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LEASE AGREEMENT between **THE INDUSTRIAL DEVELOPMENT BOARD OF SHELBY COUNTY,** a public corporation organized and existing under the laws of the State of Alabama, party of the first part (herein called the "Board"), and **WILEY C. SANDERS, JR., d/b/a SOUTHERN TRUCK LEASING** party of the second part (herein called the "Company");

R E C I T A L S

The Company desires the Board to finance certain costs of acquiring certain truck trailers (herein called the "Equipment") and installing or basing the same in or about certain truck terminal facilities of Wiley Sanders Truck Lines, Inc. in Shelby County, Alabama (the "Terminal Facilities") by selling and issuing $341,000 principal amount of its Industrial Revenue Bonds (Southern Truck Leasing Project), Series 1985-B (herein called the "Series 1985-B Bonds"). The Series 1985-B Bonds will be issued under and secured by an Indenture and Security Agreement dated as of December 1, 1985 (herein called the "Indenture"), between the Board and AmSouth Bank N.A. (herein called the "Secured Party") pursuant to which the Board will grant a security interest in the Equipment to the Secured Party and pledge and assign its interest in this Lease Agreement (other than certain indemnification and expense payment rights and certain other rights specifically retained by the Board), including particularly the debt service rentals payable hereunder by the Company. Simultaneously with the delivery of this Lease Agreement, Wiley C. Sanders, Jr. will enter into a separate Guaranty Agreement with the Secured Party, in and by which he will unconditionally guarantee to the Secured Party the full and prompt payment of the principal of and the interest and premium (if any) on the Series 1985-B Bonds.

NOW, THEREFORE, THIS LEASE AGREEMENT

W I T N E S S E T H:

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

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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:

"Acquisition Fund" means the "Southern Truck Leasing Acquisition Fund" created in Section 7.2 of the Indenture.

"Act" means the statutes codified as Title 11, Chapter 20, Article 2 of Code of Alabama 1975, as amended and supplemented and at the time in force and effect.

"Affiliate" of any designated Person means any Person controlled by, or under common control with, such designated Person and any Person controlling 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 reference 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.

"Basic Rent" means (i) the moneys payable by the Company pursuant to the provisions of Section 5.2 of the Lease, (ii) any other moneys payable by the Company pursuant to the Lease to provide for the payment of the principal of and the interest and premium (if any) on the Series 1985-B Bonds, and (iii) any other moneys payable by the Company 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 8.5 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.

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"Bond Counsel" means Independent Counsel having nationally recognized standing in matters relating to the tax-exempt nature of interest on bonds issued by or on behalf of states or political subdivisions thereof.

"Bond Payment Date" means the twenty-fifth day of each calendar month, commencing on January 25, 1986, on which any principal or interest with respect to the Series 1985-B Bonds shall mature and be due and payable or on which any principal amount of the Series 1985-B Bonds shall be required by the Indenture to be redeemed prior to the stated maturity thereof.

"Bond Preference Tax" means any tax or penalty hereafter imposed on or related to Tax-Exempt Obligations under the laws of federal income taxation, or under Alabama law, including without limitation any preference tax, excess profits tax, minimum tax or other tax measured in whole or in part with reference to (i) the interest on or the principal of Tax-Exempt Obligations, or (ii) any amount of interest on indebtedness deemed attributable to the purchase or carrying of Tax- Exempt Obligations.

"Bondholder" means the Holder of any Series 1985-B Bond.

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

"Company" means the party of the second part hereto and, subject to the provisions of Section 8.3 hereof, includes his heirs, legal representatives, successors and assigns.

"Completion Date" means the date on which the completion of the acquisition and installation of the Equipment as part of the Project and the satisfaction of the other conditions referred to in Section 4.6 hereof are certified to the Secured Party and the Board in accordance with the provisions of said Section 4.6.

"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 officer or full-time employee of the Board, the Company or an Affiliate of either thereof 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.

"County" means Shelby County, Alabama, or any other political subdivision of the State of Alabama which may succeed to its governmental functions.

"Equipment" means (i) all items (whether or not fixtures) of machinery, equipment and other personal property (including, without limitation, all items of Rolling Stock) the costs of which, in whole or in part, have been or are to be paid by the Board out of the proceeds of the Series 1985-B Bonds and (ii) all items (whether or not fixtures) of machinery, equipment and other personal property (including, without limitation, all items of Rolling Stock) that are acquired by the Board in substitution for or replacement of machinery, equipment and other personal property theretofore constituting part of the Equipment and that, under the provisions hereof, are to constitute part of the Equipment. As of the delivery date of this Lease Agreement, the Equipment is expected to consist of those items (whether or not fixtures) of machinery, equipment and other personal property that are described in Exhibit B attached hereto and made a part hereof.

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

"Governmental Unit" means a "governmental unit" within the meaning of Section 103(k) of the Code and the applicable regulations thereunder.

"Guarantor" means Wiley C. Sanders, Jr., and includes his heirs, legal representatives, successors and assigns.

"Holder", when used in conjunction with a Series 1985-B Bond, means the Person in whose name such Series 1985-B Bond is registered on the registry books of the Secured Party pertaining to the Series 1985-B Bonds.

"Indenture" means that certain Indehture and Security Agreement between the Board and AmSouth Bank N.A., dated as of December 1, 1985, under which (i) the Series 1985-B Bonds are authorized to be issued, and (ii) the Board's interest in and to the Lease is to be assigned, and a security interest in the Equipment is to be granted, as security for payment of the principal of and the

interest and premium (if any) on the Series 1985-B Bonds, as said Indenture and Security Agreement now exists and as it may hereafter be supplemented and amended.

"Independent Appraiser" means any Person that is not regularly employed or retained by the Board, the County, the Company, the Guarantor or any Affiliate of any thereof, that has no other material connection with any of the aforementioned parties, and that is regularly engaged in the business of appraising real or personal property (as appropriate to the property being appraised or valued) and otherwise competent to determine the value of the property in question.

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

"Lease" or **"this Lease Agreement"** means this Lease Agreement as it now exists and as it may from time to time be amended or supplemented in accordance with the provisions of Section 11.2 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 25, 1990.

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"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 Company or a Related Person thereto is or will be the Principal User and which are located wholly within the unincorporated area of the County. For purposes of this definition, a contiguous and 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 Insurance Proceeds" means the total insurance proceeds recovered by the Board, the Company and the Secured Party on account of any damage to or destruction of the Equipment or any part thereof, less all expenses (including attorneys' fees and any expenses of the Secured Party) incurred in the collection of such proceeds.

"Original Purchaser" means AmSouth Bank N.A., the original purchaser of the Series 1985-B Bonds from the Board.

"outstanding", when used with reference to any of the Series 1985-B Bonds, means, at any date as of which the amount of such Series 1985-B Bonds outstanding is to be determined, all such Series 1985-B Bonds which have been theretofore authenticated and delivered under the Indenture, except (i) those of such Series 1985-B Bonds, or any portion of the principal thereof, cancelled after acquisition in the open market or otherwise, or on account of which payment at or redemption prior to maturity has been made, and (ii) those of such Series 1985-B Bonds in exchange for which, or in lieu of which, other Series 1985-B Bonds have been authenticated and delivered under the Indenture. In determining whether the

Holders of a requisite aggregate principal amount of outstanding Series 1985-B Bonds have concurred in any request, demand, authorization, direction, notice, consent or waiver under the provisions of the Lease or the Indenture, Series 1985-B Bonds which are owned by the Company or an Affiliate thereof shall be disregarded and deemed not to be outstanding hereunder for the purpose of any such determination.

"Permitted Encumbrances", when used with reference to the Equipment as of any particular time, means any of the following: (i) that certain Lease Agreement between the Board and Wiley Sanders Truck Lines, Inc. and that certain Indenture and Security Agreement between the Board and the Trustee, both dated December 1, 1984; (ii) that certain Lease Agreement between the Board and Wiley Sanders Truck Lines, Inc. and that certain Indenture and Security Agreement between the Board and the Trustee, both dated May 1, 1985; (iii) that certain Indenture and Security Agreement between the Board and the Trustee dated December 1, 1985, with reference to the Series 1985-A Bonds; (iv) the Lease and the Indenture; (v) liens for ad valorem taxes not then delinquent; and (vi) liens imposed by law, such as mechanics', materialmen's and other like liens, securing obligations that are not yet due and payable.

"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.

"Prime Rate" means the rate of interest announced from time to time by AmSouth Bank N.A., a national banking association with its principal office in the City of Birmingham, Alabama, as its prime rate, with the understanding that the said prime rate is one of the base rates from time to time established by said AmSouth Bank N.A. which serves as the basis upon which effective rates of interest are calculated for those loans of money making reference to the said prime rate and is evidenced by the recording thereof after its announcement in such publication or publications as the said AmSouth Bank N.A. may designate. For the purpose of calculating the effective rate of interest on the Series 1985-B Bonds, any change in the Prime Rate shall be effective on the date such change is announced.

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"Principal User", when used with reference to any facilities [as the term "facilities" is used in Section 103(b)(6) of the Code and the applicable regulations thereunder], means 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 Equipment.

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

"Qualifying Costs" means those costs of acquiring and installing the Equipment 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 of Section 103(b)(6) of the Code and the applicable regulations thereunder to the extent that such costs are properly

chargeable by the Company to capital account or would be so chargeable either with a proper election by the Company or but for a proper election by the Company to deduct such costs in the computation of its federal income tax.

"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.

"Rolling Stock" means those certain truck trailers constituting a part of the Equipment.

"Secured Party" means the Secured Party at the time serving as such under the Indenture.

"Series 1984 Bonds" means those bonds of the Board dated December 1, 1984, originally issued and now outstanding in the aggregate principal amount of $2,240,000.

"Series 1985 Bonds" means those bonds of the Board dated May 1, 1985, originally issued and outstanding in the aggregate principal amount of $525,000.

"Series 1985-A Bonds" means those certain Industrial Revenue Bonds (Wiley Sanders Truck Lines, Inc. Project) Series 1985-A, authorized to be issued by a separate indenture dated December 1, 1985, in the principal amount of $1,155,000.

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"Series 1985-B Bond Proceeds" means, as of the date of any determination thereof, an amount equal to the sum of (i) the aggregate amount (excluding accrued interest, if any) received by the Board from the sale of the Series 1985-B Bonds, less the expenses of issuing the Series 1985-B Bonds to the extent, and only to the extent, that, in determining the amount of the "proceeds" of the Series 1985-B Bonds for purposes of the "substantially all" test provided by United States 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-B Bonds, and (ii) the cumulative amount of net income derived, as of such date of determination, from the investment and reinvestment of proceeds of the Series 1985-B 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 part of the purchase price of any investments.

"Series 1985-B Bonds" means those certain Industrial Revenue Bonds (Southern Truck Leasing Project), Series 1985-B, authorized to be issued under the Indenture in the principal amount of $341,000.

"Series 1985-B Determination of Taxability" means a determination that the interest income on the Series 1985-B Bonds is subject to federal income taxation

as a result of a Series 1985-B Event of Taxability, which determination shall be deemed to have been made upon the first to occur of the following:

(a) the date on which the Company shall file a statement with the Secured Party to the effect that the interest income on the Series 1985-B 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 an Series 1985-B Event of Taxability and (ii) by an opinion of Independent Counsel acceptable to the Secured Party that the interest income on the Series 1985-B Bonds is subject to federal income taxation as a result of the occurrence of an Series 1985-B Event of Taxability; or

(b) the date on which the Company or the Holder or any former Holder of any of the Series 1985-B Bonds shall be advised by 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 Company, or upon any review or audit of the Company, or upon any other grounds whatsoever, a Series 1985-B Event of Taxability has occurred; or

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

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(d) the date on which the Holder or any former Holder of any of the Series 1985-B Bonds shall determine in good faith, evidenced by an opinion of Independent Counsel, that a Series 1985-B Event of Taxability has occurred.

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

(a) the aggregate authorized face amount of the Series 1985-B Bonds allocated to any Test Period Beneficiary (when increased by the outstanding tax-exempt "industrial development bonds allocable to such Test Period Beneficiary) exceeds $40,000,000 during the period of three years following the date on which the Project is placed in service; or

(b) as a result of capital expenditures being paid or incurred with respect to "facilities" described in Section 103(b)(6)(E) of the Code and

the applicable regulations thereunder, the aggregate face amount of the Bonds, determined in accordance with the provisions of Section 103(b)(6)(D) of the Code, exceeds the limit permitted by the said Section 103(b)(6)(D);

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

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

(e) 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-B Bonds; or

(f) a final adjudication by a court of competent jurisdiction from which no further appeal exists, binding upon the Company or the Board or, if not binding upon the Company or the Board, applicable to the Series 1985-B Bonds in the opinion of Independent Counsel acceptable to the Secured Party, that the Board lacks the power to issue the Series 1985-B Bonds or to enter into the Lease or the Indenture or that the Series 1985-B 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-B Event of Taxability shall be deemed to have occurred with respect to any Series 1985-B Bonds if the interest thereon shall be subject to federal income taxation for any period solely because during that period such Series 1985-B Bonds was held by a Person who is a Substantial User of the Project or by a Related Person.

"Series 1985-B Guaranty" means that certain Guaranty Agreement dated as of December 1, 1985, between Wiley C. Sanders, Jr. and the Secured Party in and by which Wiley C. Sanders, Jr. has unconditionally guaranteed the payment by the Board of the principal of and the interest and premium (if any) on the Series 1985-B Bonds and has agreed to pay or discharge certain other obligations relating to the Series 1985-B Bonds, as such Guaranty Agreement may from time to time be amended in accordance with the provisions thereof.

"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.

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"Tax-Exempt Obligations" means (i) for purposes of a Bond Preference Tax imposed by federal law, any obligations or debt securities the interest on which is exempt from federal income taxation under Section 103 of the Code in the opinion of Bond Counsel and (ii) for purposes of a Bond Preference Tax imposed by Alabama law, obligations the interest on which is exempt from Alabama taxation in the opinion of Bond Counsel.

"Terminal Buildings" means the office and truck terminal buildings and related improvements that are located on the Terminal Site, as such buildings and related improvements may at any time exist.

"Terminal Facilities" means the Terminal Site and the Terminal Buildings.

"Terminal Site" means (i) the parcel of land specifically described in Exhibit A attached hereto and made a part hereof and (ii) any other land that, at the time and under the terms hereof, constitutes a part of the Terminal Site.

"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 Secured Party.

"United States Corporation" means a corporation organized under the laws of the United States of America, one of the states thereof or the District of Columbia.

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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 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 of the date of the delivery hereof by the Board, 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, and has

requisite power and authority to enter into this Lease Agreement and to consummate the transactions contemplated hereby including, without limitation, the issuance of the Series 1985-B Bonds and the execution, delivery and performance of the Indenture.

(b) Litigation. There are no actions, suits or proceedings pending (nor, to the knowledge of the Board, are any actions, suits or proceedings threatened or is there any basis therefor) 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 involve the possibility of materially and adversely affecting the transactions contemplated by this Lease Agreement or which in any way might adversely affect the validity or enforceability of 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-B 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-B 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.

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(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-B Bonds is such as to require any consent, approval or authorization of, or filing, registration or qualification with, any governmental body (including, without limitation, the Interstate Commerce Commission and the Securities and Exchange Commission) on the part of the Board in connection with the execution, delivery and performance of either the Lease or the Indenture or the offering, sale, issuance or delivery of any of the Series 1985-B Bonds, other than (i) the filing with the Alabama Securities Commission of the notification of the Board's intention to issue the Series 1985-B Bonds required by Act No. 586 enacted at the 1978 Regular Session of the Legislature of the State of Alabama (codified as Code of Alabama, §§8-6-110 to 8-6-122, inclusive) 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-B Bonds, (ii) the due filing of requisite Uniform Commercial Code financing statements, (iii) the due endorsement of any certificates of title to any Rolling Stock as may be required under the Uniform Certificate of Title Act and (iv) the approval by the governing body of the County to the issuance of the Series 1985-B Bonds, as described in subsection (e) of this section. The Board has filed with the Alabama Securities Commission the notification of its intention to issue the Series 1985-B 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-B Bonds. The Certificate of Notification has not been revoked or rescinded by the Alabama Securities Commission and continues in full force and effect.

(e) Public Approval. The issuance of the Series 1985-B Bonds has been approved by the County (the County being the Governmental Unit on behalf of which the Series 1985-B Bonds are being issued and the County being the Governmental Unit in whose geographic jurisdiction the Terminal Facilities are located), said approval having been made by the elected representatives of the County after public hearing following reasonable public notice, all in accordance with the provisions of Section 103(k) of the Code and 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 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-B Bonds or the security therefor.

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(g) The Series 1985-B Bonds. The Series 1985-B Bonds, when issued and paid for in accordance with the provisions of this Lease Agreement and the Indenture, 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-B Bonds. The Board intends for the Series 1985-B 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-B Bonds by the original purchaser thereof and will constitute a principal inducement to the purchase of any of the Series 1985-B Bonds by any subsequent purchaser thereof.

(i) Nature and Location of Project. The Project will constitute a "project" within the meaning of the Act, as now existing. The Terminal Facilities are located wholly within the unincorporated area of the County. The Terminal Facilities are owned by the Board and have been heretofore leased to Wiley Sanders Truck Lines, Inc.

(j) Concerning Annual Limit on Aggregate Amount of Private Activity Bonds. The issuance of the Series 1985-B Bonds will not cause the aggregate amount of so-called "private activity bonds" issued by the Board during calendar year 1985 to exceed the Board's private activity bond limit for such calendar year, all within the meaning of Section 103(n) of the Code and the applicable regulations thereunder.

(k) Filing of Statements with Internal Revenue Service. The Board has filed with the Internal Revenue Service all statements (based in part on information supplied by the Company) required pursuant to Section 103(b)(6)(D) of the Code for the purpose of making an election to have the Bonds treated as an issue of bonds in the aggregate authorized face amount of $10,000,000 or less, in lieu of the $1,000,000 "exemption" provided for in Section 103(b)(6)(A) of the Code.

(l) Fulfillment of Purposes of Act. The Board has determined that the issuance of the Series 1985-B Bonds, the acquisition and installation or basing of the Equipment in or about the Terminal Facilities, and the leasing of the Equipment to the Company will promote industry, develop trade, further the use of the human and natural resources of the State of Alabama and otherwise fulfill the purposes of the Act, as now existing.

Section 2.2 **Representations and Warranties by the Company.** The Company makes the following representations and warranties, as of the date of the delivery hereof by the Company, as the basis for the undertakings on its part herein contained:

(a) Validity of this Lease Agreement. When duly executed and delivered by the Board, this Lease Agreement will constitute a legal, valid and binding obligation of the Company.

(b) Conflicting Agreements and Charter Provisions. Neither the execution and delivery of this Lease Agreement, nor the offering, sale and issuance of any of the Series 1985-B 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 Company 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, agreement, instrument, judgment or order by which the Company is bound or to which the Company and any of its properties are subject.

(c) Governmental Consents. Neither the nature of the Company, its business or property, nor any relationship between the Company and any other Person nor any circumstance in connection with the offering, sale, issuance or delivery of any of the Series 1985-B Bonds is such as to require on the part of the Company 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-B Bonds (other than those already obtained, taken or made and which continue in full force and effect).

(d) No Defaults. No event has occurred and no condition exists which, upon the issuance of any of the Series 1985-B Bonds, would constitute an Event of Default or which would become such an Event of Default with the passage

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of time or with the giving of notice or both. To the best of the knowledge of the Company, 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 the giving of notice or both. The Company is not in default in any respect under any agreement or other 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 materially and adversely affect the transactions contemplated by this Lease Agreement or would impair the ability of the Company to comply with its obligations hereunder.

(e) Nature and Location of Project. The Project will constitute a "project" within the meaning of the Act, as now existing. The Terminal Facilities are located wholly within the unincorporated area of the County.

(f) Licenses, Permits, Etc. The Company possesses adequate licenses and permits, or rights thereto, to conduct its business substantially as now conducted and as presently proposed to be conducted. 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.

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(g) Project's Compliance with Statutes and Regulations. To the best of the knowledge and judgment of the Company, 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, including any thereof relating to the control of air and water pollution.

(h) Full Disclosure. Neither any information furnished by the Company to the Original Purchaser in connection with the sale and issuance of the Series 1985-B Bonds and the other transactions contemplated by this Lease Agreement, nor the representations and warranties made by the Company in this Lease Agreement or in any document in writing furnished by the Company to the Original Purchaser 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 Company to the Original Purchaser 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 therein 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 Company or which in the exercise of reasonable diligence should have been known to the Company which the Company has not disclosed to the Original Purchaser in writing prior to the execution and delivery of this Lease Agreement which materially adversely affects or, so far as the Company can now in the exercise of its reasonable business judgment foresee, will materially

adversely affect the Project, the condition (financial or otherwise) of the Company or the ability of the Company to perform its obligations hereunder or under any agreement contemplated hereby.

(i) Concerning the Dates of Acquisition and Use of Equipment. No property which constitutes or is to constitute part of the Equipment was paid for by the Board or by the Company or any Related Person thereto prior to November 1, 1985. No portion of the proceeds of the Series 1985-B Bonds will be used for the acquisition of any of the Equipment unless the first use of such Equipment is pursuant to such acquisition, all within the meaning of Section 103(b)(17)(A) of the Code and the applicable regulations thereunder.

(j) Use of the Project and Equipment. As of the date of the delivery of this Lease Agreement, the Company does not have any plans and is not a party to any arrangement which, if consummated, would result in either the Project or the Equipment being used by any Principal User other than the Company or a Related Person thereto. The issuance of the Series 1985-B Bonds will not result in the aggregate authorized face amount of the Series 1985-B 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.

(k) Relationship of Qualifying Costs to Series 1985-B Bond Proceeds. Based upon reasonable estimates as of the date of the delivery of this Lease Agreement, those costs of acquiring and installing or basing the Equipment that constitute Qualifying Costs are expected to amount, in the aggregate, to not less than ninety percent (90%) of the sum of the Series 1985-B Bond Proceeds.

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

(m) Portion of Principal Proceeds Used for Purchase of Land. Based upon reasonable estimates as of the date of the delivery of this Lease Agreement, none of the principal proceeds of the Series 1985-B Bonds will be used for the purchase of land.

(n) Tax-Exempt Status of the Series 1985-B Bonds. The Company intends for the Series 1985-B 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 Company understands that such exemption constitutes a principal inducement to the purchase of the Series 1985-B Bonds by the Original Purchaser and will constitute a principal inducement to the purchase of any of the Series 1985-B Bonds by any subsequent purchaser thereof. The Company intends to comply with all provisions of the Tax Reform Act of 1984 and the proposed regulations thereunder respecting the investment of bond proceeds so as to preserve the tax exempt status of the interest income on the Series 1985-B Bonds.

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(o) Operation of Project. The Company is a lessor of truck trailers for general commodities transport. The Terminal Facilities constitute the sole terminal operated by the Company in Shelby County in its leasing operations, and all rolling stock employed by the Company in such operations in Shelby County is dispatched and controlled from the Terminal Facilities. The Company has no plans that would result in any of the Rolling Stock being interchanged with the rolling stock of any other lessor or for any of the Rolling Stock being based at, or dispatched or controlled from, any location other than the Terminal Facilities at any time. On the basis of its customary practices, the Company expects that particular truck trailers comprising the Rolling Stock will be paired on a permanent basis with truck tractors whose acquisition cost is being financed by the "Series 1985-A Bonds", and that interchange among such tractors and trailers will be minimal.

(p) No Previously Issued Public Securities. Except for the Series 1984 Bonds, the Series 1985 Bonds, the Series 1985-A Bonds and the Series 1985-B Bonds, no Public Securities have been issued since April 30, 1968, the proceeds of which have been or are to be used primarily with respect to Local Facilities.

(q) No Composite Issue. As of the date of the delivery of this Lease Agreement, the Company does not have any plans and is not a party to any arrangement which, if consummated, would result in the Series 1985-B Bonds and any other Public Securities being considered a single issue of "industrial development bonds" within the meaning of Section 103(b)(6)(K) of the Code, the applicable regulations thereunder or Rev. Rul. 81-216, 1981-1 C.B. 21, including, without limitation, any arrangement pursuant to which (i) the Series 1985-B Bonds and such other Public Securities will be sold at substantially the same time; (ii) the Series 1985-B Bonds and such other Public Securities will be sold pursuant to a common plan of marketing; (iii) the Series 1985-B Bonds and such other Public Securities will be sold at substantially the same rates of interest; and (iv) a common or pool security will either be used or available to pay debt service on the Series 1985-B Bonds and such other Public Securities.

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(r) Series 1985-B Bonds Not Federally Guaranteed. The payment of the principal or interest with respect to the Series 1985-B Bonds will not be guaranteed, in whole or in part, by the United States of America or any agency or instrumentality thereof; nor will the Series 1985-B Bonds be issued as part of an issue a significant portion of the proceeds of which are to be (i) used in making loans the payment of principal or interest with respect to which are to be guaranteed, in whole or in part, by the United States of America or any agency or instrumentality thereof, or (ii) invested, directly or indirectly, in federally insured deposits or accounts [except as provided by Section 103(h)(3)(B) of the Code]; nor will the payment of the principal or interest with respect to the Series 1985-B Bonds be otherwise indirectly guaranteed, in whole or in part, by the United States of America or any agency or instrumentality thereof.

(s) Previous Capital Expenditures. All capital expenditures [determined in accordance with the provisions of Section 103(b)(6)(D) of the Code and the applicable regulations thereunder] that have been made with respect to the Local Facilities during the three-year period next preceding the date of the issuance of

the Bonds or the Series 1984 Bonds or the Series 1985 Bonds do not in the aggregate exceed the sum of $5,000,000 other than capital expenditures made with the proceeds of the Bonds.

(t) Inducement. The undertakings by the Board to acquire and install the Equipment, to finance the costs thereof through the sale and issuance of the Series 1985-B Bonds, and to lease the Equipment to the Company have induced the Company to expand its existing operations in the State of Alabama.

(u) Private Offering of the Series 1985-B Bonds. Neither the Company nor the Board nor any agent acting on behalf of either of them has offered any of the Series 1985-B Bonds for sale to, or solicited offers to buy any thereof from, or otherwise approached or negotiated with respect thereto with any prospective purchasers other than the Original Purchaser. None of the Series 1985-B Bonds will be further offered for issuance or sale to anyone, nor will any offers be solicited from anyone to acquire any of the Series 1985-B Bonds so as to make the issuance or sale of any of the Series 1985-B 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.

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ARTICLE III

DEMISING CLAUSES

Section 3.1 **Demising Clauses.** For and during the Lease Term, the Board hereby demises and leases to the Company, subject to the prior lien of the Indenture and all other Permitted Encumbrances, and the Company hereby rents from the Board, subject to Permitted Encumbrances, the following described properties and related rights:

All items (whether or not fixtures) of machinery, equipment and other personal property that at any time, under the provisions of the Lease, constitute the Equipment, including, without limitation, the items (whether or not fixtures) of machinery, equipment and other personal property generally described in Exhibit B attached hereto and made a part hereof, excluding, however, any machinery, 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 Company or third parties.

Section 3.2 **Equipment to Be and Remain Personal Property.** All items of the Equipment shall be and remain personal property and shall be deemed to be fully severable from the Terminal Facilities, wherever such items may at the time be installed, it being understood and agreed by the Board and the Company that title to the Equipment shall be independent of title to the Terminal Facilities, whether title to the Terminal Facilities shall at the time be in the Company, Wiley

Sanders Truck Lines, Inc. or any other party, and that, as between the Company and the Board, neither the Company nor any other person claiming an interest in the Terminal Facilities, whether as owner, lessee or mortgagee, shall acquire title to any item of the Equipment by reason of the physical attachment thereof to any real property notwithstanding any provisions of any mortgage or other security instrument relating to the Terminal Facilities whereunder the Equipment might be deemed after-acquired property subject to the lien of such mortgage or other security instrument.

ARTICLE IV

ACQUISITION AND INSTALLATION OR BASING OF THE EQUIPMENT; ISSUANCE OF THE SERIES 1985-B BONDS

Section 4.1 **Acquisition and Installation or Basing of the Equipment.** The Board and the Company will undertake and complete, or will cause to be undertaken and completed, the work of acquiring the Equipment and installing the same (or, in the case of the Rolling Stock, basing the same) in or about the Terminal Facilities, all in accordance with plans, specifications and directions furnished by the Company. The Board and the Company will use their best efforts to complete the acquisition, installation and basing of the Equipment, 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 Company 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 Company hereunder shall result from any delay in the completion of any of the acquisition, installation and basing of the Equipment, or from the failure of such work to be completed in accordance with the plans, specifications and directions furnished by the Company.

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The Board acknowledges that the Equipment is to be acquired and installed or based in accordance with the requirements of the Company, and it is therefore agreed and understood that the Company, with the prior written consent of the Secured Party, which consent shall not be unreasonably withheld, at any time and from time to time after the delivery of this Lease Agreement, may cause such changes to be made in the Equipment described in Exhibit B hereto, including additions thereto, deletions therefrom and substitutions therefor, as it may desire and as will not cause the Equipment, as altered by such changes, to be, in the reasonable judgment of the Company, functionally inferior (insofar as the operation of the Project by the Company is concerned) to the Equipment described in said Exhibit B. Except as provided in the foregoing provisions of this paragraph, neither the Company nor the Board will cause or permit any changes to be made in the composition of the Equipment. The rights of the Company under this paragraph to cause changes to be made in the Equipment described in said Exhibit B shall apply only to the selection of such equipment prior to its installation or basing in or about the Terminal Facilities, and nothing herein contained shall be construed to enlarge,

restrict or otherwise alter the terms and conditions contained in Section 6.2 of this Lease Agreement respecting the removal from the Terminal Facilities of any item of the 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 acquisition and installation or basing of the Equipment 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 acquisition and installation or basing of the Equipment or any part thereof unless there is endorsed thereon a legend indicating that the Company has approved both the form and substance of such contract and such legend is signed on behalf of the Company by an Authorized Company Representative.

The Board hereby appoints the Company as its true and lawful agent to act on its behalf in connection with the acquisition and installation or basing of the Equipment, and the Company hereby accepts such agency to act and do all things on behalf of the Board required to carry out such work to completion. The appointment of the Company to act as agent for the Board and the authority thereby conferred on the Company shall irrevocably continue in effect until the acquisition and installation or basing of the Equipment 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 the agency relationship created hereby.

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The Board and the Company 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 Company shall be designated an Authorized Company Representative. Either the Board or the Company may from time to time, by written notice to the other party hereto and to the Secured Party, revoke, amend or otherwise limit the authorization of any agent appointed by it to act on its behalf or designate another agent or agents to act on 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 Company Representative authorized to act on behalf of the Company.

Section 4.2 **Agreement to Issue Series 1985-B Bonds.** In order to finance the costs of the acquisition and installation or basing of the Equipment, the Board will, simultaneously with the delivery hereof, issue and sell the Series 1985-B 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-B Bonds, the interest rate or rates thereof and the provisions for redemption thereof prior to their respective maturities) are hereby approved by the Company, and to the extent that any provision of the Indenture is relevant to the calculation of any rental or other amount payable by the Company hereunder or to the determination of any

other obligation of the Company hereunder, the Company 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 Acquisition Fund.** Subject to the conditions of Section 4.4 hereof, the Board will pay, or cause to be paid, all costs of the acquisition and installation or basing of the Equipment, but such costs shall be paid solely out of the principal proceeds from the sale of the Series 1985-B Bonds, income earned from the investment of such proceeds and any other moneys which the Company may cause to be deposited in the Acquisition Fund. The Company, as agent for the Board, will cause such requisitions to be prepared and submitted to the Secured Party as shall be necessary to enable the Secured Party to pay, out of moneys held in the Acquisition Fund in accordance with the provisions of Section 7.2 of the Indenture, all the costs of the acquisition and installation or basing of the Equipment and the costs and expenses of issuing and selling the Series 1985-B Bonds. The Company, upon request by the Board, 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 Company will not submit or cause to be submitted to the Secured Party 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 Costs of more than ten percent (10%) of the cumulative amount of Series 1985-B Bond Proceeds theretofore disbursed from the Acquisition Fund.

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The Board will, simultaneously with the issuance of the Series 1985-B Bonds or as soon thereafter as may be practicable, cause the Secured Party, upon submission of requisitions satisfying the requirements of the Indenture, to reimburse the Company, out of the proceeds of the Series 1985-B Bonds deposited in the Acquisition Fund, for (i) all costs and expenses that the Company may have heretofore paid or incurred in connection with the acquisition and installation or basing of the Equipment, and (ii) all advances and loans to the Board heretofore made by the Company pursuant to the Inducement Agreement in order to enable the Board to pay such costs. The Company hereby acknowledges and agrees that the failure by the Board to reimburse the Company, or to cause the Company 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 Acquisition Fund for such purpose, a decision by the Company not to request such reimbursement or any other cause) shall not result in any diminution or postponement of any rentals payable by the Company hereunder, or in the acquisition of title to any part of the Equipment by the Company, or in the imposition of a lien in favor of the Company upon any part of the Equipment.

Section 4.4 **No Warranty of Suitability by the Board. Company Required to Make Arrangements for Payment of Costs.** The Company recognizes that the acquisition and installation or basing of the Equipment has been or is to be planned and carried out under its control and in accordance with its 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 Company's purposes or needs or that the proceeds derived from the sale of the Series 1985-B Bonds, together with the income (if any) earned from the investment of such

proceeds, will be sufficient to meet the Company's 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 Company's purposes or needs or that the proceeds derived from the sale of the Series 1985-B Bonds, together with the income (if any) earned from the investment of such proceeds, will be sufficient to pay in full all the costs of the acquisition and installation or basing of the Equipment. In the event such proceeds and investment income (if any) are insufficient to pay all such costs, the Company

(a) will, subject to the provisions of Section 4.1 hereof, cause such changes to be made in the composition of the Equipment as will result in the aggregate costs of the acquisition and installation or basing of the Equipment not exceeding such proceeds and investment income, or

(b) will itself complete the acquisition and installation or basing of the Equipment as originally planned and will pay that portion of the costs thereof in excess of such proceeds and investment income, or

(c) will pay into the Acquisition Fund such moneys as are necessary for the payment of all such costs, in which case the Board will complete the acquisition and installation or basing of the Equipment, or

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

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all to the end that all obligations incurred by the Board in connection with the acquisition and installation of the Equipment shall be paid in full and shall be completed to the extent required for (i) the use of the proceeds of the Series 1985-B Bonds to comply with the conditions necessary for the interest on the Series 1985-B 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 constitute a "project" within the meaning of the Act. The Company shall not, by reason of (1) its direct payment of any excess costs of the acquisition and installation of the Equipment, (2) its payment of any moneys into the Acquisition Fund for the payment of any such costs or (3) any other arrangements made by it for the payment of such costs, be entitled to any reimbursement from the Board or to any diminution or postponement of any rentals payable by the Company hereunder. Further, the fact that the Company directly pays, or directly or indirectly furnishes money to the Board for the payment of, any part of the costs of the acquisition and installation or basing of the Equipment shall not result in the Company's acquisition of title to any part of the Equipment or in the imposition of a lien in favor of the Company upon any part of the Equipment, it being understood and agreed (A) that title to all the Equipment shall, as between the Board and the Company, be fully and solely vested in the Board and (B) that any such lien in favor of the Company that might so result is hereby expressly waived and released by the Company.

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 acquisition and installation or basing of the Equipment or any part thereof, the Board will, upon written request made to it by

the Company, 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 Company. 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 acquisition and installation of the Equipment, the Board will follow all reasonable directions given to it by the Company in connection with such proceeding or action, and the Company shall have full and complete control thereof, but any Counsel selected by the Company 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 Acquisition Fund or, if such amount is recovered after the Completion Date, to the Company, unless an Event of Default shall have occurred and be continuing, in which case such amount shall be paid to the Secured Party.

The Board hereby transfers and assigns to the Company 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 acquisition and installation or basing of the Equipment, and grants to the Company the right to take action, in the name of either the Board or the Company, but at the Company'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 Acquisition Fund or, if such amount is recovered after the Completion Date, to the Company, unless an Event of Default shall have occurred and be continuing, in which case such amount shall be paid to the Secured Party.

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

(a) the acquisition and installation or basing of the Equipment and all related work have been completed in accordance with the applicable plans, specifications and directions furnished by the Company, and

(b) all the costs of such acquisition and installation or basing have been paid in full, except for amounts retained by the Secured Party at the Company'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 Company or by the Board at the Company's direction.

Section 4.7 **Supplemental Agreement on Completion.** Upon completion of the acquisition and installation or basing of the Equipment, the Board and the Company will enter into a supplemental agreement identifying, with such particularity as the Secured Party shall specify, the items of Equipment installed or based in or about the Terminal Facilities and confirming the demise thereof to the Company hereunder.

ARTICLE V

DURATION OF TERM AND RENTAL PROVISIONS

Section 5.1 **Duration of Term.** The Lease Term shall begin on the date of the delivery of this Lease Agreement and, subject to the provisions of this Lease Agreement, shall continue until 11:59 o'clock, P.M., on December 25, 1990. The Board will deliver to the Company 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, and the Company 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 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 possession and use of the Project during the Lease Term, the Company will, not later than 10:00 o'clock, A.M., on each Bond Payment Date, beginning with January 25, 1986, and continuing until and including December 25, 1990, pay installments of Basic Rent in amounts equal to the sum of

(a) the interest maturing with respect to the then outstanding Series 1985-B Bonds on the Bond Payment Date on which each such installment of Basic Rent becomes due and payable, plus

(b) the principal (if any) maturing, or required by the terms of the Indenture to be redeemed, with respect to the then outstanding Series 1985-B Bonds on said Bond Payment Date.

If, as a result of a default in the payment of any installment of Basic Rent (or portion thereof) when due, any installment of principal of or interest on the Series 1985-B Bonds (including any installment becoming due as a result of acceleration or mandatory redemption) is not paid on the due date thereof, then the Company will pay, in lieu of interest on such overdue installment of Basic Rent, additional Basic Rent in an amount sufficient to pay the interest that will accrue on such overdue installments of principal or interest. The Company will pay such additional Basic Rent on demand by the Secured Party.

All installments of Basic Rent (including all mandatory or optional prepayments thereof) shall be paid in funds that will be immediately available on the due date thereof and, subject to the provisions of the last paragraph of this section, shall be paid directly to the Secured Party for the account of the Board; provided, however, anything contained herein to the contrary notwithstanding, all such installments of Basic Rent shall be paid to the Secured Party at its office located at First National-Southern Natural Building, (Post Office Box 11007), Birmingham, Alabama 35288, unless otherwise directed by the Secured Party. Neither the Board nor the Secured Party shall be obligated to give any prior notice to the Company 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 Secured Party, shall

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not relieve the Company of its obligation to pay such installment of Basic Rent when it is due and payable.

The Board will, promptly following the designation of any successor Secured Party under the Indenture, give written notice to the Company of the name and location of the principal office of such successor Secured Party, 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 office of the Secured Party is located or a day on which banks in such state are legally authorized to close, such installment shall be due in immediately available funds no later than the opening of business by the Secured Party on the first business day next succeeding such due date.

Reference is hereby made to Section 3.4 of the Indenture wherein the Bondholders are given the right to enter into Home Office Payment Agreements with the Secured Party and the Company providing for the payment of the interest on their Series 1985-B Bonds and the redemption price of any partial redemption thereof through wire transfers, crediting of bank accounts or other arrangements involving the rapid transfer of funds from bank to bank. The Company hereby agrees to enter into and perform such Home Office Payment Agreements as and to the extent provided in the Indenture. If and to the extent that any Home Office Payment Agreement requires the direct payment by the Company of any principal of or interest or premium (if any) on the Series 1985-B Bonds covered by such agreement, the Company will pay such principal, interest or premium (if any) on the due date thereof directly to the Holder of such Series 1985-B Bonds in accordance with the terms of such agreement and will promptly give written notice to the Secured Party stating the name of each Holder to whom such payment has been made, the date of such payment, the amount of such payment, and the allocation of such amount to principal, interest and premium (if any). In each case of such direct payment by the Company, the Basic Rent payable to the Secured Party on the due date of such principal or interest or premium (if any) shall be reduced by the amount of such direct payment.

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Section 5.3 **Additional Rent - Secured Party's Fees and Expenses.** In addition to the Basic Rent and all other rental payments due from the Company hereunder, the Company will also pay, or discharge through reimbursement of the Secured Party, (i) the reasonable fees and charges of the Secured Party for its ordinary services as depository, custodian and disbursing agent for the Acquisition Fund, (ii) the reasonable expenses and compensation of the Secured Party as registrar, transfer agent and paying agent with respect to the Series 1985-B Bonds, (iii) the reasonable expenses of the Secured Party in connection with the issuance of a new Series 1985-B Bond upon the partial redemption of any Series 1985-B Bond, and (iv) the reasonable expenses and compensation oic Rent payable to the Secured Party on the duf the Secured Party for necessary extraordinary services rendered by it under the Indenture. Upon presentation to the Company of statements or other written requests by the Secured Party for payment, the Company will pay directly to the Secured Party, or to such other Person or Persons as the Secured Party shall direct, all expenses and compensation for which the Company shall be liable, but the Company may, without creating a default hereunder, contest in good faith the necessity for any extraordinary services performed by the Secured Party or the

reasonableness of the compensation or expenses of the Secured Party 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 Company hereunder, the Company will also pay 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 Series 1985-B Bonds, acquiring the Equipment and leasing the same to the Company, 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 Company's liability under this section shall not include expenses voluntarily incurred by the Board without prior request or approval by the Company, unless such expenses are necessary to enable the Board to perform its obligations under the Lease and the Indenture.

Section 5.5 **Concerning a Series 1985-B 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, 8.6 and 8.7 hereof,

(a) that the interest income on the Series 1985-B Bonds will be exempt from federal income taxation under the provisions of Section 103 of the Code (except that the interest income on any Series 1985-B Bond will not be exempt from federal income taxation for any period during which such Series 1985-B Bond is held by a Substantial User of the Project or by a Related Person),

(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-B Bonds exemption from federal income taxation - is not now applicable to the Series 1985-B Bonds because the Board has filed with the Internal Revenue Service all statements required pursuant to Section 103(b)(6)(D) of the Code for the purpose of making an election to have the Bonds treated as an issue of Bonds in the aggregate authorized face amount of $10,000,000 or less, in lieu of the $1,000,000 "exemption" provided for in Section 103(b)(6)(A) of the Code; and

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

The Company understands and agrees (i) that one of the principal inducements to the purchase of the Series 1985-B Bonds by the Original Purchaser is that under existing law the interest 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-B Bonds, the interest on the Series 1985-B Bonds may, under the provisions of Section 103 of the Code, be or become subject to federal income taxation. Therefore, in the event of a Series 1985-B Determination of Taxability, the Company will pay to the Secured Party, for the account of the Board

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and as a special installment of Basic Rent, an amount which will be sufficient to redeem and retire on the Series 1985-B Taxability Redemption Date, at and for the applicable redemption price specified in subsection (b) of Section 3.7 of the Indenture, all the Series 1985-B Bonds that will be outstanding on the Series 1985-B Taxability Redemption Date.

The special installment of Basic Rent required to be paid by the Company pursuant to this section shall be paid in immediately available funds on or before the close of business on the business day next preceding the Series 1985-B Taxability Redemption Date; provided that if any of the moneys then held in the Acquisition Fund are not restricted to other purposes and can be applied to the redemption of Series 1985-B Bonds, there shall be credited against such special installment of Basic Rent so much of such moneys as the Company may specify in writing to the Board and the Secured Party.

In addition to the obligations contained in the foregoing provisions of this section, the Company will pay and indemnify and save harmless the Secured Party and all Holders and former Holders of any of the Series 1985-B Bonds from all other damage, loss, cost or expense (including attorneys' fees) which the Secured Party or any such Holder or former Holder may incur or be subject to as a consequence, direct or indirect, of a Series 1985-B Determination of Taxability and the related Series 1985-B Event of Taxability, including, without limitation, the defense or contest of any audit, investigation, suit or proceeding that may be initiated or conducted for the purpose of making such determination.

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If any Series 1985-B Determination of Taxability occurs while the Lease is still in effect and all installments of Basic Rent referable to the Series 1985-B Bonds have not yet become due and payable, then in such case the payment of the special installment of Basic Rent required by this section shall constitute a prepayment of the Basic Rent referable to the Series 1985-B Bonds. 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), 11.1 and 11.2 hereof, or any termination resulting from the expiration of the Lease Term], and if any Series 1985-B Determination of Taxability occurs after such termination, the Company shall be obligated to pay such installment in addition to all Basic Rent paid prior to or at the termination of the Lease.

The obligation of the Company under this section are specifically subject to the provisions of Section 3.7 of the Indenture, and in the event that the Holder of any Series 1985-B Bond elects not to require the redemption of the Series 1985-B Bonds held by such Holder as a result of a Series 1985-B Event of Taxability, it will be necessary for the Company to make the payment required by this section in an amount sufficient only to redeem those Series 1985-B Bonds required to be redeemed, and it will not be necessary for the Company to make payments necessary to redeem those Series 1985-B Bonds with respect to which the Holder thereof has elected not to require redemption.

Section 5.6 **Optional Prepayment of Basic Rent.** The Company may, at its option at any time and from time to time, prepay directly to the Secured Party, 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 of the Series 1985-B 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 Series 1985-B 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 Series 1985-B Bonds may be redeemed, and will (upon being notified by the Company in writing of the Company's intention in this respect and without the necessity of the moneys therefor being deposited with the Secured Party) take all action necessary under the provisions of the Indenture to effect such redemption. The prepayment of Basic Rent 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; provided, however, that if less than all the outstanding Series 1985-B Bonds are redeemed at any one time with a prepayment of Basic Rent (irrespective of whether such prepayment is optional or mandatory), the principal amount of Series 1985-B Bonds so redeemed shall be credited first against the principal amount of Series 1985-B Bonds scheduled to be retired at their final maturity (assuming that all mandatory redemptions required by Section 3.5 of the Indenture shall be made as scheduled) and then in inverse chronological order against the mandatory redemptions of Series 1985-B Bonds required by Section 3.5 of the Indenture, and no such prepayment of Basic Rent shall result in a reduction of the installment of Basic Rent payable on any date in respect of any mandatory redemption required by said Section 3.5 unless the principal amount of Series 1985-B Bonds then outstanding is less than the principal amount otherwise required to be redeemed on such date. After the prepayment of Basic Rent sufficient to pay, redeem and retire all the Series 1985-B Bonds, the Company 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.

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Section 5.7 **Obligations of the Company Unconditional.** The obligation of the Company to pay the Basic Rent, to make all other payments provided for herein and to perform and observe the other agreements and covenants on its part herein contained shall be absolute and unconditional, irrespective of any rights of set-off, recoupment or counterclaim it might otherwise have against the Board. The Company will not suspend, discontinue, reduce or defer any such payment or fail to perform and observe any of its other agreements and covenants contained herein or (except as expressly authorized herein) terminate the Lease for any cause, including, without limiting the generality of the foregoing, any acts or circumstances that may deprive the Company of the use and enjoyment of the Equipment, failure of consideration or commercial frustration of purpose, or any damage to or destruction of the Equipment or any part thereof, or the taking by eminent domain of title to or the right to temporary use of all or any part of the Project or the Equipment, or any change in the tax or other laws of the United States of America, the State of Alabama or any political or taxing subdivision of either thereof, or any change in the cost or availability of labor, raw materials or energy adversely affecting the profitable use of the Project and the Equipment by the Company, or any failure of the Board to perform and observe any agreement or covenant, whether express or implied, or any duty, liability or obligation arising out of or connected with the Lease.

The provisions of the first paragraph of this section shall remain in effect only so long as any of the Series 1985-B Bonds remain outstanding and unpaid. Nothing contained in this section shall be construed to prevent the Company, at its own cost and expense and in its own name or in the name of the Board, from prosecuting or defending any action or proceeding or taking any other action involving third persons which the Company deems reasonably necessary in order to secure or protect its rights hereunder, and in such event the Board will cooperate fully with the Company in any such action or proceeding. Further, nothing contained in this section shall be construed to release the Board from the performance of any of the agreements on its part herein contained or to preclude the Company from instituting such action against the Board as the Company may deem necessary to compel such performance, it being understood and agreed, however, that no such action on the part of the Company shall in any way affect the agreements on the part of the Company contained in the first paragraph of this section or in any way relieve the Company from performing any such agreements.

Section 5.8 **Additional Rent - Bond Preference Taxes.** In addition to the Basic Rent and all other rental payments due from the Company hereunder, if, as the result of any change in federal income tax laws pertaining to Tax Exempt Obligations after the date of original issuance of the Series 1985-B Bonds, the Holder thereof shall be required to pay any Bond Preference Tax which is attributable, directly or indirectly, to the purchase or ownership of all or any of the Series 1985-B Bonds with the result that the Board shall be required to make a payment to such Holder pursuant to the provisions of Section 3.1 of the Indenture, then the Company shall pay to any such Holder thereof (for the account of the Board), within five (5) days after receipt by the Company from the Board of written notice that the Board has received written demand for such payment from a Holder, an amount which after deduction of all federal, state and local income taxes will equal such Bond Preference Tax.

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ARTICLE VI

PROVISIONS CONCERNING MAINTENANCE OF PROJECT, REMOVAL OF EQUIPMENT, TAXES AND INSURANCE

Section 6.1 **Maintenance, Additions and Modifications.** The Company will, at its own expense, maintain the Equipment in such state of repair and operating condition as that in which it customarily maintains equipment of similar character owned and operated by it, making from time to time all appropriate repairs thereto; provided, however, that the Company shall have no obligation hereunder to repair or maintain the Equipment after full payment of the Series 1985-B Bonds. The Board and the Company recognize that, as a result of reasonable wear and tear, technological obsolescence or other causes, various items of the Equipment may become inadequate, obsolete or worn out, but neither the Board nor the Company shall be obligated to replace or renew any such items of the Equipment.

The Company may, at its own cost and expense, make or cause to be made, any additions, alterations, improvements or modifications that it may deem desirable for its business purposes, provided that such additions, alterations, improvements or modifications do not change the character of the Project to such extent that it no longer constitutes a "project" within the meaning of the Act. If any additions, alterations, improvements or modifications to the Project involve new property that is physically attached to the Project to such extent that such property cannot be separated from the Project without causing physical damage thereto or functional impairment thereof, then such new property shall constitute part of the Project for all purposes of the Lease and the Indenture.

In the event that the Company determines to make, or to cause to be made, any additions, alterations, improvements or modifications to the Project, the Board will, if requested by the Company, 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 Company has approved both the form and substance of such contract and such legend is signed on behalf of the Company by an authorized representative thereof. 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 out of (i) the proceeds derived by the Board from the sale of the Series 1985-B Bonds or other revenue bonds or (ii) other moneys made available to the Board by the Company for such purpose.

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The Company 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 and installation of the Equipment or in connection with any additions, alterations, improvements, modifications, repairs or renewals that may subsequently be made thereto. The Company may, however, at its own expense and in good faith, contest any such mechanics' or other liens and, in the event of any such contest, may, if it so notifies the Board and the Secured Party, permit any such liens to remain unsatisfied and undischarged during the period of such contest and any appeal therefrom unless the Secured Party notifies the Company that, in the opinion of Independent Counsel, such action by the Company will materially endanger the lien of the Indenture to any part of the Project or will cause any part of the Equipment to be subject to a material risk of loss or forfeiture, in which case such mechanics' or other liens shall (unless they are bonded or superseded in a manner satisfactory to the Secured Party) be promptly satisfied.

Section 6.2 **Operation of Project; Removal and Disposition of the Equipment.** The Board and the Company acknowledge that the Rolling Stock constituting a part of the Equipment will be operated from time to time outside the geographic jurisdiction of the Board. In order to maintain a substantial connection between the Rolling Stock and the Board, the Company covenants and agrees that it will

(i) cause all items of the Rolling Stock to be based at the Terminal Facilities; and

(ii) cause all items of the Rolling Stock to return consistently to the Terminal Facilities for maintenance, fueling, dispatching and parking when not in use, except in the case of causes beyond the Company's reasonable control and for temporary periods of short duration.

The Equipment constituting a part of the Project may not be sold or otherwise disposed of unless the Company first substitutes collateral of at least equal value to the Company as, and costing not less than the amount realized from, the item of Equipment disposed of. In addition, if the original cost of such Equipment, when added to the original cost of all other equipment disposed of in the same fiscal year, exceeds 5% of the original principal amount of the Series 1985-B Bonds, such disposition may not be made without the Secured Party's prior written consent.

Within 30 days after the end of each fiscal year, the Company shall deliver to the Secured Party a report containing:

(1) a description of each item of Equipment disposed of during such fiscal year, the original cost thereof, and the amount realized from such disposition; and

(2) a description of each item of Equipment substituted for the item or items so disposed of during such fiscal year and the cost of such substitute.

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No portion of the project site or any other collateral given as security for the payment of the Series 1985-B Bonds may be released without the prior written consent of the Secured Party, except as provided above with respect to the Equipment.

The preceding provisions of this section shall apply only so long as any of the Series 1985-B Bonds remain unpaid. After full payment of the Series 1985-B Bonds and the cancellation, satisfaction and discharge of the lien of the Indenture in accordance with the provisions thereof, the Company may, if in its sole discretion it determines that any or all items of the Equipment have become unsuitable or unnecessary for its use and occupancy of the Project, remove or sever such items of the Equipment from the Project 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 Terminal Facilities, equipment or other personal property in substitution therefor. The Company may retain any money or other consideration received by it upon any disposition of such items of Equipment.

Nothing contained herein shall prohibit the Company from removing from the Terminal Facilities any equipment or other personal property that is owned by it or leased by it from third parties and that does not constitute part of the Equipment.

Section 6.3 **Payment of Claims, Judgments, Taxes and Other Governmental Charges.** Notwithstanding the agreements of the Company to pay any taxes and other governmental charges that may be levied or assessed against the Equipment as set forth in the second paragraph of this section, the Board acknowledges (i) that, under present law, the Equipment, 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 and income of the Board from the Equipment are exempt from both federal and state taxation, (ii) that, as provided in Section 12.4 hereof, exemption of the Equipment, as well as the revenues of the Board from the leasing thereof, from taxation by the State of Alabama and its political subdivisions constitute part of the contract between the Board and the Company contained in this Lease Agreement, and (iii) that these factors, among others, induced the Company to enter into this Lease Agreement.

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

(a) all claims or judgments giving rise to a lien or charge on the Equipment, or the revenues of the Board from the Equipment, which, if not paid or discharged, would be prior to, or on a parity with, the lien of the Indenture or the pledge and assignment of such revenues made in 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 Equipment, including, without limitation, any taxes levied upon or with respect to any revenues of the Board from the Equipment, which, if not paid, would become a lien on the Equipment prior to, or on a parity with, the lien of the Indenture or a charge on such revenues prior to, or on a parity with, the 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 Equipment; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Company 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 promptly forward to the Company any bills, statements, assessments, notices or other instruments asserting or otherwise relating to any such claims, judgments, taxes, assessments or charges.

The Company may, at its own expense and in its own name and behalf or in the name and behalf of the Board, in good faith contest any such claims,

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judgments, taxes, assessments and other charges and, in the event of any such contest, may, if it so notifies the Board and the Secured Party, permit such claims, judgments, taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, unless the Secured Party notifies the Company that, in the opinion of Independent Counsel, such action by the Company will materially endanger the lien of the Indenture as to any part of the Equipment, or will cause the Equipment or any part thereof to become subject to a material risk of loss or forfeiture, or will cause the revenues of the Board from the Equipment to 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 which case such claims, judgments, taxes, assessments or charges shall (unless they are bonded or are superseded in a manner satisfactory to the Secured Party) be paid prior to their becoming delinquent. The Board will cooperate fully with the Company in any such contest.

Section 6.4 **Insurance with Respect to the Project.** So long as the Lease shall remain in effect, the Company will obtain and continuously maintain in effect such insurance (excluding business interruption insurance) with respect to the Project in an amount not less than the principal amount of the Series 1985-B Bonds outstanding, paying all premiums with respect thereto, including, but not necessarily limited to, public liability insurance and insurance against destruction of or damage to property by fire or other casualties. To the extent consistent with the customary insurance practices of the Company as applied to its other industrial plants, the Company may insure all risks relating to the Project through policies having such deductible amounts and co-insurance provisions as it deems desirable, or the Company may be completely self-insured with respect to such risks. Anything herein to the contrary notwithstanding, the insurance required by the provisions hereof may be provided by blanket policies covering risks in addition to those hereby required to be covered.

All insurance policies covering losses to the Project shall name the Board and the Company as the parties insured thereunder and shall provide for all recoveries thereunder in respect of losses to be paid to the Secured Party for the account of the Board; provided that all recoveries may be adjusted by the Company. (Reference is hereby made to Article VII hereof for general provisions respecting the disposition of insurance proceeds.) Insurance against liability for injury to persons or property provided by the Company pursuant to this section shall cover the liability, in the several aspects of the coverage provided, both of the Board and the Company. The Company will, upon request by the Board or the Secured Party, evidence the existence of such insurance as shall from time to time be in effect with respect to the Project by furnishing to the Board or the Secured Party, as the case may be, a certificate or certificates of the respective insurers providing such insurance.

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ARTICLE VII

PROVISIONS RESPECTING DAMAGE, DESTRUCTION AND CONDEMNATION

Section 7.1 **Damage and Destruction Provisions.** If, prior to full payment of the Series 1985-B Bonds, the Equipment is destroyed, in whole or in part, or is damaged, by fire or other casualty, to such extent that the loss thereto is not greater than $10,000, the Company 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 shall not change the character of the Project to such extent that it will not constitute a "project" within the meaning of the Act. The Company 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 proceeds, the Company 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 Company will pay to the Secured Party the amount by which the proceeds exceed the total costs. Any such payment to the Secured Party shall be treated as a prepayment of Basic Rent made pursuant to Section 5.6 hereof. Any preceding provision of this paragraph to the contrary notwithstanding, the Company may exercise the option to purchase the Equipment granted in Section 11.2 hereof upon the terms there provided, in which event it need not repair, replace or restore the property damaged or destroyed.

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If, prior to full payment of the Series 1985-B Bonds, the Equipment is destroyed, in whole or in part, or is damaged, by fire or other casualty, to such extent that the loss thereto is greater than $10,000, all obligations of the Company and the Board under the Lease which are still capable of performance (including, without limitation, the obligation of the Company to pay the Basic Rent and all other amounts payable hereunder) shall continue in full force and effect. The Company will promptly notify the Board and the Secured Party of such destruction or damage, and all Net Insurance Proceeds referable to such destruction or damage, whether or not initially recovered by the Board, the Company or the Secured Party, shall be paid over to the Secured Party or applied as the Secured Party may direct in accordance with the provisions hereof. The Net Insurance Proceeds referable to any destruction or damage to the Equipment shall be applied by the Secured Party, or at its direction, for one or both of the following purposes, with the amount, if any, to be applied to each such purpose to be determined by the Secured Party in the exercise of its sole judgment:

(a) payment of the costs of repairing, replacing or restoring the property damaged or destroyed, with such changes, alterations or modifications as shall be directed by the Secured Party and as shall not change the character of the Project to such extent that it will not constitute a "project" within the meaning of the Act; or

(b) the redemption of Series 1985-B Bonds prior to maturity in accordance with the terms of the Indenture and on the earliest practicable date permitted thereby.

In the event that the Secured Party determines to apply the Net Insurance Proceeds (or any specified portion thereof) for payment of the costs of repairing, replacing or restoring the property damaged or destroyed, the Board, at the request of the Secured Party, will undertake in its own name the work of repairing, replacing or restoring the property damaged or destroyed, and in such case the Secured Party will use such proceeds (or specified portion thereof) to pay the cost of such work for the account of the Board. The Secured Party shall establish a special acquisition fund with the Secured Party or a commercial bank approved by the Secured Party to apply such Net Insurance Proceeds (or specified portion thereof) for the payment of the costs of repairing, replacing or restoring the property damaged or destroyed, and such proceeds (or specified portion thereof) shall be deposited in such fund and held therein, invested to the extent not immediately required for the payment of such costs, and disbursed by the Secured Party as required for the payment of such costs. 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 belong to the Company and may be used for any lawful business purpose. 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 Company will nonetheless complete the work thereof and will pay that portion of the costs thereof in excess of the Net Insurance Proceeds (or specified portion thereof) available for the payment of such costs. The Company shall not, by reason of the payment of such excess costs, be entitled to any reimbursement from the Board or to any reduction or abatement of the rentals or other payments due from the Company hereunder.

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If the Company duly exercises the option to purchase the Equipment granted in Section 11.2 hereof in accordance with the applicable provisions of said section, then neither the Company 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 any Net Insurance Proceeds then held by the Secured Party as may be necessary shall be used for the payment in full of the Series 1985-B Bonds as provided in Section 11.2 hereof. Any portion of such Net Insurance Proceeds remaining after payment of the Series 1985-B Bonds in full shall belong to the Company.

If the Equipment is destroyed, in whole or in part, or is damaged after the Series 1985-B Bonds have been paid in full, neither the Company 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 Company; provided however, that the Board will, to the extent and in the manner provided in Section 7.6 hereof, cooperate fully with the Company in carrying out such repair, replacement and restoration as the Company may, in its sole discretion, decide to undertake.

All property acquired in connection with the repair, replacement or restoration of any part of the Equipment pursuant to the provisions of this section shall be and become part of the Equipment subject to the demise hereof and the lien

of the Indenture and shall be held by the Company on the same terms and conditions as the property originally constituting the Equipment.

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 Company in the part of the Project taken and as damages to the interest of the Company in any part thereof not taken, but not including any condemnation award belonging to the Company pursuant to the provisions of Section 7.4 hereof] 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 Series 1985-B Bonds. 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 Series 1985-B Bonds, the Secured Party shall be entitled to collect and hold the entire condemnation award in respect of such taking until such award shall be applied in accordance with the provisions of this subsection. The Lease shall terminate (except as to the provisions of this subsection and any other provisions hereof which are expressly stated herein to survive the termination of the Lease) as of the thirtieth (30th) day after the receipt by the Secured Party of the final installment of the entire condemnation award in respect of such taking, unless the Company has theretofore exercised the option to purchase the Equipment granted in Section 11.2 hereof or has otherwise terminated the Lease in accordance with the provisions hereof. On or before the date on which the Lease shall terminate pursuant to this subsection, the Company will pay to the Secured Party, for the account of the Board, a special installment of Basic Rent as, when added to any amount held in the Acquisition Fund, and the condemnation award will be sufficient to pay, redeem and retire all the then outstanding Series 1985-B 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 amounts owed to the Board or the Secured Party by the Company pursuant to the Lease or the Indenture. The payment of any additional Basic Rent required by this subsection shall be made by the Company in funds that will be immediately available to the Secured Party as of the opening of business on the date on which the Lease shall terminate. Any portion of the Net Condemnation Award not needed for payment of the Series 1985-B Bonds shall belong to the Company.

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(b) Taking of Less than Substantially All the Project Prior to Full Payment of the Series 1985-B Bonds. If less than substantially all the Project is taken by such exercise of the power of eminent domain, prior to full payment of the Series 1985-B Bonds, all obligations of the Company under the Lease which are still capable of performance

(including, without limitation, the obligation of the Company to pay the Basic Rent and all other amounts payable hereunder) shall continue in full force and effect. The Secured Party shall be entitled to collect, hold and apply all of the Net Condemnation Award in respect of any such taking. The Net Condemnation Award in respect of any such taking shall be applied by the Secured Party or at its direction, for one or more of the following purposes, with the amount, if any, to be applied to each such purpose to be determined by the Secured Party in the exercise of its sole judgment:

(1) payment of the costs of repairing, restoring, modifying, relocating or rearranging any portions of the Equipment not taken but damaged or adversely affected by such taking, all under such circumstances and upon such terms as shall be specified by the Secured Party and as shall not change the character of the Equipment to such extent that it will not constitute a "project" within the meaning of the Act;

(2) payment of the costs of acquiring (by construction, purchase or otherwise) such additional facilities and equipment as the Secured Party may direct, which facilities and equipment (i) shall be of such nature as to constitute 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 Equipment and made available for use by the Company, without the payment of additional rent hereunder, to the same extent as if such facilities and equipment had originally constituted part of the Equipment and had been specifically demised hereby; or

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(3) the redemption of Bonds prior to maturity in accordance with the terms of the Indenture and on the earliest practicable date permitted thereby.

In the event that the Secured Party determines to apply the Net Condemnation Award (or any specified portion thereof), pursuant to the provisions of subparagraphs (1) or (2) of this subsection, for payment of the costs of repairing, restoring, modifying, relocating or rearranging any part of the Equipment or for payment of the costs of acquiring additional property to become part of the Equipment, as the case may be, the Board, at the request of the Company, will undertake in its own name such repair, restoration, modification, relocation or rearrangement or such acquisition of additional property, and in such case the Secured Party will use such award (or specified portion thereof) to pay the costs of such undertakings for the account of the Board. The Secured Party shall establish a special construction fund to apply the Net Condemnation Award (or specified portion thereof) for the payment of the costs of repairing, restoring, modifying, relocating or rearranging any part of the Equipment or for payment of the costs of acquiring additional property, as the case may be, and such award (or specified portion thereof) shall be

deposited in such fund and held therein, invested to the extent not immediately required for the payment of such costs, and disbursed by the Secured Party as required for the payment of such costs.

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 belong to the Company and may be used for any lawful business purpose. 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 Company will nonetheless complete such repair, restoration, modification, relocation or rearrangement or the acquisition of such additional property, as the case may be, and will pay that portion of the costs thereof in excess of the amount of the Net Condemnation Award (or specified portion thereof) available for the payment of such costs. The Company shall not, by reason of the payment of such excess costs, be entitled to any reimbursement from the Board or to any reduction or abatement of the rentals and other payments due from the Company hereunder.

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(c) Taking of All or Substantially All the Project After Full Payment of the Series 1985-B Bonds. If, after the full payment of the Series 1985-B Bonds, 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 Company. The Lease shall terminate as of the date on which the final condemnation award is received by the Company, and the Board and the Company 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 the Series 1985-B Bonds. If, after full payment of the Series 1985-B Bonds, 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 Company 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 and belong to the Company; provided, however, that the Board will, to the extent and in the manner provided in Section 7.6 hereof, cooperate fully with the Company 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 Company may, in its sole discretion, deem necessary or desirable.

If the Company duly exercises the option to purchase the Project granted in Section 11.2 hereof in accordance with the applicable provisions of said section, then neither the Company 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 any part of the Net Condemnation Award then held by

the Company as may be necessary shall be used for the payment in full of the Series 1985-B Bonds as provided in Section 11.2 hereof. Any portion of such Net Condemnation Award remaining after payment in full of the Series 1985-B Bonds shall belong to the Company.

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 and all other amounts payable by the Company hereunder) 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 Company shall be entitled to receive the entire condemnation award made therefor, whether by way of damages, rent or otherwise. If such taking occurs during the Lease Term but the period of such taking expires after the expiration of the Lease Term, the Company 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 Company exercises either of the options to purchase the Project granted in Sections 11.2 and 11.3 hereof, the Company (rather than the Board) shall be entitled to receive the remainder of such award (if any).

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Section 7.4 **Condemnation of Company-Owned Property.** The Company shall be entitled to any condemnation award or portion thereof made for damages to or the taking of its 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 Company 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 Company, the Company shall be responsible for all attorney's fees and other expenses properly allocable to the taking of its own property.

Section 7.5 **Cooperation of the Board in the Conduct of Condemnation Proceedings.** The Board will cooperate fully with the Company 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 Company 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 Company.

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 Company determines, in accordance with any applicable provision of this Article VII, 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, if requested by the Company, 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 Company has approved both the form and substance of such contract and such legend is signed on behalf of the Company by an authorized representative thereof. 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 Company or from any other moneys made available to the Board by the Company under the provisions of the Lease.

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ARTICLE VIII

PARTICULAR COVENANTS OF THE COMPANY

Section 8.1 **Release and Indemnification Covenants.** The Company releases the Board (and each director, officer and employee thereof) and the Secured Party from, and will indemnify and hold the Board (and each director, officer and employee thereof) and the Secured Party 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, arising out of, resulting from, or in any way connected with the Equipment, including, without limiting the generality of the foregoing, (i) any actions relating to the acquisition and installation of the Equipment and (ii) the leasing of the Equipment to the Company and the condition, use, possession or management of the Equipment during the Lease Term; provided, however, that the Company shall not be obligated (1) to indemnify the Board (or any director, officer or employee thereof) or the Secured Party against any claim, liability or loss resulting from willful misconduct or gross negligence on the part of any such indemnifiable party or (2) to indemnify any director, officer or employee of the Board against any claim, liability or loss in any way connected with the Equipment 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 or employee.

The Company acknowledges that it has furnished to prospective purchasers of the Series 1985-B Bonds certain information concerning the business and financial condition of the Company and the Guarantor, and the Company further acknowledges that it has sought and received the assistance and cooperation of the Board in connection with the offering and sale of the Series 1985-B Bonds. The Company will indemnify, hold harmless and defend the Board (and each director, officer and employee 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 Company to the purchaser of the Series 1985-B Bonds from the Board, or the omission or alleged omission to state in any such information any material fact necessary to make the 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 Company (or any other Person authorized to act on behalf of either the Company) in connection with the offering and sale of the Series 1985-B Bonds.

The Company will pay or reimburse all legal or other expenses reasonably incurred by the Board (and each director, officer and employee thereof), or the Secured Party, 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 Company 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 or employees, or the Secured Party) in respect of which indemnity may be sought against the Company under the provisions of this section, such indemnifiable party shall, as a condition of the Company's liability under the provisions of this section, be obligated to notify promptly the Company in writing of the commencement of such action or proceeding and shall thereafter forward to the Company a copy of every summons, complaint, pleading, motion or other process received with respect to such action or proceeding. The Company 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 Company 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 Company, in its sole discretion, shall determine, provided that the Board shall have the right to select its own Counsel in any such matter; provided, further, that any Counsel selected by the Board shall be subject to the approval of the Company, which approval shall not be unreasonably withheld. In the event that any claim is asserted against the Board which would not be payable solely out of the proceeds of any of the Series 1985-B Bonds or other funds advanced to the Board by the Company or out of the proceeds of the sale or leasing of the Equipment (viz., a general, not a limited, claim), the Company shall at the request of the Board provide an indemnity bond with sureties satisfactory to the Board. Any other provision of this section to the contrary notwithstanding, the Company 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 Company's consent, irrespective of whether the Company had,

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prior to such settlement, exercised its right to assume the defense of such indemnifiable party in connection with such action or proceeding.

Anything to the contrary herein contained notwithstanding, the covenants of the Company contained in this section shall, with respect to any claim, liability or loss for which the Company is obligated to provide indemnity, remain in full force and effect after the termination or expiration 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 Company 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 Company against the party bringing such action or proceeding but may not be asserted by the Company against the indemnifiable party in order to avoid performing any of its obligations under this section.

Section 8.2 **Inspection of the Project.** So long as any of the Series 1985-B Bonds are outstanding, the Company will permit the Board and the Secured Party and their duly authorized representatives at all reasonable times to examine and inspect the Equipment or any part thereof.

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Section 8.3 **Provisions Relating to Assignment and Subleasing by Company.** The Company will not assign, transfer, convey or alienate the Lease, the leasehold interest created thereby or any interest of the Company in the Lease or the Project, nor will it sublease the Project, in whole or in part, without the prior written consent of the Secured Party, which consent shall not be unreasonably withheld. 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 Company then has under the Lease, nor shall any such assignment (except an assignment resulting from or incident to a consolidation, merger or transfer under the conditions specified in and meeting the requirements of Section 8.3 hereof) or subleasing or any dealings or transactions between the Board or the Secured Party or any sublessee or assignee in any way relieve the Company from primary liability for any of its obligations hereunder. Thus, in the event of any such assignment or subleasing, the Company shall, unless such assignment results from or is incident to a consolidation, merger or transfer under the conditions specified in and meeting the requirements of Section 8.3 hereof, continue to remain primarily liable for payment of the rentals herein provided to be paid by it and for performance and observance of the other agreements and covenants on its part herein provided to be performed and observed by it.

Section 8.4 **Covenants with Respect to Exemption of Interest on Series 1985-B Bonds from Federal Income Taxation.** The Series 1985-B 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 Company covenant with each other and with the Secured Party for the benefit of the Holders of any Series 1985-B Bonds, present and future, that neither of them will cause or permit the Series 1985-B Bond Proceeds to be used in a manner which would cause the interest on the Series 1985-B Bonds to lose the exemption from federal income taxation conferred by Section 103(b)(6) of the Code and the applicable regulations thereunder.

The Company will file, or will cause to be filed, with the Internal Revenue Service all statements and reports required, by Section 103(l) of the Code and the applicable regulations thereunder, to be so filed as a condition to continued qualification of the Series 1985-B Bonds as a small issue the interest on which is exempt from federal income taxation.

The Company will file, or cause to be filed, with appropriate governmental authorities (whether federal, state or local) all documents that may from time to time be required in order to ensure that the Series 1985-B Bonds shall be included within the maximum amount of so-called "private activity" bonds permitted to be issued in calendar year 1985 in the State of Alabama, all in accordance with the provisions of Section 103(n) of the Code and the applicable regulations thereunder.

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Section 8.5 **No-Arbitrage Covenants.** Neither the Board nor the Company 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-B Bonds, or any revenues from the Equipment accumulated by the Board, if, as a result of such action by the Board or the Company, or the omission of the Board or the Company to take such action, as the case may be, such proceeds or revenues would be invested in a manner causing the Series 1985-B Bonds to be "arbitrage bonds" within the meaning of Section 103(c) of the Code and the applicable regulations thereunder.

Section 8.6 **Covenants Regarding §103(c)(6) of the Code.** (a) The Company will not permit the gross proceeds of the Series 1985-B Bonds to be invested or reinvested in a manner that would cause the Series 1985-B Bonds to be "arbitrage bonds" within the meaning of Section 103(c)(6) of the Code. The Company will make timely rebate payments to the United States of America as required by Section 103(c)(6) of the Code.

(b) Not later than 30 days after the end of each bond year (the 12-month period beginning on the date of issuance of the Series 1985-B Bonds and each anniversary date thereafter), the Company shall furnish to the Secured Party and the Holders of the Series 1985-B Bonds a certificate by an Authorized Company Representative stating in effect that as of such date (i) no investment or reinvestment of gross proceeds of the Series 1985-B Bonds had been made that would cause the Series 1985-B Bonds to be "arbitrage bonds" under Section 103(c)(6) of the Code and (ii) the Company has made all rebate payments to the United States of America necessary to prevent the Series 1985-B Bonds from being "arbitrage bonds" under Section 103(c)(6) of the Code. If proceeds of the Series 1985-B Bonds

are not fully expended within 6 months from the date of issue, such certificate shall be accompanied by an approving opinion of Bond Counsel or a certificate by an Independent Certified Public Accountant in form and substance reasonably satisfactory to the Secured Party.

(c) The Company will maintain all records required by Section 103(c)6) of the Code and the applicable regulations thereunder and shall furnish such data or information regarding compliance with Section 103(c)(6) of the Code as the Secured Party or any Holder of a Series 1985-B Bond shall reasonably request in writing.

Section 8.7 **Financial Statements.** The Company will maintain proper books of record and account with respect to the Project in which it will make full and correct entries of all its business activities with respect to the Project in accordance with sound accounting practice. For so long as any of the Series 1985-B Bonds shall be outstanding, the Company will furnish, or cause to be furnished, to the Secured Party the following:

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(a) as soon as available and in any event within thirty (30) days after the end of any fiscal quarter of the Company, a consolidated balance sheet and income statement of the Company, containing such additional or explanatory information and being in such form as shall be reasonably required by the Secured Party;

(b) as soon as available and in any event within one hundred twenty (120) days after the end of each fiscal year of the Company, copies of the consolidated balance sheet of the Company as of the end of such fiscal year and copies of the related consolidated statement of income and retained earnings and consolidated statement of changes in financial position of the Company for such fiscal year, all in reasonable detail and stating in comparative form the respective consolidated figures as of the end and for the previous fiscal year and all accompanied by a report thereon of independent certified public accountants selected by the Company and acceptable to the Secured Party, which report shall contain a statement to the effect that such financial statements have been prepared in accordance with generally accepted accounting principles consistently applied (except for changes in accordance with generally accepted accounting principles with which such accountants concur) and that the examination of such accountants in connection with such financial statements has been made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as were considered necessary in the circumstances or to such other effect as shall, under the rules and practices, then current in the accounting profession, be the equivalent of the foregoing;

(c) such information relating to the performance or observance of the terms of the Lease and the Series 1985-B Guaranty and the financial condition of the Company and the Guarantor as the Secured Party may from time to time reasonably request;

(d) immediately upon becoming aware of the existence of any default by the Company or Guarantor in the performance or observance of any of the covenants set forth in the Lease or the Series 1985-B Guaranty, a written notice specifying the nature and existence thereof and what action the Company or Guarantor is taking and proposes to take with respect thereto; and

(e) immediately upon becoming aware of any action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency which, if adversely determined, might impair the ability of the Company and Guarantor to perform the respective obligations under the Lease or the Series 1985-B Guaranty, impair the right of the Company to carry on its business substantially as now conducted, or materially and adversely affect the business, operations, properties, assets or condition (financial or otherwise) of the Company, a written notice describing such action, suit or proceeding and what action the Company or Guarantor is taking or proposes to take with respect thereto.

Section 8.8 **Further Assurances.** The Company will, at its own expense, take all actions that, in the judgment of the Secured Party, may at the time and from time to time be necessary to perfect, preserve, protect and secure the interests of the Board and the Secured Party, or either, in and to the Equipment and the revenues therefrom pledged and assigned in the Indenture, including, without limitation, the filing of all financing and continuation statements that may at the time be required under the Alabama Uniform Commercial Code and all endorsements to certificates of title to any item of the Rolling Stock that may at the time be required under the Alabama Uniform Certificate of Title Act.

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ARTICLE IX

CERTAIN PROVISIONS RELATING TO THE EQUIPMENT AND THE SERIES 1985-B BONDS

Section 9.1 **Granting Security Interest in the Equipment by the Board.** It is understood and agreed that the Board will grant a security interest in the Equipment to the Secured Party as security for the payment of the Series 1985-B Bonds, subject to the Lease (which Lease and the estate of the Company hereunder shall be prior and superior to the lien of the Indenture), and will assign its interest (other than its right to require the Company to pay certain expenses as provided in Sections 5.4 and 10.4 hereof and the indemnification rights contained in Section 8.1 hereof) in the Lease, and pledge any moneys receivable hereunder, to the Secured Party as security for payment of the principal of and the interest and premium (if any) on the Series 1985-B Bonds. It is further understood and agreed that in the Indenture the Board will obligate itself to follow the instructions of the Secured Party or the Holders of the Series 1985-B 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 Secured Party of the Board's interest in the Lease, the

Secured Party shall have all rights and remedies herein accorded the Board (other than the aforesaid expense payment and indemnification rights), and any reference herein to the Board shall be deemed, with the necessary changes in detail, to include the Secured Party; and the Secured Party and the Holders of the Series 1985-B Bonds shall be deemed to be third party beneficiaries of the covenants and agreements on the part of the Company 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 Company contained in the Lease to the same extent as if they were parties hereto. Subsequent to the issuance of the Series 1985-B Bonds and prior to the payment of the Series 1985-B Bonds in full, the Board and the Company shall have no power to modify, alter, amend or (except as specifically authorized herein) terminate the Lease without the prior written consent of the Secured Party and then only as provided in the Indenture. So long as an Event of Default shall not have occurred and be continuing, the Board will not amend the Indenture or any agreement supplemental thereto without the prior written consent of the Company.

Without the prior written request or consent of the Company, the Board will not, so long as an Event of Default shall not have occurred and be continuing, hereafter issue any bonds or other securities (including refunding securities), other than the Series 1985-B Bonds, that are payable out of or secured by a pledge of the revenues and receipts derived by the Board from the Equipment, nor, without such consent, will the Board, so long as an Event of Default shall not have occurred and be continuing, hereafter place any mortgage or other encumbrance (other than the Indenture) on the Equipment or any part thereof.

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Section 9.2 **References to Series 1985-B Bonds Ineffective after Payment Thereof.** Upon full payment of the Series 1985-B Bonds and cancellation, satisfaction and discharge of the Indenture in accordance with the provisions of Section 12.1 thereof, all references in the Lease to the Series 1985-B Bonds and the Secured Party shall be ineffective and neither the Secured Party, nor the Holders of any of the Series 1985-B Bonds shall thereafter have any rights hereunder, saving and excepting any that shall have theretofore vested.

If the Series 1985-B Bonds are fully paid prior to the end of the Lease Term, the Company shall be entitled to use of the Equipment for the remainder of the Lease Term without the payment of any further Basic Rent (other than additional Basic Rent resulting from the occurrence of a Series 1985-B Determination of Taxability) but otherwise on all the same terms and conditions hereof.

Section 9.3 **Disposition of Surplus Moneys after Full Payment of Series 1985-B Bonds.** The Board hereby assigns to the Company all surplus moneys (if any) that may remain in the Acquisition Fund or that may otherwise be held by the Secured Party after the Series 1985-B Bonds have been fully paid, such assignment to be subject to the condition that the Lease shall not have been terminated prior to full payment of the Series 1985-B Bonds as a result of the occurrence of an Event of Default. The Board will provide in the Indenture for such surplus moneys to be paid to the Company in accordance with such assignment. It is understood and agreed that surplus moneys held by the Secured Party shall not include any amounts so held

for payment of matured but unpaid Series 1985-B Bonds, Series 1985-B Bonds called for redemption but not yet redeemed and matured but unpaid interest. The provisions of this section shall survive the expiration or termination of the Lease.

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 Company 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] within five (5) days of the date that such installment or such payment shall become due and payable by the terms of the Lease;

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

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(c) any dissolution or liquidation of the Company or any consolidation or merger involving the Company carried out in violation of the provisions of Section 8.3 hereof;

(d) any warranty or representation of the Company shall prove to have been false or incorrect in any material respect;

(e) failure by the Company to perform or observe any agreement, covenant or condition required by the Lease to be performed or observed by it [other than the agreements and covenants referred to in the preceding clauses (a), (b) and (c) 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 Company to perform or observe the agreement, covenant or condition with respect to which it is delinquent shall have been given to the Company by the Board or the Secured Party, unless (i) the Board and the Secured Party shall agree in writing to an extension of such period prior to its expiration, or (ii) during such thirty-day period or any extension thereof, the Company has commenced and is diligently pursuing appropriate corrective action, or (iii) the Company is by reason of force majeure at the time prevented from performing or observing the agreement, covenant or condition with respect to which it is delinquent; provided, however, that no period during which the Company is by reason of force majeure prevented form performing or observing any such agreement, covenant or condition shall exceed sixty (60) days;

(f) an "Event of Default" under the Series 1985-B Guaranty as such term is therein defined and used;

(g) institution by the Company of proceedings to be adjudicated a bankrupt or insolvent, or consent by the Company to the filing of a bankruptcy or insolvency proceeding against it, or the filing by 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 Company to the institution of proceedings thereunder or to the filing of any such petition, or consent by the Company to the appointment of, or the taking of possession of any of its property by, a receiver, liquidator, trustee, custodian or assignee in bankruptcy or insolvency for the Company or for all or a major part of its property, or an assignment by the Company for the benefit of its creditors, or a written admission by the Company of its inability to pay its debts generally as they become due, or the failure by the Company generally to pay its debts as such debts become due, or the taking of any corporate action by 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 Company or adjudging the Company to be a bankrupt or insolvent or approving as properly filed a petition seeking reorganization of the Company or the arrangement, adjustment or composition of its 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, liquidator, trustee, custodian or assignee in bankruptcy or insolvency for the Company or for all or a major part of its property, or for the winding up or liquidation of its affairs, which decree or order shall have remained in force undischarged or unstayed for a period of sixty (60) days; or

(i) a judgment for the payment of money exceeding $10,000 shall be entered against the Company and remain unsatisfied for thirty (30) days without a stay of execution.

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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 Company. The Company will, to the extent that it may lawfully do so, use its best efforts to remedy, alleviate or circumvent any cause or causes preventing it from performing its agreements and covenants hereunder;

provided however, that the settlement of strikes, lockouts and other labor disputes shall be entirely within the discretion of the Company, and the Company shall not be required to settle strikes, lockouts and other labor disputes by acceding to the demands of the opposing party or parties when such course is in its judgment against its best interests.

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

(a) declare immediately due and payable Basic Rent in an amount equal to the principal amount of all outstanding Series 1985-B Bonds plus interest accrued on such Series 1985-B 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 Series 1985-B Bonds are also declared due and payable pursuant to subsection (a) of Section 10.2 of the Indenture;

(b) terminate the Lease, take possession of the Equipment and thereafter lease or sell all or any thereof for the account of the Board to a user of the Terminal Facilities other than the Company or remove all or any part of the Equipment from the Terminal Facilities and lease or sell the same for the account of the Board, in any event holding the Company liable for all amounts due hereunder to the date of the termination of the Lease; provided, however, that taking possession of the Equipment and removal thereof from the Terminal Facilities, whether carried out by the Board or the Secured Party, shall be subject to the provisions of Section 12.2 hereof; and

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

provided, however, that neither the Board and the Secured Party, nor the Secured Party on behalf of the Board, shall take any remedial action described in clause (b) of this section unless an Event of Default resulting from the failure of the Company to pay Basic Rent 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 Secured Party 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 be exercised from time to time and as often as may be deemed expedient. In order to entitle the Board or the Secured Party to exercise any

remedy reserved to it in this Article X, 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.** If, as a result of an Event of Default by the Company, the Board, the Secured Party or (to the extent permitted by the Indenture) any Holder or former Holder of any of the Series 1985-B Bonds 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 Company will pay the reasonable attorneys' fees and other reasonable expenses so incurred by the Board, the Secured Party or such Holder or former Holder, as the case may be.

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 Secured Party or any Bondholder 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 Company herein contained or an Event of Default (or both) and the Board, the Secured Party or such Bondholder (or all of such parties) have knowledge thereof.

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ARTICLE XI

OPTIONS

Section 11.1 **Options to Terminate the Lease During Lease Term.** The Company shall have the right, exercisable at its 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 Series 1985-B Bonds, the Company may cancel or terminate the Lease by (i) giving the Board and the Secured Party 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 Secured Party, for the account of the Board, on or before the effective date of such termination, a special installment of Basic Rent which, when added to any amounts then held in the Acquisition Fund, will be sufficient to pay, redeem and retire all the outstanding Series 1985-B 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 amounts payable to the Board or the Secured Party then owed and that will accrue until the payment, redemption and retirement of all the outstanding Series 1985-B Bonds. Upon being notified by the Company in writing of the Company's intentions in this respect and without the necessity of the moneys therefor being deposited with the Secured Party, the Board will take, or cause the Secured Party to take, all preliminary action necessary under the provisions of the Indenture to effect the payment, redemption and retirement of all the outstanding Series 1985-B Bonds.

(b) At any time after the Series 1985-B Bonds have been fully paid, the Company 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 this Lease Agreement as aforesaid notwithstanding, any obligations or liabilities of the Company 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 until paid or otherwise discharged.

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Section 11.2 **Option to Purchase Prior to Payment of Series 1985-B Bonds.** While any of the Series 1985-B Bonds are outstanding and unpaid, the Company shall have the right and option, hereby granted by the Board, to purchase the Equipment at and for a purchase price equal to the amount which, when added to any amounts then held in the Acquisition Fund, will be sufficient to pay, redeem and retire all the outstanding Series 1985-B 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 amounts payable to the Board or the Secured Party then owed and that will accrue until the payment, redemption and retirement of all the outstanding Series 1985-B Bonds.

In order to exercise such option, the Company shall give to the Board and the Secured Party written notice of its 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 fifteen (15) nor more than sixty (60) days after the date such notice is mailed or otherwise delivered. Upon receipt of such notice from the Company and without the necessity of the purchase price being deposited with the Secured Party, the Board will take, and will cause the Secured Party to take, all preliminary action necessary under the provisions of the Indenture to effect the payment, redemption and retirement of all the outstanding Series 1985-B Bonds. On the date of purchase so specified, the Company shall pay the aforesaid purchase price to the Secured Party (for the account of the Board) in immediately available funds; provided, however, that if on the date of purchase the Series 1985-B Bonds have been paid in full, the Company shall not be required to pay any such amount in order to entitle it to exercise such option. Upon receipt of the amount required by this section to be paid by the Company as the purchase price of the Equipment (if payment of any such amount is required), and if at such time the Company is not in default in payment of the rent or any other amounts due

hereunder, the Board will, by an appropriate instrument complying with the provisions of Section 11.4 hereof, transfer and convey the Equipment (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 Company.

In the event that the option granted by this section is exercised by the Company at any time after the taking of all or substantially all the Equipment under the exercise of the power of eminent domain, the date of purchase of the Equipment 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 thirtieth (30th) day after the receipt by the Company of the final installment of the entire condemnation award in respect of such taking.

Section 11.3 **Option to Purchase After Payment of Series 1985-B Bonds.** If the Company pays all rent and other amounts due hereunder, it shall have the right and option, hereby granted by the Board, to purchase the Equipment from the Board at any time during the Lease Term after payment in full of the Series 1985-B Bonds, at and for a purchase price equal to the sum of $1.00. To exercise any such purchase option, the Company shall notify the Board in writing not less than fifteen (15) 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, whereupon the Board will, by an appropriate instrument complying with the provisions of Section 11.4 hereof, transfer and convey the Equipment (in its then condition, whatever that may be) to the Company. Nothing herein contained shall be construed to give the Company any right to any rebate to or refund of any rent paid by it hereunder prior to the exercise by it of the purchase option hereinabove granted, even though such rent may have been wholly or partially prepaid.

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Section 11.4 **Options - In General.** Each of the options herein granted to the Company may be exercised by it 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 Company) must be satisfied.

In the event of the exercise by the Company of either of the options to purchase the Equipment granted in Sections 11.2 and 11.3 hereof, the Board will, after compliance by the Company with the conditions to purchase specified in the respectively applicable sections hereof, convey to the Company, by bill of sale or other appropriate instrument, the property with respect to which such option is exercised, 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 Company consented and those resulting from the failure of the Company to perform or observe any of the agreements or covenants on its part herein contained.

In case that, at the time of the exercise by the Company of either of the options to purchase the Equipment granted in Sections 11.2 and 11.3 hereof, there shall not have been collected by the Board, the Secured Party or the Company the entire insurance proceeds or condemnation award referable to any damage, destruction or condemnation with respect to the Equipment 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 Company, and the Board will take all actions necessary to cause the amount of any such proceeds or awards to be paid to the Company. The provisions of this paragraph shall survive the expiration or termination of the Lease, unless at the time of such expiration or termination the Company is in default in the payment of any amounts of money herein required to be paid by it.

ARTICLE XII

MISCELLANEOUS

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Section 12.1 **Covenant of Quiet Enjoyment. Surrender.** So long as the Company performs and observes all the covenants and agreements on its part herein contained, it shall peaceably and quietly have, hold and enjoy the Equipment 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 Company will surrender to the Board possession of all property then subject to the demise of the Lease (unless it is simultaneously purchasing such property from the Board) in its then condition, whatever that may be, subject, however, to the provisions of Section 12.2 hereof.

Section 12.2 **Concerning Removal of the Equipment Upon Expiration or Termination of the Lease.** In the event that the Lease Term expires without the Company having exercised any option herein granted to purchase the Equipment, or in the event that the Lease is terminated by the Company in accordance with the provisions hereof without the Company having exercised any such option, or in the event that the Lease is terminated by the Board or the Secured Party as the result of the occurrence and continuation of an Event of Default, then, and in any such event, the Company shall, anything herein contained to the contrary notwithstanding, have no obligation to remove the Equipment from the Terminal Facilities or to prepare the Equipment for such removal or to deliver the Equipment to the Board or the Secured Party at any location other than where it is then installed in or about the Terminal Facilities. If removal of the Equipment from the Terminal Facilities is necessary for the Board or the Secured Party to gain possession thereof, all costs and expenses necessary for the disconnection and removal of the Equipment shall be paid by the Board. In such circumstances the Company will give the Board or the Secured Party such reasonable access to the Terminal Facilities as shall be necessary for the removal of the Equipment; provided, however, that, regardless of the Company's obligation to surrender possession of the Equipment to the Board or the Secured Party upon the expiration or termination of the Lease, neither the Board nor the Secured Party shall have any right to remove any of the Equipment from the Terminal Facilities unless (i) the removal thereof will not adversely affect

the structural integrity of any building or other structure or will not cause any material damage to any such building or structure or (ii) if such removal adversely affects the structural integrity of any such building or other structure or causes any material damage to any such building or structure, the Board or the Secured Party promptly thereafter, at the expense of Persons other than the Company, restores the structural integrity of such building or structure or repairs such damage, as the case may be.

Section 12.3 **Retention of Title to the Equipment by the Board.** Without the prior written consent of the Company, 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 Equipment (except as provided in Section 8.5 of the Indenture or to the Company as provided in Article XI hereof), (ii) mortgage or otherwise encumber the Equipment or any part thereof (except as provided in Section 9.1 hereof), or (iii) dissolve or do anything that will result in the termination of its corporate existence (except as provided in Section 8.5 of the Indenture).

Section 12.4 **Exemption from Taxation.** As provided in the Act, as now existing, the Board warrants and covenants that the Series 1985-B Bonds and the income therefrom, as well as the Equipment and any revenues derived by the Board from the leasing or sale thereof, shall be exempt from all taxation in the State of Alabama; provided, however, that the Company agrees to make a payment in lieu of taxes to the Board equal to 21 mills with respect to the assessed valuation of the Equipment and 26-1/2 mills with respect to the assessed valuation of the Terminal Facilities.

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Section 12.5 **This Lease a Net Lease.** The Company recognizes and understands that it is the intention hereof that the lease herein made shall be a net lease and that until the Series 1985-B Bonds are fully paid all Basic Rent (except to the extent otherwise provided in Section 5.5 hereof) shall be available for payment of the principal and the interest and premium (if any) on the Series 1985-B Bonds. The Lease shall be construed to effectuate such intent.

Section 12.6 **Statement of Intention Regarding Certain Tax Matters.** The Board and the Company acknowledge and agree that it is their mutual intention that the Company, for federal and state income tax purposes, will be entitled to all deductions from gross income and all credits against tax with respect to the Equipment (including, but not limited to, deductions for depreciation and investment tax credits) and that for such purposes the Lease will be deemed to be a financing of the Equipment.

Section 12.7 **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
Shelby County
Shelby County Courthouse
Columbiana, Alabama 35051
Attention: Chairman of the Board of Directors

(b) If to the Company:

Wiley C. Sanders, Jr. d/b/a Southern Truck Leasing
Post Office Box 707
Henderson Road
Troy, Alabama 36081

(c) If to the Guarantor:

Wiley C. Sanders, Jr.
Post Office Box 707
Henderson Road
Troy, Alabama 36081

(d) If to the Secured Party:

AmSouth Bank N.A.
Post Office Box 11007
Birmingham, Alabama 35288
Attention: Commercial Loan Department

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Notices or other communications to Bondholders shall be mailed or otherwise delivered to their respective addresses as shown on the registry books of the Secured Party pertaining to the Series 1985-B Bonds.

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 any of the above named parties pursuant to the provisions of the Lease shall also be given to those of such 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.

Section 12.8 **Concerning Certain Prior and Contemporaneous Agreements.** The Lease, the Indenture and the Series 1985-B Guaranty shall completely and fully supersede all other prior or contemporaneous agreements, both written and oral, between the Board and the Company, or between the Board and the Guarantor, relating to the acquisition and installation or basing of the Equipment and the leasing thereof to the Company, and if any provision of the Inducement Agreement

is in conflict with any provision of any of the Lease, the Indenture or the Series 1985-B Guaranty, such provision of the Inducement Agreement shall be deemed amended or modified to the extent necessary to avoid such conflict, all to the end that the Board and the Company shall look to the Lease, the Indenture and the Series 1985-B Guaranty for ultimate definition and determination of their respective rights, liabilities and responsibilities respecting the Equipment and the Series 1985-B Bonds. The Company and the Board acknowledge that they have no outstanding agreement, commitment or understanding, either express or implied, for the grant to the Company or any Affiliate thereof of any option to purchase the Equipment or any part thereof or of any option to renew the term of the Lease, other than those contained in Article XI hereof.

Section 12.9 **Limited Liability of the 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 Series 1985-B Bonds, moneys made available by the Company to the Board pursuant to the provisions hereof, and the revenues and receipts to be derived by the Board from the Equipment, including insurance proceeds and condemnation awards. Further, none of the directors, officers, employees or agents (other than the Company as agent of the Board in connection with the acquisition and installation or basing of the Equipment) 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 their respective offices that may be necessary to enable the Board to perform the covenants and agreements on its part herein contained.

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Section 12.10 **Binding Effect.** The Lease shall inure to the benefit of, and shall be binding upon, the Board, the Company and their respective successors and assigns. To the extent provided herein and in the Indenture, the Secured Party and the Bondholders (including, in certain cases, former Bondholders), and certain indemnifiable parties specified in Section 8.1 hereof 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 12.11 **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 Company specifically acknowledges and agrees that the several purchase options granted it herein 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 Company from fully performing and observing any of the agreements and covenants on its part herein contained.

Section 12.12 **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 12.13 **Governing Law.** The Lease and the rights and obligations of the parties hereto (including third party beneficiaries) shall be governed, construed and interpreted according to the laws of the State of Alabama.

IN WITNESS WHEREOF, the Board and the Company have caused this Lease Agreement to be executed in their respective corporate names, have caused their corporate seals to be hereunto affixed and have caused this Lease Agreement to be attested, all by their duly authorized officers, in six (6) counterparts, each of which shall be deemed an original, and have caused this Lease Agreement to be dated as of December 1, 1985, delivered by both said parties on December, 12 1985.

THE INDUSTRIAL DEVELOPMENT BOARD OF SHELBY COUNTY

By _____
Chairman of its Board of Directors

ATTEST:

_____
Its Secretary

[S E A L]

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_____
WILEY C. SANDERS, JR.

WITNESS:

_____

STATE OF ALABAMA)
:
SHELBY COUNTY)

I, the undersigned, a Notary Public in and for said county in said state, hereby certify that M.M. Mego, Jr., whose name as CHAIRMAN of the Board of Directors of THE INDUSTRIAL DEVELOPMENT BOARD OF SHELBY COUNTY, a public corporation 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 within instrument, he, as such officer and with full authority executed the same voluntarily on the day the same bears date for and as the act of said public corporation.

GIVEN under my hand and official seal of office, this 12th day of December, 1985.

[NOTARIAL SEAL]

Doris S. Wedgeford
Notary Public

My Commission Expires: 4-9-89

STATE OF ALABAMA)
:
JEFFERSON COUNTY)

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I, the undersigned, a Notary Public in and for said county in said state, hereby certify that WILEY C. SANDERS, JR., 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 within instrument, he executed the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal of office, this 12th day of December, 1985.

[NOTARIAL SEAL]

Doris S. Wedgeford
Notary Public

My Commission Expires: 4-9-89

EXHIBIT A
to
LEASE AGREEMENT
between
THE INDUSTRIAL DEVELOPMENT BOARD
OF SHELBY COUNTY
and
WILEY C. SANDERS, JR. d/b/a SOUTHERN TRUCK LEASING
dated as of December 1, 1985

The Terminal Site referred to in the Lease Agreement of which this Exhibit A forms a part consists of the following described parcel of land located wholly within the unincorporated area of Shelby County, Alabama:

A tract of land situated in the SW 1/4 of the NE 1/4 of Section 4, Township 22 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows: Commence at the Southeast corner of the SE 1/4 of the NE 1/4 of Section 4, Township 22 South, Range 2 West; thence North along the East line of said 1/4 1/4 section 143.75 feet; thence 88 deg. 25 min. 30 sec. left 618.37 feet to a railroad spike found; thence 0 deg. 54 min. 45 sec. left 31.01 feet to a point; thence 91 deg. 15 min. 25 sec. right 29.88 feet to an iron pin found; said iron pin lying on the north margin of a paved road and being the Southeast corner of "Alabama Plastics" property; thence 91 deg. 15 min. 25 sec. left along the South line of the "Alabama Plastics" property and the North margin of said paved road 417.55 feet to an iron pin found being the Southwest corner of "Alabama Plastics" property; thence continue along last mentioned course and the North margin of said paved road 150.00 feet to a point; thence 01 deg. 21 min. 08 sec. right, continue along the north margin of said paved road 310.74 feet to a point on the Eastern right of way of U. S. Highway 31; thence 53 deg. 17 min. 03 sec. right, along and with said right of way, 3.09 feet to an existing concrete monument; thence 21 deg. 49 min. 31 sec. right, along and with said right of way 555.70 feet to the Point of Beginning; thence continue along the last mentioned course and the Eastern right of way of U. S. Highway 31, 329.20 feet to a point; thence 104 deg. 53 min. 26 sec. right 384.60 feet to a point; thence 90 deg. 00 min. 00 sec. right 318.14 feet to a point; thence 90 deg. 00 min. 00 sec. right 300.00 feet to the Point of Beginning, forming a closing interior angle of 104 deg. 53 min. 26 sec. and being situated in Shelby County, Alabama.

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EXHIBIT B
to
LEASE AGREEMENT
between
THE INDUSTRIAL DEVELOPMENT BOARD
OF SHELBY COUNTY
and
WILEY C. SANDERS, JR. d/b/a/ SOUTHERN TRUCK LEASING
dated as of December 1, 1985

The Equipment referred to in the Lease Agreement of which this Exhibit B forms a part consists initially of the following items:

No. of Items	Item
35	1986 Great Dane Trailers

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

1985 DEC 17 AM 9:28

Rec. 14.00
Ind. 1.00
14.00

JUDGE OF PROBATE