prior to the time they are so required to be paid, or fails to keep the Project in as reasonably safe condition as his operations permit and in good repair and operating condition, the Board or the Trustee, after first notifying the Lessee of any such failure on his part and after the subsequent failure by the Lessee to perform the obligation with respect to which he is delinquent, may (but shall not be obligated to) perform any such obligation on behalf of the Lessee. Any expense incurred by the Board or the Trustee in performing any of such obligations of the Lessee shall become an additional obligation of the Lessee to the Board or to the Trustee, as the case may be, and shall be repaid by the Lessee, together with interest thereon, from the date such amount was paid by the Board or the Trustee, as the case may be, until the date of its repayment by the Lessee, at a per annum rate equal to two percent (2%) above the Prime Rate from time to time in effect. Any remedy herein vested in the Board or the Trustee for the collection of rental payments shall also be available to the Board or the Trustee for the collection of all amounts so paid by the Board or the Trustee in performing any of such obligations of the Lessee.

ARTICLE VII

PROVISIONS RESPECTING DAMAGE, DESTRUCTION AND CONDEMNATION

Section 7.1 Damage and Destruction Provisions. If, prior to full payment of the Indenture Indebtedness, the Project is destroyed, in whole or in part, or is damaged, by fire or other casualty, to such extent that the loss to the Project resulting therefrom is not greater than \$10,000, the Lessee will continue to pay the rent required to be paid hereunder and will promptly repair, replace or restore the property destroyed or damaged to substantially the same condition as prior to the event causing such damage or destruction with such changes, alterations or modifications (including the substitution and addition of other property) as will not significantly impair the operating utility of the Project or change the character thereof to such extent that it will not qualify as a "project" within the meaning of the Act. The Lessee will apply so much as may be necessary of any Net Insurance Proceeds referable to such damage or destruction to the payment of the costs of such repair, replacement or restoration, and if such costs exceed the available Net Insurance Proceeds, the Lessee will provide any additional moneys required for the payment of such costs. In the event that the total costs of such repair, replacement and restoration are less than such Net Insurance Proceeds, the Lessee will pay into the Bond Fund the amount by which such proceeds exceed said total costs. Any preceding provision of this paragraph to the contrary notwithstanding, the Lessee may exercise the option to purchase the Project granted in Section 11.2 hereof upon the terms

there provided, in which event he need not repair, replace or restore the property damaged or destroyed.

If, prior to full payment of the Indenture Indebtedness, the Project is destroyed, in whole or in part, or is damaged, by fire or other casualty, to such extent that the loss to the Project resulting therefrom is greater than \$10,000, the Lessee will promptly so notify the Board and the Trustee in writing. All obligations of the Lessee and the Board under the Lease which are still capable of performance (including, without limitation, the obligation of the Lessee to pay the Basic Rent and all other rent due hereunder) shall continue in full force and effect. The Net Insurance Proceeds recovered by the Board, the Lessee and the Trustee on account of such damage or destruction shall be paid to and held by the Trustee for one or both of the purposes set forth in the succeeding provisions of this paragraph as shall be directed by the Holders of a majority in principal amount of the Bonds then outstanding. Within sixty (60) days following the event causing such damage or destruction, the Holders of a majority in principal amount of the Bonds then outstanding shall give to the Lessee, the Board and the Trustee written directions for the use of the Net Insurance Proceeds, and such directions shall specify the amount, if any, to be applied for each of the following purposes:

(a) payment of the costs of repairing, replacing or restoring the property damaged or destroyed to substantially the same condition that existed prior to the event causing such damage or destruction (or the condition thereof which would have existed if the Lessee had theretofore complied with all his obligations hereunder), with such changes, alterations or modifications as shall be directed by the Lessee and as shall, prior to the making of any financial commitments therefor beyond the planning thereof, be approved in writing by the Trustee, provided that the character of the Project shall not be changed to such extent that it will not qualify as a "project" within the meaning of the Act;

(b) the redemption of Bonds prior to maturity in accordance with the terms of the Indenture and on the earliest practicable date permitted thereby or the purchase of Bonds for retirement, in which case such portion of the Net Insurance Proceeds to be used therefor shall be deposited in the Bond Fund; provided however, that no part of any such portion of the Net Insurance Proceeds shall be so deposited in the Bond Fund and so applied for the redemption or purchase of Bonds unless

(i) provision has theretofore been made, or is made simultaneously with such redemption or purchase, for the retirement, in accordance with the terms of the Indenture, of all the Bonds (including premium, if any, and the interest that will mature thereon until and on the date or dates they are retired), either by redemption prior to their maturity or by payment thereof at their maturity or by surrender thereof for cancellation, or

(ii) in the absence of such provision for the retirement of all the Bonds, the following conditions shall be satisfied: (1) the character of the Project, as repaired, restored or modified after the event causing such damage or destruction, shall be such that

BOOK 045 PAGE 834

the Project will qualify as a "project" within the meaning of the Act; and (2) the use of any Net Insurance Proceeds for the redemption or purchase of less than all the outstanding Bonds shall be approved in writing, prior to such use thereof, by the Holders of all the Bonds that will be outstanding after such redemption or purchase.

In the event that the Net Insurance Proceeds held by the Trustee (or any specified portion thereof) are to be applied for payment of the costs of repairing, replacing or restoring the property damaged or destroyed, the Construction Fund shall be reestablished and such proceeds (or specified portion thereof) shall be deposited therein, and the Board will cause disbursements to be made from such fund to pay such costs in the same manner (with the necessary changes in detail) as provided in the Indenture for the disbursement of proceeds of the Series 1985 Bonds originally deposited in such fund. Any balance of the Net Insurance Proceeds (or any balance of the portion thereof specified for the payment of such costs) remaining after the payment of all such costs shall be paid into the Bond Fund or, if the Indenture Indebtedness has been paid in full and no Event of Default shall have occurred and be continuing, to the Lessee. In the event that the Net Insurance Proceeds (or the portion thereof specified for the payment of such costs) are not sufficient to pay in full the costs of such repair, replacement or restoration, the Lessee will pay to the Trustee, for the account of the Board, prior to the commencement of such work, such moneys as are reasonably estimated to be necessary to complete such work, in which case the Board will cause such work to be so undertaken, and the Board and the Trustee will, upon completion of such work and payment in full of the costs thereof, return to the Lessee any portion of such payment that is not needed therefor. The Lessee shall not, by reason of the payment of such excess costs (whether by direct payment thereof or payment to the Trustee therefor), be entitled to any reimbursement from the Board or to any abatement or diminution of the rent provided for herein.

In the event the Net Insurance Proceeds held by the Trustee are to be applied to the redemption or retirement of all the Bonds and such proceeds are not sufficient for such purpose, the Lessee will promptly pay to the Trustee, for the account of the Board, such additional moneys as are necessary for payment in full of the entire Indenture Indebtedness.

If at any time the Lessee gives notice to the Trustee of his intention to exercise the option to purchase the Project granted in Section 11.2 hereof, then, in the absence of contrary written directions from the Lessee, the Trustee shall thereafter hold all Net Insurance Proceeds until the exercise of such option and shall not apply such proceeds to the payment of any costs of repairing, replacing or restoring the property damaged or destroyed. If the Lessee duly exercises such option to purchase the Project in accordance with the applicable provisions of said Section 11.2, then neither the Lessee nor the Board shall have any obligation to repair, replace or restore the property damaged or destroyed, in which case so much (which may be all) of such Net Insurance Proceeds then held by the Trustee as shall be necessary to provide for full retirement of the Bonds (as specified in Section 11.2 hereof) shall be paid or credited by the Trustee into the Bond Fund and so much of the excess thereafter remaining (if any) as shall be necessary for the payment of any other Indenture Indebtedness shall be applied by the Trustee to the payment of such

other Indenture Indebtedness. Any portion of such Net Insurance Proceeds remaining after payment in full of the entire Indenture Indebtedness shall be paid to the Lessee after or simultaneously with the exercise by the Lessee of such option.

If the Project is destroyed, in whole or in part, or is damaged after the Indenture Indebtedness has been paid in full, neither the Lessee nor the Board shall be obligated to repair, replace or restore the property damaged or destroyed, and any Net Insurance Proceeds referable to such damage or destruction shall be paid to the Lessee; provided however, that the Board will, to the extent and in the manner provided in Section 7.6 hereof, cooperate fully with the Lessee in carrying out such repair, replacement and restoration as the Lessee may, in his sole discretion, decide to undertake.

All property acquired in connection with the repair, replacement or restoration of any part of the Project pursuant to the provisions of this section shall be and become part of the Project subject to the demise hereof and the lien of the Indenture and shall be held by the Lessee on the same terms and conditions as the property originally constituting the Project.

045 PAGE 836
Section 7.2 **Condemnation Provisions.** If title to the Project or any part thereof is taken under the exercise of the power of Eminent Domain, the entire condemnation award in respect of such taking [including, without limitation, (i) all amounts received as the result of any settlement of compensation claims negotiated with the condemning authority, and (ii) any amount awarded as compensation for the interest of the Lessee in the part of the Project taken and as damages to the interest of the Lessee in any part thereof not taken, but not including any condemnation award belonging to the Lessee pursuant to the provisions of Section 7.4 hereof] shall be paid to the Trustee (or, if the Indenture Indebtedness has been fully paid, to the Lessee), whereupon such award shall be applied and certain related actions shall be taken in accordance with the succeeding provisions of this section:

(a) Taking of All or Substantially All the Project Prior to Full Payment of the Indenture Indebtedness. If all or substantially all the Project is so taken by such exercise of the power of Eminent Domain, prior to full payment of the Indenture Indebtedness, the Lease shall terminate [except as to the provisions of this subsection (a) and Sections 5.5 and 8.2 hereof and any other provisions hereof which are expressly stated to survive termination of the Lease] as of the forty-fifth (45th) day after the receipt by the Trustee of the final installment of the entire condemnation award in respect of such taking, unless the Lessee has theretofore exercised the option to purchase the Project granted in Section 11.2 hereof or has otherwise terminated the Lease in accordance with the provisions hereof. As promptly as practicable following such receipt by the Trustee of such final installment of the entire condemnation award, the Lessee shall be notified in writing by the Trustee of the date on which such final installment was so received by the Trustee and the amount of the Net Condemnation Award in respect of such taking then held by the Trustee. On or before the close of business on the business day next preceding the date on which the Lease shall terminate pursuant to this subsection (a), the Lessee will pay to the Trustee, for the

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account of the Board, such additional Basic Rent as, when added to the total of the amounts then held in the Construction Fund and the Bond Fund (exclusive of any amount held therein for payment of matured but unpaid Bonds, Bonds called for redemption but not yet redeemed and matured but unpaid interest) plus the full amount of the Net Condemnation Award then held by the Trustee, will be sufficient to pay, redeem and retire all the then outstanding Bonds on the aforesaid date on which the Lease shall terminate, including, without limitation, principal, premium (if any), interest to maturity or earliest practicable redemption date, as the case may be, expenses of redemption and all other Indenture Indebtedness. Any portion of the Net Condemnation Award not needed for payment of the Indenture Indebtedness shall be paid to the Lessee simultaneously with or promptly after the termination of the Lease.

(b) Taking of Less than Substantially All the Project Prior to Full Payment of the Indenture Indebtedness. If less than substantially all the Project is so taken by such exercise of the power of Eminent Domain, prior to full payment of the Indenture Indebtedness, all obligations of the Lessee under the Lease which are still capable of performance (including, without limitation, the obligation of the Lessee to pay the Basic Rent and all other rent due hereunder) shall continue in full force and effect, but with the consequences specified in the succeeding provisions of this subsection (b):

(1) If no part of the Project Building, no part of any other structure located on the Project Site, or no part of the Project Equipment is taken or damaged and if in the Lessee's opinion, expressed in a written statement delivered to the Board and the Trustee, such taking does not significantly impair the operating utility of the Project, the Net Condemnation Award in respect of the part of the Project so taken shall be paid into the Bond Fund.

(2) If any part of the Project Building, any part of any other structure located on the Project Site, or any part of the Project Equipment is taken or damaged, or if in the Lessee's opinion, expressed in a written statement delivered to the Board and the Trustee, such taking significantly impairs the operating utility of the Project, the Net Condemnation Award in respect of such taking shall be applied by the Trustee for one or more of the purposes set forth in the succeeding provisions of this subparagraph (2) as shall be directed by the Holders of a majority in principal amount of the Bonds then outstanding. Within sixty (60) days following such taking, the Holders of a majority in principal amount of the Bonds then outstanding shall give to the Lessee, the Board and the Trustee written directions for the use of the Net Condemnation Award, and such directions shall specify the amount, if any, to be applied for each of the following purposes:

(i) payment of the costs of repairing, restoring, modifying, relocating or rearranging any portions of the Project not taken but damaged or adversely affected by such taking,

BOOK 045 PAGE 937

all to such extent and in accordance with such plans as shall be directed by the Lessee and as shall, prior to the making of any financial commitments therefor beyond the planning thereof, be approved in writing by the Trustee, provided that the character of the Project shall not be changed to such extent that it will not qualify as a "project" within the meaning of the Act;

(II) payment of the costs of purchasing such additional land and of acquiring (by construction or otherwise) such additional facilities and equipment as the Lessee may direct, which land, facilities and equipment (i) shall be of such nature as to qualify as a "project" within the meaning of the Act, (ii) shall be acquired by the Board and made subject to the demise of the Lease and to the lien of the Indenture free of liens and encumbrances other than Permitted Encumbrances and (iii) shall be deemed a part of the Project and made available for use and occupancy by the Lessee, without the payment of additional rent hereunder, to the same extent as if such land, facilities and equipment had originally constituted part of the Project and had been specifically demised hereby;

(III) the redemption of Bonds prior to maturity in accordance with the terms of the Indenture and on the earliest practicable date permitted thereby or the purchase of Bonds for retirement, in which case such portion of the Net Condemnation Award to be used therefor shall be deposited in the Bond Fund; provided however, that no part of any such portion of the Net Condemnation Award shall be so deposited in the Bond Fund and so applied for the redemption or purchase of Bonds unless

(i) provision has theretofore been made, or is to be made simultaneously with such redemption or purchase, for the retirement in accordance with the terms of the Indenture of all the Bonds, either by redemption prior to their maturity or by payment thereof at their maturity or by surrender thereof for cancellation, or

(ii) in the absence of such provision for the retirement of all the Bonds, the following conditions shall be satisfied: (1) the character of the Project, as repaired, replaced, modified or rearranged after such taking, shall be such that the Project will qualify as a "project" within the meaning of the Act; and (2) the use of any portion of the Net Condemnation Award for the redemption or purchase of less than all the outstanding Bonds shall be approved in writing, prior to the use thereof, by the Holders of all Bonds that will be outstanding after such redemption or purchase.

BOOK 045 PAGE 838

In the event that the Net Condemnation Award held by the Trustee (or any specified portion thereof) is to be applied, pursuant to the provisions of subparagraphs (I) or (II) of this subsection (b)(2), for payment of the costs of repairing, restoring, modifying, relocating or rearranging any part of the Project or for payment of the costs of acquiring additional property to become part of the Project, as the case may be, the Construction Fund shall be reestablished and such award (or specified portion thereof) shall be deposited therein, and the Board will cause disbursements to be made from such fund to pay such costs in the same manner (with the necessary changes in detail) as provided in the Indenture for the disbursement of proceeds of the Series 1985 Bonds originally deposited in such fund. Any balance of the Net Condemnation Award (or any balance of the portion thereof specified for the payment of such costs) remaining after payment of all such costs shall be paid into the Bond Fund or, if the Indenture Indebtedness has been paid in full and no Event of Default shall have occurred and be continuing, to the Lessee. In the event that the Net Condemnation Award (or the portion thereof specified for the payment of such costs) is not sufficient to pay in full the costs of such repair, restoration, modification, relocation or rearrangement, or the costs of acquiring such additional property, as the case may be, the Lessee will pay to the Trustee, for the account of the Board, prior to the commencement of such work, such moneys as are reasonably estimated to be necessary to complete such repair, restoration, modification, relocation or rearrangement or the acquisition of such additional property, as the case may be, in which case the Board will cause such undertakings to be so completed, and the Trustee will, upon completion of such undertakings and payment in full of the costs thereof, return to the Lessee any portion of such payment by the Lessee that is not needed therefor. The Lessee shall not, by reason of the payment of such excess costs (whether by direct payment thereof or payments to the Trustee therefor), be entitled to any reimbursement from the Board or to any abatement or diminution of the rent provided for herein. In the event the Net Condemnation Award held by the Trustee is to be applied to the redemption and retirement of all the Bonds and such funds are not sufficient therefor, the Lessee will promptly pay to the Trustee, for the account of the Board, such additional moneys as are necessary for payment in full of the entire Indenture Indebtedness.

(c) Taking of All or Substantially All the Project After Full Payment of the Indenture Indebtedness. If, after the full payment of the Indenture Indebtedness, title to all or substantially all the Project is taken by such exercise of the power of Eminent Domain, the Net Condemnation Award referable to such taking shall be paid and belong to the Lessee. The Lease shall terminate as of the date on which the final condemnation award is received by the Lessee, and the Board and the Lessee shall have no further rights or obligations hereunder except those which may theretofore have vested.

(d) Taking of Less Than Substantially All the Project After Full Payment of Indenture Indebtedness. If, after full payment of the Indenture Indebtedness, title to less than substantially all the Project is taken

by such exercise of the power of Eminent Domain, the Lease shall continue in full force and effect, but neither the Lessee nor the Board shall be obligated to correct or ameliorate in any way the condition of the Project caused by such taking, and the Net Condemnation Award referable to such taking shall be paid to the Lessee; provided however, that the Board will, to the extent and in the manner provided in Section 7.6 hereof, cooperate fully with the Lessee in carrying out such work of repairing, restoring, modifying, relocating or rearranging the Project or in acquiring such additional property to form part of the Project as the Lessee may, in his sole discretion, deem necessary or desirable.

If at any time the Lessee gives notice to the Trustee of his intention to exercise the option to purchase the Project granted in Section 11.2 hereof, then, in the absence of contrary written directions from the Lessee, the Trustee shall thereafter hold the entire Net Condemnation Award until the exercise of such option and shall not apply any portion of such award to the payment of any costs described in subparagraphs (I) and (II) of subsection (b)(2) of this section. If the Lessee duly exercises such option to purchase the Project in accordance with the applicable provisions of said Section 11.2, then neither the Lessee nor the Board shall be obligated to correct or ameliorate in any way the condition of the Project caused by such taking, in which event so much (which may be all) of such Net Condemnation Award then held by the Trustee as shall be necessary to provide for full retirement of the Bonds (as specified in Section 11.2 hereof) shall be paid or credited by the Trustee into the Bond Fund and so much of the excess thereafter remaining (if any) as shall be necessary for the payment of any other Indenture Indebtedness shall be applied by the Trustee to the payment of such other Indenture Indebtedness. Any portion of such Net Condemnation Award remaining after payment in full of the entire Indenture Indebtedness shall be paid to the Lessee after or simultaneously with the exercise by the Lessee of such option.

BOOK 045 PAGE 840

Section 7.3 Condemnation of Right to Use of the Project for Limited Period. If the use, for a limited period, of all or part of the Project is taken under the exercise of the power of Eminent Domain, the Lease (including, without limitation, the provisions hereof relating to the payment of Basic Rent) shall continue in full force and effect, but with the consequences specified in the succeeding provisions of this section. If the period of such taking expires on or before the expiration of the Lease Term, the Lessee shall be entitled to receive the entire condemnation award made therefor, whether by way of damages, rent or otherwise, and shall upon being restored to possession restore the Project to the extent practicable to substantially the same condition as prior to such taking, with such changes, alterations and modifications as will not significantly impair the operating utility of the Project, or change the character thereof to such extent that it will not qualify as a "project" within the meaning of the Act. If such taking occurs during the Lease Term but the period of such taking expires after the expiration of the Lease Term, the Lessee shall be entitled to receive that portion of the award allocable to the period from the date of such taking to the end of the Lease Term, and the Board shall be entitled to the remainder thereof; provided that if prior to the end of the Lease Term, the Lessee exercises either of the options to purchase the Project granted in Sections 11.2 and 11.3 hereof, the Lessee (rather than the Board) shall be entitled to receive the remainder of such award (if any).

Section 7.4 **Condemnation of Lessee-Owned Property.** The Lessee shall be entitled to any condemnation award or portion thereof made for damages to or the taking of his own property not included in the Project, but any condemnation award resulting from damages to or the taking of all or any part of the leasehold estate or other interest of the Lessee in the Project created by the Lease shall be applied in accordance with the provisions of Section 7.2 or 7.3 hereof, whichever may be applicable. In the event of any taking which involves both the Project and property of the Lessee, the Lessee shall be responsible for all attorney's fees and other expenses properly allocable to the taking of his own property.

Section 7.5 **Cooperation of the Board in the Conduct of Condemnation Proceedings.** The Board will cooperate fully with the Lessee in the handling and conduct of any prospective or pending condemnation proceeding with respect to the Project or any part thereof and will follow all reasonable directions given to it by the Lessee in connection with such proceeding. In no event will the Board settle, or consent to the settlement of, any prospective or pending condemnation proceeding with respect to the Project or any part thereof without the prior written consent of the Lessee.

Section 7.6 **Cooperation of the Board with respect to Restoration of the Project in the Event of Casualty or Condemnation.** If, as a result of the taking of title to less than substantially all the Project or the taking of the temporary use of all or any part of the Project through the exercise of the power of Eminent Domain, or if, as a result of any event causing destruction or damage to the Project or any part thereof, the Lessee determines, in accordance with any applicable provision of this article, to acquire (by purchase, construction or otherwise) any additional property to replace any part of the Project so taken, or to have the Project repaired, replaced, restored, modified, relocated or rearranged in order to correct or ameliorate any condition caused by such taking, damage or destruction, as the case may be, then the Board will execute and deliver, or cause to be executed and delivered, all contracts, orders, requisitions, instructions and other written instruments and do, or cause to be done, all other acts that may be necessary or proper in carrying out all such undertakings with respect to the Project. In no event, however, will the Board hereafter enter into any contract with respect to any part of such undertakings unless there is endorsed thereon a legend indicating that the Lessee has approved both the form and substance of such contract and such legend is signed on behalf of the Lessee by an Authorized Lessee Representative at the time acting as such under the provisions hereof. Any obligation for the payment of money incurred or assumed by the Board in connection with such undertakings shall be payable solely out of any Net Condemnation Award or Net Insurance Proceeds held by the Trustee or from any other moneys made available to the Board by the Lessee under the provisions of the Lease.

Section 7.7 **Provisions Relating to the Incurring of Certain Expenses after Indenture Indebtedness Paid.** The Board will not, at any time after full payment of the Indenture Indebtedness, incur any expenses in connection with the collection of any insurance proceeds or any condemnation award with respect to the Project, or any part thereof, without the prior written consent of the Lessee.

ARTICLE VIII

PARTICULAR COVENANTS OF THE LESSEE

Section 8.1 General Covenants. The Lessee will not do or permit anything to be done in or about or with respect to the Project that will affect, impair or contravene any policies of insurance that may be carried on the Project against loss or damage by fire, casualty or otherwise. The Lessee will, in the use of the Project and the public ways abutting the Project Site, comply in all material respects with all valid and applicable laws, ordinances, rules, regulations and orders of all governmental authorities or agencies; provided however, that the Lessee may in good faith contest the validity of any such laws, ordinances, rules, regulations and orders or the application thereof to the Project and in the event of any such contest defer compliance therewith during the period of such contest and the pendency of any appeal in connection therewith, unless by such action the rights or interests of the Board or the Trustee with respect to the Project or any part thereof shall be materially endangered or impaired.

BOOK 045 PAGE 842

Section 8.2 Release and Indemnification Covenants. The Lessee releases the Board (and each director, officer, employee and agent thereof) and the Trustee from, and will indemnify and hold the Board (and each director, officer, employee or agent thereof) and the Trustee harmless against, any and all claims and liabilities of any character or nature whatsoever, regardless of by whom asserted or imposed, and losses of every conceivable kind, character and nature whatsoever claimed by or on behalf of any person, firm, corporation or governmental authority, arising out of, resulting from, or in any way connected with the Project, including, without limiting the generality of the foregoing, (i) any actions relating to the acquisition, construction and installation of the Project or any part thereof and (ii) the leasing of the Project to the Lessee and the condition, use, possession or management of the Project during the Lease Term; provided however, that the Lessee shall not be obligated to indemnify any director, officer, employee or agent of the Board against any claim, liability or loss in any way connected with the Project unless such claim, liability or loss arises out of or results from official action taken in the name and behalf of the Board by such director, officer, employee or agent.

The Lessee acknowledges that he has furnished to prospective purchasers of the Series 1985 Bonds, or has caused to be so furnished, certain information concerning the business and financial condition of the Lessee, and the Lessee further acknowledges that he has sought and received the assistance and cooperation of the Board in connection with the offering and sale of the Series 1985 Bonds. The Lessee will indemnify, hold harmless and defend the Board (and each director, officer, employee and agent thereof) against

(a) any claim or liability whatsoever arising out of or based upon any untrue or misleading statement or alleged untrue or misleading statement of any material fact contained in any of the aforesaid information furnished, or caused to be furnished, by the Lessee to any prospective purchaser of the Series 1985 Bonds, or the omission or alleged omission to state in any such information any material fact necessary to make the

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statements contained therein not misleading in the light of the circumstances under which such statements were made, and

(b) any claim or liability arising out of any action taken by the Board at the request of the Lessee (or any other person authorized to act on behalf of the Lessee) in connection with the offering and sale of the Series 1985 Bonds.

The Lessee will pay or reimburse all legal or other expenses reasonably incurred by the Board (and each director, officer, employee and agent thereof), or the Trustee, as the case may be, in connection with the investigation or defense of any action or proceeding, whether or not resulting in liability, with respect to any claim, liability or loss in respect of which indemnity may be sought against the Lessee under the provisions of this section.

In the event that any action or proceeding is brought against any indemnifiable party (whether the Board, or any of the Board's directors, officers, employees or agents, or the Trustee), in respect of which indemnity may be sought against the Lessee under the provisions of this section, such indemnifiable party shall, as a condition of the Lessee's liability under the provisions of this section, be obligated to notify the Lessee promptly in writing of the commencement of such action or proceeding and shall thereafter forward to the Lessee a copy of every summons, complaint, pleading, motion or other process received with respect to such action or proceeding. The Lessee may (and if so requested by such indemnifiable party, shall) at any time assume the defense of such indemnifiable party in connection with any such action or proceeding, and in such case the Lessee shall pay all expenses of such defense and shall have full and complete control of the conduct on the part of such party of any such action or proceeding, including, without limitation, the right to settle or compromise any claim giving rise to such action or proceeding upon such terms and conditions as the Lessee, in his sole discretion, shall determine and the right to select Counsel for such party. The Lessee shall not be obligated to indemnify any such indemnifiable party for any liability resulting from the settlement of any action or proceeding, or for any legal or other expenses incurred in connection with the investigation or defense of any action or proceeding, if such settlement was made without the Lessee's consent, irrespective of whether the Lessee had, prior to such settlement, exercised his right to assume the defense of such indemnifiable party in connection with such action or proceeding.

Nothing contained in this section shall be construed to indemnify the Board, or any of the Board's directors, officers, employees or agents, or the Trustee, against, or to release any of such parties from liability for, any claim, liability or loss that may result from willful misconduct or gross negligence on the part of such parties.

Anything to the contrary herein contained notwithstanding, the covenants of the Lessee contained in this section shall, with respect to any claim, liability or loss for which the Lessee is obligated to provide indemnity, remain in full force and effect after the termination of the Lease until (i) any cause of action brought in respect of such claim, liability or loss shall be barred by the applicable statute of limitation or (ii) the payment in full or the satisfaction of such claim, liability or loss, including all reasonable expenses incurred by the indemnifiable party or parties in

defending against such claim, liability or loss; provided however, that in the event any action or proceeding arguably barred by the applicable statute of limitation is brought against any indemnifiable party hereunder, the Lessee shall be obligated to defend such indemnifiable party with respect to such action or proceeding, all to the end that the bar of the statute of limitation may be asserted by the Lessee against the party bringing such action or proceeding but may not be asserted by the Lessee against the indemnifiable party in order to avoid performing any of his obligations under this section.

Section 8.3 Inspection of Project. The Lessee will permit the Board, the Trustee and their duly authorized agents at all reasonable times to examine and inspect the Project or any part thereof. So long as any of the Indenture Indebtedness shall be outstanding and unpaid, the Lessee will also permit the Trustee and its duly authorized agents to take such action as may be necessary and convenient to cause the Project to be kept in as reasonably safe condition as his operations permit and the Project to be kept in good repair and operating condition, all as and to the extent provided in Sections 6.1 and 6.6 hereof.

Section 8.4 Agreement to Remain Subject to Suit in State of Alabama. Regardless of any place to which the Lessee may remove and maintain his residence or legal domicile at any time while the Lease shall be in effect, the Lessee agrees, to the full extent permitted by law, that any action against him under the Lease may be instituted in the State of Alabama, and, to the full extent permitted by law, he hereby irrevocably (a) consents to the jurisdiction of both the federal and the state courts located in the State of Alabama and (b) waives any and all jurisdictional defenses which he may have to the institution on such an action in the State of Alabama. Before removing his residence from the State of Alabama, the Lessee will appoint, without power of revocation, (i) The Corporation Company, One Court Square, Montgomery, Alabama 36103, or (ii) another Person resident in the State of Alabama and acceptable to the Trustee as the agent of the Lessee upon whom may be served all process, pleadings, notices or other papers which may or must be served upon the Lessee in connection with any action or proceeding brought to enforce any of his obligations under the Lease. If, upon removing his residence from the State of Alabama, the Lessee fails to appoint an agent for service of process as provided in the preceding sentence, service of process in any action or proceeding brought in connection with the Lease may be made upon the Lessee in accordance with the provisions of Rule 4.2 of the Alabama Rules of Civil Procedure or successor provisions of law.

Any action or proceeding brought against the Lessee in connection with the enforcement of any of his obligations under the Lease may be commenced in any court of competent jurisdiction located in the State of Alabama, whether federal or state, by service of process upon any agent appointed by the Lessee in accordance with the provisions of the preceding paragraph or, in default of the appointment of any such agent, by service of process upon the Lessee in accordance with the provisions of the aforesaid Rule 4.2 or successor provisions of law. Any service of process, pleadings, notices and other papers served upon any such agent, or upon the Lessee in accordance with said Rule 4.2 or successor provisions of law, shall be taken and held in all courts to be as valid and binding upon the Lessee as if direct personal

service thereof had been made upon him within the State of Alabama. Any process, pleadings, notices and other papers served upon any agent designated by the Lessee shall, at the same time, be sent by registered or certified mail to the Lessee at the address or addresses as may be furnished by the Lessee to the Trustee in writing.

Section 8.5 Covenants With Respect to Exemption of Interest on Series 1985 Bonds from Federal Income Taxation. The Series 1985 Bonds are being issued by the Board in compliance with the conditions necessary for the interest income on the Bonds to be exempt from federal income taxation pursuant to the provisions of Section 103(b)(6) of the Code relating to "industrial development bonds" substantially all the proceeds of which are to be used for the acquisition, construction, reconstruction or improvement of land or property subject to the allowance for depreciation. The Board and the Lessee covenant with each other and with the Trustee for the benefit of the Holders of any Series 1985 Bonds, present and future, that neither of them will cause or permit the proceeds of the Series 1985 Bonds to be used in a manner which would cause the interest on the Series 1985 Bonds to lose the exemption from federal income taxation conferred by Section 103(b)(6) of the Code and the applicable regulations thereunder.

The Lessee will file, or will cause to be filed, with appropriate governmental authorities (whether federal, state or local) all statements, reports and other documents required to be filed as a condition to qualification and continued qualification of the Series 1985 Bonds as an issue the interest on which is exempt from federal income taxation, and the Board will cooperate in effecting any such filings.

Section 8.6 No-Arbitrage Covenants. Neither the Board nor the Lessee will take any action, or omit to take any action, with respect to the investment of any of the proceeds from the sale of the Series 1985 Bonds, or any revenues from the Project accumulated by the Board, if, as a result of such action by the Board or the Lessee, or the omission of the Board or the Lessee to take such action, as the case may be, such proceeds or revenues would be invested in a manner causing the Series 1985 Bonds to be "arbitrage bonds" within the meaning of Section 103(c) of the Code and the applicable regulations thereunder.

The Lessee will not cause or permit any proceeds of the Series 1985 Bonds to be invested in a manner contrary to the provisions of Section 103(c)(6) of the Code and the applicable regulations thereunder and will assure compliance with such requirements on behalf of the Board. Not later than thirty (30) days after the end of each "Bond Year", as such term is used in said Section 103(c)(6), the Lessee will furnish to the Board and the Trustee a report showing the amounts that will be required to be paid to the United States of America pursuant to the provisions of said Section 103(c)(6) as of the end of such Bond Year. The Lessee will timely pay to the United States of America, for the account of the Board, all amounts required to be so paid in accordance with said Section 103(c)(6) and will maintain, on behalf of the Board, all records required to be maintained pursuant to said Section 103(c)(6). The Lessee agrees to furnish to the Board and the Trustee such reports, certificates and documentation (including, without limitation, certificates of accountants and opinions

of counsel) as they may reasonably request to evidence compliance with the provisions of this section.

Section 8.7 Financial Statement. On or before April 1 of each calendar year beginning with 1986, the Lessee will furnish to the Trustee a personal financial statement containing such information and in such form as shall be reasonably required by the Trustee.

Section 8.8 Transfer of Stock in the Company. The Lessee will not sell, transfer, convey, assign, alienate or otherwise in any way dispose of, or pledge, mortgage or otherwise in any way encumber, all or any part his stock in the Company without the prior written consent of the Trustee and the holders of all Bonds then outstanding.

Section 8.9 Financing and Continuation Statements. So long as any of the Indenture Indebtedness remains outstanding, the Lessee will, at his expense, file, record, refile and re-record, or will cause to be filed, recorded, refiled or re-recorded, all financing statements, continuation statements, documents and notices that, in the reasonable judgment of the Trustee, shall be necessary to perfect, protect and preserve (i) the lien of the Indenture with respect to the Project or any part thereof and (ii) the right, title and interest of the Trustee in and to the Project and the Lease.

Section 8.10 Further Assurances. The Lessee will, at his own cost and expense, take all actions that may at the time and from time to time be necessary to perfect, preserve, protect and secure the right, title and interest of the Board and the Trustee, or either, in and to the Project and the Lease.

BOOK 045 PAGE 846

ARTICLE IX

CERTAIN PROVISIONS RELATING TO ASSIGNMENT, SUBLASING AND MORTGAGING AND TO THE BONDS

Section 9.1 Provisions Relating to Assignment and Subleasing by Lessee. The Lessee will not assign the Lease and the leasehold interest created thereby, nor will he sublease the Project, in whole or in part, except to an Affiliate, without the prior written consent of the Trustee but without the necessity of obtaining the consent of the Board. In no event shall any assignee of the Lease or any sublessee of the Project or any part thereof or anyone claiming by, through or under any such assignment or sublease acquire by virtue thereof any greater rights in the Project than the Lessee then has under the Lease, nor shall any such assignment or subleasing or any dealings or transactions between the Board or the Trustee or any sublessee or assignee in any way relieve the Lessee from primary liability for any of his obligations hereunder. Thus, in the event of any such assignment or subleasing,

the Lessee shall continue to remain primarily liable for payment of the rentals herein provided to be paid by him and for performance and observance of the other agreements and covenants on his part herein provided to be performed and observed by him.

Section 9.2 Mortgaging of the Project by Board. It is understood and agreed that the Board will mortgage the Project to the Trustee as security for the payment of the Bonds, subject to the Lease (which Lease and the estate of the Lessee hereunder shall be prior and superior to the lien of the Indenture), and will assign its interest (other than its right to require the Lessee to pay certain expenses as provided in Sections 5.4 and 10.4 hereof, the indemnification rights contained in Section 8.2 hereof and certain other rights which are herein expressly provided to be exercised by the Board) in the Lease and pledge any moneys receivable hereunder to the Trustee as security for payment of the principal of and the interest and premium (if any) on the Bonds. It is further understood and agreed that in the Indenture the Board will obligate itself to follow the instructions of the Trustee or the Holders of the Bonds or a certain percentage of the latter in the election or pursuit of any remedies herein vested in it. Upon the assignment and pledge to the Trustee of the Board's interest in the Lease, the Trustee shall have all rights and remedies herein accorded the Board (other than the aforesaid rights reserved to the Board), and any reference herein to the Board shall be deemed, with the necessary changes in detail, to include the Trustee; and the Trustee and the Holders of the Bonds shall be deemed to be third party beneficiaries of the covenants and agreements on the part of the Lessee contained in the Lease and shall, to the extent provided in the Indenture, be entitled to enforce performance and observance of the agreements and covenants on the part of the Lessee contained in the Lease to the same extent as if they were parties hereto. Subsequent to the issuance of the Bonds and prior to the payment of the Indenture Indebtedness in full, the Board and the Lessee shall have no power to modify, alter, amend or (except as specifically authorized herein) terminate the Lease without the prior written consent of the Trustee and then only as provided in the Indenture. The Board will not, so long as no Event of Default shall have occurred and be continuing, amend the Indenture or any indenture supplemental thereto without the prior written consent of the Lessee.

Without the prior written request or consent of the Lessee, the Board will not, so long as no Event of Default shall have occurred and be continuing, hereafter issue any Bonds or other securities (including refunding securities), other than the Series 1985 Bonds, that are payable out of or secured by a pledge of the revenues and receipts derived by the Board from the leasing or sale of the Project, nor, without such consent, will the Board, so long as no Event of Default shall have occurred and be continuing, hereafter place any mortgage or other encumbrance (other than the Indenture and supplemental indentures contemplated thereby) on the Project or any part thereof.

Section 9.3 References to Bonds Ineffective after Indenture Indebtedness Paid. Upon full payment of the Indenture Indebtedness and cancellation, satisfaction and discharge of the Indenture in accordance with the provisions of Section 16.1 thereof, all references in the Lease to the Bonds and the Trustee shall be ineffective and neither the Trustee, nor the Holders of any of the Bonds shall

BOOK 045 PAGE 847

thereafter have any rights hereunder, saving and excepting any that shall have theretofore vested. For purposes of the Lease, any of the Bonds shall be deemed fully paid if there exist, with respect thereto, the applicable conditions specified in Section 16.1 of the Indenture.

If the Indenture Indebtedness is fully paid prior to the end of the Lease Term, the Lessee shall be entitled to use of the Project for the remainder of the Lease Term without the payment of any further Basic Rent but otherwise on all the same terms and conditions hereof.

Section 9.4 Concerning Issuance of Additional Parity Bonds. The Board and the Lessee recognize that the Board is authorized to issue under the Indenture, upon compliance with the conditions precedent specified therein, one or more series of Additional Bonds for any one or more of the purposes specified in the Indenture. If no Event of Default shall have occurred and be continuing, the Board will, on the written request of the Lessee and upon compliance with the applicable conditions contained in Article VIII of the Indenture, take such actions as are necessary to authorize the issuance and sale of Additional Bonds in such principal amount and for such purpose or purposes as are specified in such request and will use its best efforts to effect the sale thereof. To the extent consistent with all applicable provisions of the Indenture and the Lease, all terms and conditions of such Additional Bonds (including, without limitation, those relating to the maturity dates of the principal of such Additional Bonds, the interest rate or rates thereof and the provisions for redemption thereof prior to their respective maturities) and the purchase price to be paid therefor shall be subject to the approval of the Lessee.

Section 9.5 Disposition of Trust Fund Moneys after Full Payment of Indenture Indebtedness. The Board hereby assigns to the Lessee all surplus moneys (if any) that may remain in the Construction Fund and the Bond Fund or that may otherwise be held by the Trustee after the Indenture Indebtedness has been fully paid, such assignment to be subject to the prior claims to such moneys of any Person other than the Lessee that shall have been at any time a lessee, user or occupant of the Project. The Board will provide in the Indenture for such surplus moneys to be paid to the Lessee in accordance with such assignment. It is understood and agreed that surplus moneys remaining in the Bond Fund or otherwise held by the Trustee shall not include (i) any amounts so held for payment of matured but unpaid Bonds, Bonds called for redemption but not yet redeemed and matured but unpaid interest and (ii) any amounts held therein which are referable to unmatured Bonds if such Bonds are considered fully paid pursuant to the provisions of Section 16.1 of the Indenture by reason of the fact that such amounts are so held by the Trustee. The provisions of this section shall survive the expiration or prior termination of the Lease.

BOOK 045 PAGE 848

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ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

Section 10.1 Events of Default Defined. The following shall be "Events of Default" under the Lease, and the term "Event of Default" shall mean, whenever it is used in the Lease, any one or more of the following events:

(a) failure by the Lessee to pay any installment of Basic Rent or to make any other payment required under the terms hereof [other than any payment referred to in clause (b) of this section] on the date that such installment or such payment shall become due and payable by the terms of the Lease and the continuation of such failure for a period of five (5) consecutive calendar days after such due date;

(b) failure by the Lessee to pay any amount due the Trustee for its reasonable fees, charges and disbursements within thirty (30) days after written demand for such payment by the Trustee, which demand shall not be made earlier than the date on which such amount is due and payable;

(c) failure by the Lessee to perform or observe any agreement, covenant or condition required by the Lease to be performed or observed by him [other than the agreements and covenants referred to in the preceding clauses (a) and (b), of this section], which failure shall have continued for a period of thirty (30) days after written notice specifying, in reasonable detail, the nature of such failure and requiring the Lessee to perform or observe the agreement, covenant or condition with respect to which he is delinquent shall have been given to the Lessee by the Board or the Trustee, unless (i) the Board and the Trustee shall agree in writing to an extension of such period prior to its expiration, or (ii) during such sixty (60) day period or any extension thereof, the Lessee has commenced and is diligently pursuing appropriate corrective action, or (iii) the Lessee is by reason of force majeure at the time prevented from performing or observing the agreement, covenant or condition with respect to which he is delinquent;

(d) any warranty, representation or other statement by or on behalf of the Lessee contained in the Lease, or in any other document furnished by the Lessee in connection with the issuance or sale of any of the Bonds, being false or misleading in any material respect at the time made;

(e) the occurrence of an event of default under the Series 1985 Lessee Guaranty or the Series 1985 Company Guaranty;

(f) a default under, or failure to perform any covenant, condition or agreement applicable to, (i) any other indebtedness (direct or indirect) of the Lessee or the Company to the Series 1985 Original Purchaser, whether now existing or hereafter incurred, and any mortgage, security agreement or similar security instrument applicable to any such indebted-

BOOK 045 PAGE 849

ness, (ii) any indebtedness other than the Bond applicable to the Project, the Project Site or any part of either thereof, whether now existing or hereafter incurred, and any mortgage, security agreement or similar security instrument applicable to any such indebtedness, and (iii) all renewals, extensions or amendments of any of the foregoing;

(g) institution by the Lessee or the Company of proceedings to be adjudicated a bankrupt or insolvent, or consent by the Lessee to the filing of a bankruptcy or insolvency proceeding against him, or the filing by the Lessee or the Company of a petition or answer or consent seeking relief under Title 11 of the United States Code, as now constituted or as amended, or any other applicable federal or state bankruptcy or other similar law, or consent by the Lessee or the Company to the institution of proceedings thereunder or to the filing of any such petition, or consent by the Lessee or the Company to the appointment of, or the taking of possession of any of their property by, a receiver, trustee, custodian or assignee in bankruptcy or insolvency for the Lessee or the Company or for all or a major part of their property, or an assignment by the Lessee or the Company for the benefit of their creditors, or a written admission by the Lessee or the Company of their inability to pay their debts generally as they become due, or the taking of any action by the Lessee or the Company in furtherance of any of the foregoing events or actions; or

(h) the entry of a decree or order by a court of competent jurisdiction for relief in respect of the Lessee or the Company or adjudging the Lessee or the Company to be a bankrupt or insolvent or approving as properly filed a petition seeking the arrangement, adjustment or composition of their obligations under Title 11 of the United States Code, as now constituted or as amended, or any other applicable federal or state bankruptcy or other similar law, which decree or order shall have continued undischarged or unstayed for a period of sixty (60) days; or the entry of a decree or order of a court of competent jurisdiction for the appointment of a receiver, trustee, custodian or assignee in bankruptcy or insolvency for the Lessee or the Company or for all or a major part of their property, which decree or order shall have remained in force undischarged or unstayed for a period of sixty (60) days.

The term "force majeure" as used herein means acts of God or the public enemy, strikes, lockouts, work slowdowns or stoppages or other labor disputes, insurrections, riots or other civil disturbances, orders of the government of the United States of America or of any state of the United States of America or of any of the departments, agencies, political subdivisions or officials of the United States of America or of any state thereof, or orders of any other civil or military authority, or partial or entire failure of public utilities, or any other condition or event beyond the reasonable control of the Lessee. The Lessee will, to the extent that he may lawfully do so, use his best efforts to remedy, alleviate or circumvent any cause or causes preventing him from performing his agreements and covenants hereunder; provided however, that the settlement of strikes, lockouts and other labor disputes shall be entirely within the discretion of the Lessee, and the Lessee shall not be required to settle strikes, lockouts and other labor disputes by acceding to the demands of the

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opposing party or parties when such course is in his judgment against his best interests.

Section 10.2 Remedies on Default. Whenever any Event of Default shall have happened and be continuing, the Board and the Trustee, or the Trustee on behalf of the Board, may take any one or more of the following remedial actions:

(a) take possession of the Project, exclude the Lessee from possession thereof and rent the same for the account of the Lessee, holding the Lessee liable for the balance of all rent and other amounts due under the Lease;

(b) terminate the Lease, take possession of the Project, exclude the Lessee from possession thereof and lease the same for the account of the Board and the Trustee, holding the Lessee liable for all rent and other amounts due under the Lease until the date such other lease is made for the account of the Board and the Trustee;

(c) declare immediately due and payable Basic Rent in an amount equal to the principal amount of all outstanding Bonds plus interest accrued on such Bonds to the date of such declaration, whereupon such Basic Rent shall become immediately due and payable, but only if, concurrently with such declaration, the principal of and accrued interest on the Bonds are also declared due and payable pursuant to subsection (a) of Section 13.2 of the Indenture;

(d) have access to, and inspect, examine and make copies of, the books, records and accounts of the Lessee, but if and only if any of the Bonds are then outstanding; and

(e) take whatever legal proceedings may appear necessary or desirable to collect the rent then due, whether by declaration or otherwise, or to enforce any obligation, covenant or agreement of the Lessee under the Lease or any obligation of the Lessee imposed by any applicable law;

provided however, that except in the case of an Event of Default described in subparagraph (a) of Section 10.1 hereof, neither the Board nor the Trustee, nor the Trustee on behalf of the Board, shall take any of the remedial actions described in either of subparagraphs (a) and (b) of this section unless the Event of Default authorizing such action shall have continued for a period of at least thirty (30) days.

Section 10.3 No Remedy Exclusive. No remedy herein conferred upon or reserved to the Board or the Trustee 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 under the Lease or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof but any such right or power may

BOOK 045 PAGE 851

be exercised from time to time and as often as may be deemed expedient. In order to entitle the Board or the Trustee to exercise any remedy reserved to it in this article, it shall not be necessary to give any notice, other than such notice as is herein expressly required.

Section 10.4 Agreement to Pay Attorneys' Fees. In the event that, as a result of an Event of Default or a threatened Event of Default by the Lessee, the Board or the Trustee should employ attorneys at law or incur other expenses in or about the collection of rent or the enforcement of any other obligation, covenant, agreement, term or condition of the Lease, the Lessee will, if the Board or the Trustee is successful in such efforts or if a final judgment for either is rendered by a court of competent jurisdiction, pay to the Board or to the Trustee or both, as the case may be, reasonable attorneys' fees and other reasonable expenses so incurred by the Board and the Trustee.

Section 10.5 No Additional Waiver Implied by One Waiver. In the event any agreement contained in the Lease should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. Further, neither the receipt nor the acceptance of any rent hereunder by the Board, or by the Trustee on its behalf, shall be deemed to be a waiver of any breach of any covenant, condition or obligation herein contained or a waiver of any Event of Default even though at the time of such receipt or acceptance there has been a breach of one or more covenants, conditions or obligations on the part of the Lessee herein contained or an Event of Default (or both) and the Board or the Trustee (or both) have knowledge thereof.

ARTICLE XI

OPTIONS

Section 11.1 Options to Terminate the Lease During the Lease Term. The Lessee shall have the right, exercisable at his option, to cancel or terminate the Lease during the Lease Term upon compliance with the conditions specified in the succeeding provisions of this section:

(a) At any time prior to full payment of the entire Indenture Indebtedness, the Lessee may cancel or terminate the Lease by (i) giving the Board and the Trustee written notice of such termination and specifying in such notice the date on which such termination is to be effective and (ii) paying to the Trustee for the account of the Board, on or before the effective date of such termination, an amount which, when added to the total of the amounts then held in the Construction Fund and the Bond Fund (exclusive of any amount held therein for payment of matured but unpaid Bonds, Bonds called for redemption but not yet redeemed and matured but unpaid interest), will be sufficient to pay, redeem and retire all the outstanding Bonds on the earliest practicable

date next succeeding the effective date of such termination on which under their terms and the terms of the Indenture they may be paid or redeemed, including, without limitation, principal, premium (if any), all interest to mature until and on such payment or redemption date, the expenses of redemption and all other Indenture Indebtedness then owed and that will accrue until the payment, redemption and retirement of all the outstanding Bonds.

(b) At any time after the entire Indenture Indebtedness has been fully paid, the Lessee may cancel or terminate the Lease by giving the Board written notice of such termination not less than ten (10) days prior to the date on which such termination is to be effective.

Any cancellation or termination of the Lease as aforesaid notwithstanding, any obligations or liabilities of the Lessee hereunder, actual or contingent, which have arisen on or before the effective date of such cancellation or termination shall remain in full force and effect.

Section 11.2 Option to Purchase Prior to Payment of Bonds. While any of the Indenture Indebtedness is outstanding and unpaid, the Lessee shall have the right and option, hereby granted by the Board, to purchase the Project at and for a purchase price equal to the amount which, when added to the total of the amounts then held in the Construction Fund and the Bond Fund (exclusive of any amount held therein for payment of matured but unpaid Bonds, Bonds called for redemption but not yet redeemed and matured but unpaid interest), plus the amount of any Net Insurance Proceeds or Net Condemnation Award then held by the Trustee, will be sufficient to pay, redeem and retire all the outstanding Bonds on the date of purchase, or on the earliest practicable succeeding date on which under their terms and the terms of the Indenture they may be paid or redeemed, including, without limitation, principal, premium (if any), all interest to mature until and on such payment or redemption date, the expenses of redemption and all other Indenture Indebtedness then owed and that will accrue until the payment, redemption and retirement of all the outstanding Bonds.

In order to exercise such option, the Lessee shall give to the Board and the Trustee written notice of his intention to exercise such option and shall specify therein the date of purchase, which (subject to the provisions of the last paragraph of this section) shall be not less than twenty (20) nor more than sixty (60) days after the date such notice is mailed or otherwise delivered. Upon receipt of such notice from the Lessee and without the necessity of the purchase price being deposited with the Trustee, the Board will take, and will cause the Trustee to take, all preliminary action necessary under the provisions of the Indenture to effect the payment, redemption and retirement of all the outstanding Bonds. On the date of purchase so specified, the Lessee shall pay the aforesaid purchase price to the Trustee (for the account of the Board) in immediately available funds; provided however, that if on the date of purchase the entire Indenture Indebtedness has been paid in full, the Lessee shall not be required to pay any such amount in order to entitle it to exercise such option, in which event (any provision herein to the contrary notwithstanding) any Net Insurance Proceeds or Net Condemnation Award held by the Trustee shall be paid to the Lessee simultaneously with or promptly after the exercise of such option.

BOOK 045 PAGE 853

Upon receipt of the amount required by this section to be paid by the Lessee as the purchase price of the Project (if payment of any such amount is required), and if at such time the Lessee is not in default in payment of the rent or any other amounts due hereunder, the Board will, by deed or other appropriate instrument complying with the provisions of Section 11.4 hereof, transfer and convey the Project (or such portion thereof - which may be none - as is then in existence and is owned by the Board) in its then condition, whatever that may be, to the Lessee.

In the event that the option granted by this section is exercised by the Lessee at any time after the taking of all or substantially all the Project under the exercise of the power of Eminent Domain, the date of purchase of the Project pursuant to such option shall not, irrespective of the date specified therefor in the notice given pursuant to the provisions of this section, be later than the date on which the Lease terminates in accordance with the provisions of Section 7.2(a) hereof, which date of termination shall be the forty-fifth (45th) day after the receipt by the Trustee of the final installment of the entire condemnation award in respect of such taking.

Section 11.3 Option to Purchase After Payment of Bonds. If the Lessee pays all rent and other amounts due hereunder, he shall have the right and option, hereby granted by the Board, to purchase the Project from the Board at any time during the Lease Term after payment in full of the Indenture Indebtedness, at and for a purchase price equal to the sum of \$100. To exercise any such purchase option, the Lessee shall notify the Board in writing not less than ten (10) days prior to the date on which it proposes to effect such purchase and, on the date of such purchase, shall pay the aforesaid purchase price to the Board in cash or bankable funds, whereupon the Board will, by deed or other instrument complying with the provisions of Section 11.4 hereof, transfer and convey the Project (in its then condition, whatever that may be) to the Lessee. If at the end of the Lease Term no Event of Default shall have occurred and be continuing, the Lessee shall be deemed to have exercised such purchase option unless he notifies the Board in writing to the contrary at least ten (10) days before the end of the Lease Term, and, in the event of such automatic exercise by the Lessee of his option to purchase the Project, the date of purchase shall be the last day of the Lease Term or such other date within one hundred eighty (180) days thereafter as shall be designated by the Lessee. Nothing herein contained shall be construed to give the Lessee any right to any rebate to or refund of any rent paid by him hereunder prior to the exercise by him of the purchase option hereinabove granted, even though such rent may have been wholly or partially prepaid.

Section 11.4 Options - In General. Except to the extent otherwise specifically provided herein, each of the options herein granted to the Lessee may be exercised by him even though an Event of Default shall have occurred and be continuing, it being understood and agreed, however, that all other applicable conditions specified herein to the exercise of such option (including payment of any amounts of money herein required to be paid by the Lessee) are met.

In the event of the exercise by the Lessee of either of the options to purchase the Project granted in Sections 11.2 and 11.3 hereof, the Board will convey

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to the Lessee, after compliance by the Lessee with the conditions to purchase specified in the respectively applicable sections hereof, the property with respect to which such option was exercised by statutory warranty deed, bill of sale (in the case of personal property) or other appropriate instrument, subject only to Permitted Encumbrances, such liens, encumbrances and exceptions to which title to such property was subject when this Lease Agreement was delivered or such property was acquired by the Board (whichever occurred last), those to the creation or suffering of which the Lessee consented and those resulting from the failure of the Lessee to perform or observe any of the agreements or covenants on his part herein contained.

In case that, at the time of the exercise by the Lessee of either of the options to purchase the Project granted in Sections 11.2 and 11.3 hereof, there shall not have been collected by the Board, the Trustee or the Lessee the entire insurance proceeds or condemnation award referable to any damage, destruction or condemnation with respect to the Project which may have theretofore occurred, then in such case all Net Insurance Proceeds and all Net Condemnation Awards thereafter collected and referable to such damage, destruction or condemnation shall be paid to the Lessee, and the Board will take all actions necessary to cause the amount of any such proceeds or awards to be paid to the Lessee. The provisions of this paragraph shall survive the expiration of the term of the Lease or any prior termination of the Lease unless at the time of such expiration or termination the Lessee is in default in the payment of any amounts of money herein required to be paid by him.

ARTICLE XII

MISCELLANEOUS

Section 12.1 Covenant of Quiet Enjoyment. So long as the Lessee performs and observes all the covenants and agreements on his part herein contained, he shall peaceably and quietly have, hold and enjoy the Project during the Lease Term, subject to all the terms and provisions hereof. At the end of the Lease Term, or upon any prior termination of the Lease, the Lessee will surrender to the Board possession of all property then subject to the demise of the Lease (unless he is simultaneously purchasing such property from the Board) in its then condition, whatever that may be.

Section 12.2 Retention of Title to Project by Board. Granting of Easements. Without the prior written consent of the Lessee, the Board will not itself, so long as no Event of Default shall have occurred and be continuing, (i) sell, convey or otherwise dispose of all or any part of the Project (except as provided in Section 11.6 of the Indenture or to the Lessee as provided in Article XI hereof), (ii) mortgage or otherwise encumber the Project or any part thereof (except as provided in Section 9.2 hereof), or (iii) dissolve or do anything that will result in the termination of its corporate existence (except as provided in Section 11.6 of the Indenture). The Board will, however, grant such utility, access and other similar easements, permits and rights-of-way over, across or under the Project Site as shall be requested in writing by the Lessee, provided that in connection with the grant of each such easement, permit or right-of-way the Lessee furnishes to the Board and the

Trustee a certificate signed by an Authorized Lessee Representative stating that such easement, permit or right-of-way is, or will be, useful or necessary in the operation of the Project and will not materially interfere with or impair the use of the Project for the purpose for which it was acquired or is held by the Board. The Lessee will pay all reasonable expenses incurred by the Board in connection with the granting of all such easements, permits and rights-of-way.

Section 12.3 Exemption from Taxation. As provided in the Act, as now existing, the Bonds and the income therefrom, as well as the Project and any revenues derived by the Board from the leasing or sale thereof, shall be exempt from all taxation in the State of Alabama.

Section 12.4 This Lease a Net Lease. The Lessee recognizes and understands that it is the intention hereof that the lease herein made shall be a net lease and that until the Bonds are fully paid all Basic Rent shall be available for payment of the principal and the interest and premium (if any) on the Bonds. The Lease shall be construed to effectuate such intent.

Section 12.5 Statement of Intention Regarding Certain Tax Matters. The Board and the Lessee acknowledge and agree that it is their mutual intention that the Lessee, for federal and state income tax purposes, will be entitled to all deductions and credits with respect to the Project (including, but not limited to, depreciation and investment credits) and that for such purposes the Lease will be deemed to be a financing of the Project.

Section 12.6 Notices. All notices, demands, requests and other communications hereunder shall be deemed sufficient and properly given if in writing and delivered in person to the following addresses or received by certified or registered mail, postage prepaid with return receipt requested, at such addresses:

(a) If to the Board:

The Industrial Development Board
of the Town of Pelham
City Hall
Pelham, Alabama 35124
Attention: Chairman of the Board of Directors

(b) If to the Lessee:

Dean Hoffman
151 Valleydale Business Center Drive
Pelham, Alabama 35124

BOOK 045 PAGE 856

(c) If to the Trustee:

Central Bank of the South
Post Office Box 10566
Birmingham, Alabama 35296
Attention: Corporate Trust Department

Any of the above mentioned parties may, by like notice, designate any further or different addresses to which subsequent notices shall be sent. A copy of any notice given to the Board, the Lessee or the Trustee pursuant to the provisions of the Lease shall also be given to that one of the foregoing three parties to whom notice is not herein required to be given, but the failure to give a copy of such notice to any party claiming the right to receive it pursuant to this sentence shall not invalidate such notice or render it ineffective unless notice to such party is otherwise herein expressly required. Any notice hereunder signed on behalf of the notifying party by a duly authorized attorney at law shall be valid and effective to the same extent as if signed on behalf of such party by a duly authorized officer or employee.

Whenever, under the provisions hereof, any request, consent or approval of the Board or the Lessee is required or authorized, such request, consent or approval shall (unless otherwise expressly provided herein) be signed on behalf of the Board by an Authorized Board Representative and, on behalf of the Lessee by an Authorized Lessee Representative; and each of the parties and the Trustee are authorized to act and rely upon any such requests, consents or approvals so signed.

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Section 12.7 **Certain Prior and Contemporaneous Agreements Cancelled.** Except for the Inducement Agreement, the Lease shall completely and fully supersede all other prior or contemporaneous agreements, both written and oral, between the Board and the Lessee relating to the Project Development Work and the leasing of the Project, and if any provision of the Inducement Agreement is in conflict with any provision of the Lease, such provision of the Inducement Agreement shall be deemed to be amended or modified to the extent necessary to avoid such conflict, all to the end that the Board and the Lessee shall look to the Lease for ultimate definition and determination of their respective rights, liabilities and responsibilities respecting the Project Development Work and the Project. The Lessee and the Board acknowledge that they have no outstanding agreement, commitment or understanding, either express or implied, for the grant to the Lessee of any option to purchase the Project, other than those options contained in Article XI hereof.

Section 12.8 **Limited Liability of Board.** The Board is entering into this Lease Agreement pursuant to the authority conferred upon it by the Act. No provision hereof shall be construed to impose a charge against the general credit of the Board or any personal or pecuniary liability upon the Board except with respect to the proper application of the proceeds to be derived from the sale of the Bonds, moneys made available by the Lessee to the Board pursuant to the provisions hereof, and the revenues and receipts to be derived from any leasing or sale of the Project, including insurance proceeds and condemnation awards. Further, none of the directors, officers, employees or agents of the Board shall have any personal or

pecuniary liability whatever hereunder or any liability for the breach by the Board of any of the agreements on its part herein contained. Nothing contained in this section, however, shall relieve the Board from the observance and performance of the several covenants and agreements on its part herein contained or relieve any director, officer, employee or agent of the Board from performing all duties of his respective offices that may be necessary to enable the Board to perform the covenants and agreements on its part herein contained.

Section 12.9 Binding Effect. The Lease shall inure to the benefit of, and shall be binding upon, the Board, the Lessee and their respective successors and assigns. To the extent provided herein and in the Indenture, the Trustee and the Holders of the Bonds shall be deemed to be third party beneficiaries hereof, but nothing herein contained shall be deemed to create any right in, or to be for the benefit of, any other person who is not a party hereto.

Section 12.10 Severability. In the event any provision of the Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof. Without in any way limiting the generality of the foregoing, the Lessee specifically acknowledges and agrees that the several purchase options granted him in Article XI hereof are fully severable from and independent of the other provisions hereof and that neither the invalidity or unenforceability of any of such purchase options shall invalidate or render unenforceable any other provision hereof nor excuse the Lessee from fully performing and observing any of the agreements and covenants on his part herein contained.

Section 12.11 Article and Section Captions. The article and section headings and captions contained herein are included for convenience only and shall not be considered a part hereof or affect in any manner the construction or interpretation hereof.

Section 12.12 Governing Law. The Lease shall in all respects be governed by and construed in accordance with the laws of the State of Alabama.

IN WITNESS WHEREOF, the Board has caused this Lease Agreement to be executed in its corporate name, has caused its corporate seal to be hereunder affixed, and has caused this Lease Agreement to be attested, all by its duly authorized officers, and the Lessee has hereunto set his hand and seal, in five (5) counterparts, each of which shall be deemed an original, and the parties hereto have caused this

Lease Agreement to be dated as of October 1, 1985, although executed by the Board on October 15, 1985, and by the Lessee on October 15, 1985, and delivered by said parties on October 15, 1985.

THE INDUSTRIAL DEVELOPMENT BOARD OF
THE TOWN OF PELHAM

By *[Signature]*
Chairman of its Board of Directors

ATTEST:

[Signature]
Its Secretary



WITNESS:

[Signature] (SEAL)
DEAN HOFFMAN

[Signature]

BOOK 045 PAGE 550

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned authority, a Notary Public in and for said county in said state, hereby certify that DANIEL M. SPITLER, whose name as Chairman of the Board of Directors of THE INDUSTRIAL DEVELOPMENT BOARD OF THE TOWN OF PELHAM, a public corporation and instrumentality under the laws of the State of Alabama, 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 the said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said public corporation.

GIVEN under my hand and official seal of office, this 15th day of

October, 1985.



[Signature]
Notary Public

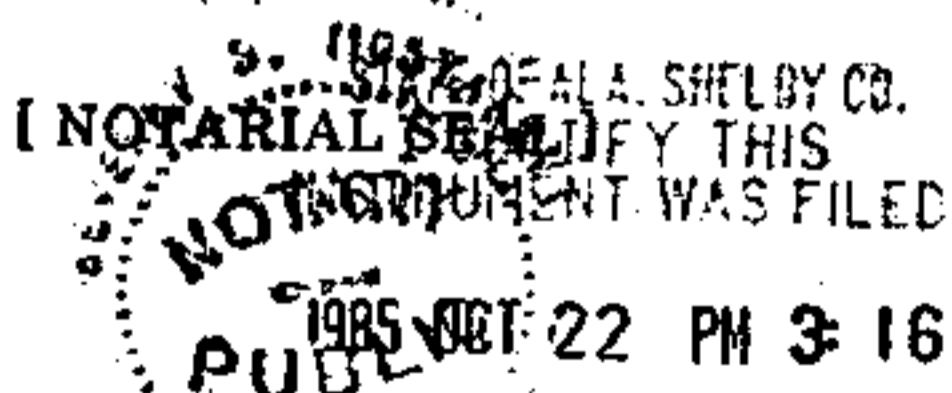
My Commission Expires: 3-26-87

BOOK 045 PAGE 860

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned authority, a Notary Public in and for said county in said state, hereby certify that DEAN HOFFMAN, whose name 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 the said instrument, he executed the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal of office, this 15th day of October, 1985.



[Signature]
Notary Public

My Commission Expires: 10/25/87

Rec 182.50
Ind 1.00
183.50