

1027

SUPPLEMENTAL LEASE AGREEMENT

between

**THE HEALTH CARE AUTHORITY OF
SHELBY COUNTY**

and

FLOWARR MANAGEMENT, INC.

Dated as of December 1, 1986

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Relating to

\$190,000

**THE HEALTH CARE AUTHORITY OF
SHELBY COUNTY**

**First Mortgage Gross Revenue Bonds
(The Central Alabama Adolescent Chemical
Dependency Treatment Facility)
Series 1986**

↓
HASKELL SLAUGHTER & YOUNG
PROFESSIONAL ASSOCIATION
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SUPPLEMENTAL LEASE AGREEMENT between **THE HEALTH CARE AUTHORITY OF SHELBY COUNTY**, a public corporation and instrumentality organized under the laws of the State of Alabama (herein called the "Authority"), and **FLOWARR MANAGEMENT, INC.**, a corporation organized and existing under the laws of the State of Alabama (herein called the "Company"),

RECITALS

The Authority and the Company have heretofore entered into a Lease Agreement dated as of December 1, 1985 (said Lease Agreement being herein called the "Lease"), in and by which the Authority leased to the Company certain real property described in the Lease (said real property being herein called the "Project Site"), the industrial facility located thereon (said facility being herein called the "Project Building"), and the furniture, furnishings, fixtures, machinery and equipment used in the operation of the Project Building (said furniture, furnishings, fixtures, machinery and equipment being herein called the "Project Equipment"). The costs of acquiring the Project Site, constructing the Project Building and acquiring and installing the Project Equipment (said costs being herein together called the "Project Development Costs") were permanently financed by the issuance by the Authority of \$5,225,000 in principal amount of its First Mortgage Gross Revenue Bonds (The Central Alabama Adolescent Chemical Dependency Treatment Facility), Series 1985, dated September 1, 1985 (herein called the "Series 1985 Bonds"), which were issued under and are secured by a Mortgage and Trust Indenture dated as of December 1, 1985 (herein called the "Indenture"), between the Authority and National Bank of Commerce of Birmingham (which bank, in its capacity as trustee under the Indenture, as well as any successor trustee thereunder, is herein called the "Trustee").

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Under the provisions of Article VIII of the Indenture, the Authority has reserved the right to issue, upon compliance with the conditions precedent set forth in said Article VIII, additional bonds, to be secured on a parity with the Series 1985 Bonds, for the purpose of obtaining funds with which to pay the Project Development Costs in the event that the available proceeds from the sale of the Series 1985 Bonds are insufficient to pay all such costs. The Authority agreed in the Lease that, upon being requested so to do by the Company, it would issue additional bonds for the aforesaid purpose and use its best efforts to sell such bonds on the terms and conditions specified by the Company.

The Company has informed the Authority that the available proceeds from the sale of the Series 1985 Bonds are insufficient to pay all the Project Development Costs and has requested that the Authority issue additional bonds for the purpose of obtaining funds with which to pay the balance of such costs. Accordingly, the Authority proposes to issue, upon compliance with all conditions precedent specified in the Indenture, \$190,000 in principal amount of its First Mortgage Gross Revenue Bonds (The Central Alabama Adolescent Chemical Dependency Treatment Facility), Series 1986, to be dated the date of this issuance (herein called the "Series 1986 Bonds"). The proceeds of the Series 1986 Bonds will be

applied by the Authority to the payment of the expenses of issuing the Series 1986 Bonds and the payment of the balance of the Project Development Costs. The Series 1986 Bonds will be secured, on a parity with the Series 1985 Bonds, by a pledge and assignment of the Authority's interest in the Lease and this Supplemental Lease Agreement and by a pledge and assignment of the revenues and receipts to be derived by the Authority from the leasing or sale of the Project hereinafter referred to and will be issued under and additionally secured by the Indenture and by a Supplemental Indenture dated as of December 1, 1986, between the Authority and the Trustee (herein called the "Supplemental Indenture").

NOW, THEREFORE, in consideration of the respective agreements on the part of the Authority and the Company hereinafter contained, the Authority and the Company do hereby agree as follows:

ARTICLE I DEFINITIONS

Section 1.1 New Definitions. Unless the context clearly indicates a different meaning, the following words and phrases, as used in this Supplemental Lease, shall have the following respecting meanings:

"Code" means the Internal Revenue Code of 1986, as amended and at the time in force and effect.

"Governmental Unit" means a "governmental unit" within the meaning of Section 147(f) of the Code and the applicable regulations thereunder.

"Series 1986 Bond Proceeds" means the Series 1986 Principal Proceeds and the Series 1986 Investment Proceeds.

"Series 1986 Bonds" means those of the Bonds bearing the designation First Mortgage Gross Revenue Bonds (The Central Alabama Adolescent Chemical Dependency Treatment Facility), Series 1986 and authorized to be issued in Article 2.1 of the Supplemental Indenture.

"Series 1986 Determination of Taxability" means a determination, made in accordance with the provisions of Section 4.3 hereof, that the interest income on any of the Series 1986 Bonds is subject to federal income taxation as a result of the occurrence of a Series 1985 Event of Taxability.

"Series 1986 Event of Taxability" means the date on which the interest income on any of the Series 1986 Bonds becomes subject to federal income taxation as a result of any of the conditions or circumstances set forth in Section 4.3 hereof.

"Series 1986 Guaranty" means that certain Guaranty Agreement dated as of December 1, 1986, between the Company and the Trustee, in and by which the

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Company has unconditionally guaranteed the payment by the Authority of the principal of and the interest and premium (if any) on the Series 1986 Bonds, as such Guaranty Agreement may from time to time be amended in accordance with the provisions thereof.

"Series 1986 Investment Proceeds" means the net income derived from the investment and reinvestment of proceeds of the Series 1986 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. As used herein the term "Series 1986 Investment Proceeds" includes the net income derived from the investment of moneys transferred from the Construction Fund to the Bond Fund Escrow Account, as well as the net income derived from the investment of moneys held in the Construction Fund.

"Series 1986 Issuance Expenses" means the expenses of issuing the Series 1986 Bonds to the extent, and only to the extent, that, in determining the amounts of the "proceeds" of the Series 1986 Bonds for purposes of the "substantially all" test provided by Treasury Regulations Section 1.103-8(a)(1)(i) and Section 1.103-10(b)(1)(ii), such expenses are properly deductible from the aggregate amount (excluding accrued interest) received by the Authority from the sale of the Series 1986 Bonds.

"Series 1986 Original Purchasers" means the original purchasers of the Series 1986 Bonds from the Authority.

"Series 1986 Principal Proceeds" means the aggregate amount (excluding accrued interest, if any) received by the Authority from the sale of the Series 1986 Bonds, less the Series 1986 Issuance Expenses.

"Series 1986 Taxability Redemption Date" means the redemption date on which all then outstanding Series 1986 Bonds are required to be redeemed, pursuant to the provisions of subsection (b) of Section 2.4 of the Supplemental Indenture, as the result of a Series 1986 Determination of Taxability.

"Supplemental Indenture" means the Supplemental Indenture between the Authority and the Trustee dated as of December 1, 1986, under which (i) the Series 1986 Bonds are authorized to be issued and (ii) the Authority's interest in this Supplemental Lease Agreement and the revenues and receipts to be derived by the Authority from any leasing or sale of the Project are to be assigned as security for the payment of the principal of and the interest and premium (if any) on the Bonds, as said Supplemental Indenture now exists and as it may hereafter be supplemented and amended.

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

"Test-Period Beneficiary" means "test-period beneficiary" within the meaning of Section 144(a)(10) of the Code, and the applicable regulations thereunder.

Section 1.2 Definitions Contained in the Lease, the Indenture and the Supplemental Indenture. The Supplemental Indenture is being executed and delivered simultaneously with the delivery hereof, and the terms and conditions thereof are hereby made a part of this Supplemental Lease Agreement as fully and completely as if set out in full herein. Unless the context clearly indicates a different meaning, any words, terms or phrases that are used in this Supplemental Lease Agreement as defined terms without being herein defined shall have the meanings respectively given them in the Indenture, the Lease, and the Supplemental Indenture if they are therein defined.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

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

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

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

(c) **Sale and Other Transactions are Legal and Authorized.** The sale and issuance of the Series 1986 Bonds, the execution and delivery of this Supple-

mental Lease Agreement and the Supplemental Indenture, and the compliance with all the provisions of each thereof and of the Series 1986 Bonds by the Authority (i) are within the power and authority of the Authority, (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 Authority under, the Act, the Certificate of Incorporation or the Bylaws of the Authority, any agreement or other instrument to which the Authority 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 Authority, and (iii) have been duly authorized by all necessary corporate action on the part of the Authority.

(d) Governmental Consents. Neither the nature of the Authority, nor any of its activities or properties, nor any relationship between the Authority and any other Person, nor any circumstance in connection with the offering, sale, issuance or delivery of any of the Series 1986 Bonds is such as to require a consent, approval or authorization of, or filing, registration or qualification with, any governmental body on the part of the Authority in connection with the execution, delivery and performance of either this Supplemental Lease Agreement or the Supplemental Indenture or the offering, sale, issuance or delivery of any of the Series 1986 Bonds, other than (i) the due filing and/or recording of this Supplemental Lease Agreement and the Supplemental Indenture, (iii) the approval of the Series 1986 Bonds by the applicable elected official of the appropriate Governmental Unit or Units, as more particularly described in subsection 2.1(e) hereof, and (iv) the granting of an allocation to the Series 1986 Bonds of a portion of the State's capacity for the issuance of so-called "private activity bonds" under the Alabama 1986 Bond Allocation Plan. The State Industrial Development Authority has issued a Notice of Allocation with respect to the Serie 1986 Bonds.

(e) Public Approval. The issuance of the Series 1986 Bonds has been approved by each Governmental Unit on behalf of which the Series 1986 Bonds are issued and each Governmental Unit having jurisdiction over the area in which the Project is located, said approval having been made by the applicable elected representative of such Governmental Unit after a public hearing following reasonable public notice, all in accordance with the provisions of Section 147(f) of the Code.

(f) No Default. No event has occurred and no condition exists which would constitute an "Event of Default" under the Indenture, as "Event of Default" is therein defined, or which would become such an "Event of Default" with the passage of time or with the giving of notice or both. The Authority 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 Authority, its corporate power to carry out the transactions contemplated by this Supplemental Lease Agreement or the validity of any of the Series 1986 Bonds or the security therefor.

(g) The Series 1986 Bonds. The Series 1986 Bonds, when issued and paid for in accordance with this Supplemental Lease Agreement and the Supplemental Indenture and when duly authenticated by the Trustee, will constitute legal, valid and binding special obligations of the Authority payable solely from the sources provided in the Indenture.

(h) Tax-Exempt Status of Series 1986 Bonds. The Authority intends for the Series 1986 Bonds to be issued in compliance with the conditions necessary for the interest income thereon to be exempt from federal income taxation under Section 144(a) of the Code, and the Authority understands that such exemption constitutes a principal inducement to the purchase of the Series 1986 Bonds by the Series 1986 Original Purchasers and will constitute a principal inducement to the purchase of any of the Series 1986 Bonds by any subsequent purchaser thereof.

(i) Maturity of Series 1986 Bonds. The average maturity of the Series 1986 Bonds does not exceed 120 percent of the average reasonably expected economic life of the facilities being financed with the proceeds of the Series 1986 Bonds, all in accordance with the provisions of Section 147(b) of the Code and regulations thereunder.

(j) Section 144 Election Respecting the Series 1986 Bonds. Pursuant to the provisions of Section 144(a) of the Code, the Authority has elected to have the Series 1986 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 144(a) of the Code.

(k) Fulfillment of Purposes of Act. The Authority has determined that the issuance of the Series 1986 Bonds, the completion of the Project Development Work and the leasing of the Project to the Company will 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 the basis for the undertakings on its part herein contained:

(a) Organization and Qualification of the Company. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Alabama. The Company has the corporate power and authority to own its properties and assets and to carry on its business as now being conducted, and it is duly qualified to do business and is in good standing in every jurisdiction wherein such qualification is necessary. The Company has all requisite corporate power to enter into this Supplemental Lease Agreement and to consummate the transactions contemplated hereby.

(b) Authorization and Validity of this Supplemental Lease Agreement. The Company has, by all necessary corporate action, duly authorized the execution, delivery and performance of this Supplemental Lease Agreement, and when duly executed and delivered by the Authority, this Supplemental Lease Agreement will constitute a legal, valid and binding obligation of the Company.

(c) Burdensome and Conflicting Agreements and Charter Provisions. The Company is not a party to any instrument or agreement or subject to any charter or corporate restriction or to any judgment, order, rule or regulation of any court or governmental body which materially and adversely affects, or in the future may (so far as the Company can now foresee) materially and adversely affect the business, prospects, operations, properties, assets or condition (financial or otherwise) of the Company. Neither the execution and delivery of this Supplemental Lease Agreement, nor the offering, sale and issuance of any of the Series 1986 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, corporate charter, bylaw, agreement, instrument, judgment or order by which the Company is bound or to which the Company or any of its properties is subject.

(d) Governmental Consents. Neither the nature of the Company, its business or property of the Company, 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 1986 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 Supplemental Lease Agreement or the offering, sale, issuance or delivery of any of the Series 1986 Bonds (other than those already obtained, taken or made and which continue in full force and effect).

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

(f) No Defaults. No event has occurred and no condition exists which, upon the issuance of any of the Series 1986 Bonds, would constitute an Event of Default or which would become such an Event of Default with the passage of time or with the giving of notice or both. To the best of the knowledge of the Company, no event has occurred and no condition exists which would constitute an "Event of Default" under the Indenture (as supplemented by the Supplemental Indenture), as "Event of Default" is therein defined, or which would become such an "Event of Default" with the passage of time or with the giving of notice or both. The Company is not in default in any respect under any charter instrument or bylaw or, to the best of the knowledge of the Company, any agreement or other instrument to which it is a party or by which it is bound, on 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 Supplemental Lease Agreement or would impair the ability of the Company to comply with its obligations hereunder. The Company is not in default under the payment of the principal of or the interest on any of its indebtedness and is not in default under any instrument or agreement under and subject to which any indebtedness of the Company has been incurred, and no event has occurred or is continuing under the provisions of any such instrument or agreement which constitute or will constitute an event of default thereunder.

(g) ERISA. The purchase of the Series 1986 Bonds by the Series 1986 Original Purchasers and the issuance and delivery of the Series 1986 Bonds as contemplated hereby will not involve any prohibited transaction within the meaning of Section 4975 of the Code or Section 406 of ERISA or a violation of Section 407 of ERISA. The Company has not incurred any material accumulated funding deficiency within the meaning of ERISA, nor has the Company incurred any material liability to the Pension Benefit Guaranty Corporation established under ERISA (or any successor thereto under ERISA), nor does the Company foresee that it will incur any such material accumulated funding deficiency or material liability in the future, in connection with any employee benefit plan established or maintained by the Company. Based upon ERISA and the regulations and published interpretations thereunder as presently in effect, the Company is presently in compliance in all material respects with the applicable provisions of ERISA, and no "reportable event" [as such term is defined in Section 4043(b) of Title IV of ERISA] has occurred with respect to any employee benefit plan which is maintained for employees of the Company and which is subject to the provisions of Title IV of ERISA.

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

(i) 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 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.

(j) Relationship of Qualifying Project Development Costs to Principal Amount of Series 1986 Bonds. Based upon reasonable estimates as of the date of the delivery of this Supplemental Lease Agreement, those costs of acquiring, constructing and installing the Project that constitute Qualifying Project Development Costs are expected to amount, in the aggregate, to not less than ninety-five percent (95%) of the sum of the Series 1985 Principal Proceeds and the Series 1986 Investment Proceeds.

(k) Use of the Project. As of the date of the delivery of this Supplemental Lease Agreement, the Company does not have any plans and is not a party to any arrangement which, if consummated, would result in the Project being used by any Principal User other than the Company or a Related Person thereto. The issuance of the Series 1986 Bonds will not result in the aggregate authorized face amount of the Series 1986 Bonds allocated to a Test Period Beneficiary (when increased by the outstanding tax exempt "facility-related bonds" allocable to such Test Period Beneficiary) exceeding \$40,000,000, all within the meaning of Section 144(a)(10) of the Code and the applicable regulations thereunder.

(l) Tax-Exempt Status of the Series 1986 Bonds. The Company intends for the Series 1986 Bonds to be issued in compliance with the conditions necessary for the interest income thereon to be exempt from federal income taxation under Section 144(a) of the Code, and the Company understands that such exemption constitutes a principal inducement to the purchase of the Series 1986 Bonds by the Series 1986 Original Purchasers and will constitute a principal inducement to the purchase of any of the Series 1986 Bonds by any subsequent purchaser thereof.

(m) No Previously Issued Public Securities. Except for the Series 1985 Bonds and the Series 1986 Bonds, no Public Securities have been issued since April 30, 1968, and are now outstanding, the proceeds of which have been or are to be used primarily with respect to Local Facilities.

(n) Average Maturity of the Series 1986 Bonds. The "average maturity" of the Series 1986 Bonds does not exceed 120 percent of the average reasonably expected economic life of the facilities being financed with the proceeds of the Series 1986 Bonds, all within the meaning of Section 147(b) of the Code and the applicable regulations thereunder.

(o) Previous Capital Expenditures. All capital expenditures [determined in accordance with the provisions of Section 144(a)(4) of the Code and the applicable regulations thereunder] that have been made with respect to Local Facilities during the three-year period next preceding the date of issue of the Series 1986 Bonds and that are not to be paid in some manner out of the Series 1986 Principal Proceeds do not in the aggregate exceed the sum of \$4,585,000.

(p) Series 1986 Bonds Not Federally Guaranteed. The payment of the principal or interest with respect to the Series 1986 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 1986 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 149(b)(3)(B) of the Code]; nor will the payment of the principal or interest with respect to the Series 1986 Bonds be otherwise indirectly guaranteed, in whole or in part, by the United States of America or any agency or instrumentality thereof.

(q) Use of Proceeds. Not more than twenty-five percent (25%) of the Series 1986 Bond Proceeds will be used (i) to provide a facility the primary purpose of which is retail food and beverage services or the provision of recreation or entertainment, all within the meaning of Section 144(a)(8) of the Code and the applicable regulations thereunder, or (ii) for the purchase of land within the meaning of Section 147(c) of the Code and the applicable regulations thereunder.

(r) No Composite Issue. As of the date of the delivery of this Lease Agreement, the Lessee has no plans nor is a party to any arrangement which, if consummated, would result in the Series 1986 Bonds and any other Public Securities being considered a single issue of "qualified small issue bonds" within the meaning of Section 144(a)(6) of the Code, the applicable regulations thereunder or Proposed Treasury Regulations §1.103-7, including, without limitation, any arrangement pursuant to which (i) the Series 1986 Bonds and such other Public Securities will be sold at substantially the same time; (ii) the Series 1986 Bonds and such other Public Securities will be sold pursuant to a common plan of marketing; (iii) the Series 1986 Bonds and such other Public Securities will be sold at substantially the same rates of interest; and (iv) a common or pooled security will either be used or available to pay debt service on the Series 1986 Bonds and such other Public Securities.

(s) Limitation Upon Use of Series 1986 Bond Proceeds to Pay Costs of Issuance. Not more than two percent (2%) of the aggregate face amount of the Series 1986 Bonds will be used, directly or indirectly, to pay the costs of issuance thereof, all within the meaning of Section 147(g) of the Code.

(t) Private Offering of the Series 1986 Bonds. Neither the Company nor the Authority nor any agent acting on behalf of either of them has offered any of the Series 1986 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 Series 1986 Original Purchasers. None of the Series 1986 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 1986 Bonds so as to make the issuance or sale of any of the Series 1986 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.

Section 2.3 Reference to the Bonds, the Lease and the Indenture in the Lease. The Company and the Authority acknowledge and agree that, from and after the issuance by the Authority of the Series 1986 Bonds, any reference in the Lease to the "Bonds" shall, unless the context clearly and unequivocally indicates otherwise, be construed to refer both to the Series 1985 Bonds and the Series 1986 Bonds; provided, however, that all references to the "Bonds" contained in Section 5.2 of the Lease shall be deemed to refer only to the Series 1985 Bonds.

The Company and the Authority further acknowledge and agree that, from and after the delivery of this Supplemental Lease Agreement and the issuance by the Authority of the Series 1986 Bonds,

(a) any reference in the Lease to "the Indenture" shall, unless the context clearly and unequivocally indicates otherwise, be construed to refer to the Indenture as supplemented by the Supplemental Indenture, and

(b) any reference in the Lease to "the Lease" or "this Lease Agreement" or the use of any word or phrase intended to refer to the Lease, as for example, but without limitation thereof, the words "hereof", "herein" or "hereunder", shall, unless the context clearly and unequivocally indicates otherwise, be construed to refer to the Lease as supplemented by this Supplemental Lease Agreement.

The other provisions of the Lease, to the extent they are not inconsistent with the provisions hereof, shall also apply to this Supplemental Lease Agreement.

ARTICLE III

ISSUANCE OF SERIES 1986 BONDS AND APPLICATION OF PROCEEDS

Section 3.1 Agreement to Issue the Series 1986 Bonds. In order to provide funds for the payment of the expenses to be incurred by the Authority in connection with the issuance and sale of the Series 1986 Bonds and a portion of the costs of carrying out the Project Development Work, the Authority will, simultaneously with the delivery hereof, issue and sell the Series 1986 Bonds. The Series 1986 Bonds will be issued under the Indenture and the Supplemental Indenture, and all the terms and conditions of the Indenture and the Supplemental Indenture (including, without limitation, those relating to the amounts and maturity dates of the principal of the Series 1986 Bonds, the interest rate or rates thereof and the provisions for redemption thereof prior to their respective maturities) are hereby made a part hereof as fully and completely as if set out herein, and the Company shall be deemed to be a third-party beneficiary thereof and shall (except as otherwise specifically

provided in the Indenture or the Supplemental Indenture) be entitled to enforce performance and observance of the agreements and covenants on the part of the Authority and the Trustee contained in the Indenture and the Supplemental Indenture as fully and completely as if it were a party to both of said instruments.

Section 3.2 Disbursement of Moneys from the Construction Fund. As provided in the Supplemental Indenture, the proceeds of the Series 1986 Bonds will be deposited in the Construction Fund, subject to disbursement for the payment of Project Development Costs in accordance with the applicable provisions of the Lease and the Indenture. Anything to the contrary contained herein or in the Lease or in the Indenture notwithstanding, the Authority shall not be obligated to pay or cause to be paid, and the Company will not cause or permit any requisition to be submitted to the Trustee for the payment of, any cost which, if paid, would result, as of the making of such payment, in either

(a) the use for any purpose other than the payment of Qualifying Project Development Costs of more than five percent (5%) of the cumulative amount of Series 1985 Principal Proceeds or Series 1986 Principal Proceeds theretofore disbursed from the Construction Fund Primary Account, or

(b) the use for any purpose other than the payment of Qualifying Project Development Costs of more than five percent (5%) of the cumulative amount of Series 1985 Principal Proceeds, Series 1986 Principal Proceeds, Series 1985 Investment Proceeds and Series 1986 Investment Proceeds theretofore disbursed from the Construction Fund (including both accounts forming a part thereof);

provided, however, that if the Authority and the Trustee are furnished with an opinion of Bond Counsel stating that the requirement set forth in the preceding clause (b) may be disregarded to any extent without adversely affecting the exemption of the interest on the Series 1985 Bonds and the Series 1986 Bonds from federal income taxation under Section 144(a) of the Code, then the requirement of said clause (b) may be disregarded to the extent stated in said opinion.

ARTICLE IV

LEASE TERM AND ADDITIONAL RENTALS

Section 4.1 Confirmation of Lease Term . The Lease Term is hereby confirmed, viz., the period beginning on the date of the delivery of the Lease and continuing until 11:59 o'clock, P.M., on December 1, 2008.

Section 4.2 Rental Provisions. In consideration of the issuance of the Series 1986 Bonds by the Authority, the Company will, not later than the close of business of the Trustee five (5) days prior to the last day of each calendar month, commencing with January 1987 and continuing until and including November 2008, pay to the Trustee at its principal office, of the account of the Authority, base rentals (herein called "Supplemental Basic Rent"), over and above and in addition to the Basic Rent provided for in the Lease (therein and herein called "Basic Rent"), in an amount which will equal the sum of

(a) an amount equal to one-sixth (1/6) of the interest becoming due with respect to the then outstanding Series 1986 Bonds on the then next succeeding Bond Payment Date with respect thereto, plus

(b) commencing in December 1989, the sum of \$795 per month for deposit in the Principal Account of the Bond Fund.

There shall be credited against any installment of Supplemental Basic Rent due hereunder (including components of principal and interest) any amount then held in the Bond Fund created in Section 10.1 of the Indenture, which is in excess of the sum of (i) the principal (if any) and interest maturing with respect to the then outstanding Series 1985 Bonds on the then next succeeding Bond Payment Date with respect thereto and (ii) the redemption price of those of the Series 1985 Bonds (if any) required by the Indenture to be redeemed on such Bond Payment Date to the extent that such amount has not theretofore been credited on a previously due installment of Basic Rent; provided, however, that moneys in the Bond Fund shall not be credited against any such installment if such moneys (i) are held therein for payment of matured but unpaid Series 1985 Bonds and the Series 1986 Bonds, Series 1985 Bonds and Series 1986 Bonds called for redemption but not yet redeemed and matured but unpaid interest on Series 1985 Bonds and Series 1986 Bonds, (ii) are held therein pursuant to instructions from the Company for the future redemption or purchase of Series 1985 Bonds or Series 1986 Bonds, (iii) are held therein subject to the restrictions contained in the last paragraph of Section 10.1 of the Indenture, as amended, and cannot be applied as a credit against any such installment without violating such restrictions, or (iv) are held therein for payment of unmatured Series 1985 Bonds or Series 1986 Bonds not called for redemption if such Series 1985 Bonds or Series 1986 Bonds are considered fully paid pursuant to the provisions of Section 16.1 of the Indenture by reason of the fact that such moneys are so held in the Bond Fund.

The provisions of the immediately preceding paragraph respecting the application of moneys on deposit in the Bond Fund as a credit on installments of Basic Rent and Supplemental Basic Rent are intended solely for the purpose of establishing a method for the calculation of the amount of Supplemental Basic Rent from time to time owed by the Company, and nothing contained herein shall be construed as establishing, or supporting the establishment of, a prior claim or preference in favor of the Series 1985 Bonds with respect to the application of moneys at any time on deposit in the Bond Fund, which moneys shall, irrespective of whether they were

derived from Basic Rent, Supplemental Basic Rent or other sources, at all times be held for and applied to the equal and pro rata payment of the principal of and interest (and premium, if any) on both the Series 1985 Bonds and the Series 1986 Bonds, without preference, priority or distinction of one bond over another or of the bonds of one series over the bonds of any other series.

Nothing herein contained shall be construed as imposing on the Authority or on the Trustee any duty or responsibility to give any notice to the Company of the amount on deposit in the Bond Fund as of any rent payment date. Neither the Authority nor the Trustee shall be obligated to give any prior notice to the Company of the due date or amount of any installment of Basic Rent or of any installment of Supplemental Basic Rent, and failure to receive any such prior notice, even if customarily given by the Authority or the Trustee, shall not relieve the Company of its obligations to pay such installment of Basic Rent or Supplemental Basic Rent when it is due and payable.

So long as any of the Series 1986 Bonds are outstanding, all Supplemental Basic Rent payments due hereunder shall be made directly to the Trustee for the account of the Authority. In the event the due date of any installment of Supplemental Basic Rent payable hereunder is a Sunday or legal holiday, such installment shall be due in immediately available funds no later than the close of business by the Trustee on the last business day next preceding such due date. Any Supplemental Basic Rent payment due hereunder that is not paid on or before the Bond Payment Date next succeeding the original due date thereof shall bear interest from such Bond Payment Date until paid at the rate of interest therefore applicable to the principal of the Series 1986 Bonds. The Company will also pay, as additional rentals, the reasonable fees and charges of the Trustee under the Indenture, as supplemented by the Supplemental Indenture, relating to the Series 1986 Bonds (other than its initial authentication fee with respect to the Series 1986 Bonds), such additional fees and charges to be paid directly to the Trustee for its own account as and when such fees and charges become due and payable.

Section 4.3 Concerning a Series 1986 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, 5.5 and 5.6 hereof,

(a) that the interest income on the Series 1986 Bonds will not be includable in gross income of the Holders thereof for federal income tax purposes under the provisions of Section 144(a) of the Code (except that the interest income on any Series 1986 Bond will not be exempt from federal income taxation for any period during which such Series 1986 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 1986 Bonds exemption from federal income taxation - is not now

applicable to the Series 1986 Bonds because they constitute an issue in the aggregate authorized face amount of \$10,000,000 or less, determined as provided in Section 144(a) of the Code; and

(e) that the Series 1986 Bonds will not be "arbitrage bonds" within the meaning of Section 103(b)(2) and Section 148 of the Code.

The Company understands and agrees (i) that one of the principal inducements to the purchase of the Series 1986 Bonds by the Series 1986 Original Purchasers 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, the interest on the Series 1986 Bonds may, under the provisions of Section 144(a) of the Code, be or become fully subject to federal income taxation. Therefore, upon the occurrence of a Series 1986 Determination of Taxability, the Company shall be obligated to pay, in addition to all other Basic Rent and additional rentals due from the Company hereunder, the special installments of Basic Rent provided for in Section 4.4 hereof.

A Series 1986 Event of Taxability shall result from the interest on the Series 1986 Bonds being or becoming fully subject to federal income taxation as a result of any of the following conditions or circumstances:

(a) the aggregate authorized face amount of the Series 1986 Bonds allocated to any "test period beneficiary" of the Series 1986 Bonds [as said term is defined in Section 144(a)(10) of the Code], when increased by the outstanding tax-exempt "facility-related 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 144(a)(4)(B) of the Code and the applicable regulations thereunder, the aggregate face amount of the Series 1986 Bonds, determined in accordance with the provisions of Section 144(a)(4)(A) of the Code, exceeds the limit permitted by said Section 144(a)(4)(A); or

(c) the Series 1986 Bonds constitute "arbitrage bonds" within the meaning of Section 103(b)(2) and Section 148 of the Code; or

(d) the taking of any action by the Authority or the Company, or the failure of the Authority or the Company to take any action, or any mistake in or untruthfulness of any representation of the Authority or the Company contained in the Lease or in any certificate of the Company delivered pursuant to the Lease or the Indenture or in connection with the issuance of the Series 1986 Bonds, if such act or omission, or such mistake in or untruthfulness of such representation, has

the effect of causing the interest income on the Series 1986 Bonds to be or become includable in the gross income of any holder thereof for federal income tax purposes;

provided that no Series 1986 Event of Taxability shall be deemed to have occurred with respect to any Series 1986 Bond if the interest income thereon shall be includable in the gross income of any holder thereof for federal income tax purposes for any period solely because during that period such bond was held by a person who is a "substantial user" of the Project or a "related person" to such "substantial user", as those terms are respectively defined or used in Sections 147(a) and 144(a)(3) of the Code; provided further that no Series 1986 Event of Taxability shall be deemed to have occurred if the interest income on any of the Series 1986 Bonds becomes subject to (i) the minimum tax imposed on individuals pursuant to the provisions of Section 55 of the Code, (ii) the environmental tax imposed on corporations by Section 59A of the Code, or (iii), in the case of United States branches of foreign corporations, the branch profits tax imposed by Section 884 of the Code; and provided further that no Series 1986 Event of Taxability shall be deemed to have occurred if the interest income on any of the Series 1986 Bonds becomes subject to federal income taxation as a result of a change in federal tax law or the applicable regulations thereunder occurring after the issuance of the Series 1986 Bonds.

Irrespective of whether any or none of the Series 1986 Bonds are at the time outstanding, a Series 1986 Determination of Taxability shall be deemed to have occurred on the first to occur of the following:

(a) the date on which the Company determines that the interest income on the Series 1986 Bonds is includable in the gross income of the Holders thereof for federal income tax purposes by filing with the Trustee a statement to that effect, supported by any tax schedule, return or other document which discloses that a Series 1986 Event of Taxability has occurred; or

(b) the date on which the Company shall be notified 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 1986 Event of Taxability has occurred; or

(c) the date on which the Company shall receive written notice from the Trustee that (i) the Trustee has been notified in writing by any Holder of any Series 1986 Bond that the Internal Revenue Service has assessed as includable in the gross income of such Holder the interest on such Series 1986 Bond due to the occurrence of a Series 1986 Event of Taxability, or (ii) that the Trustee has been notified by private ruling, technical advice or any other written communication from an authorized official of the Internal Revenue Service that the interest on any Series

1986 Bond is includable in the gross income of any Holder thereof due to the occurrence of a Series 1986 Event of Taxability.

Anything herein contained to the contrary notwithstanding, no Series 1986 Determination of Taxability shall result from any ruling or technical advice of the Internal Revenue Service unless the Company initiated the request for such ruling or advice or was afforded the opportunity to participate in such request and all other negotiations and communications with the Internal Revenue Service respecting such ruling or advice. Further, anything herein contained to the contrary notwithstanding, no Series 1986 Determination of Taxability shall result from any audit, investigation, suit, proceeding or any other action by the Internal Revenue Service that involves any Holder or former Holder of Series 1986 Bonds and that might be reasonably expected to lead to a Series 1986 Determination of Taxability, unless (i) the Company has received timely notice of such audit, investigation, suit, proceeding or other action, including, without limitation, notice of any preliminary notice of deficiency (the so-called "30-day letter") received by any Holder or former Holder, (ii) subject to the conditions of this section, the Company has been afforded a reasonable opportunity to contest, through appropriate proceedings conducted in the name and behalf of any Holder or former Holder of Series 1986 Bonds, any assessment or other action by the Internal Revenue Service against any Holder or former Holder of Series 1986 Bonds based on a determination that the interest on the Series 1986 Bonds is subject to federal income taxation, and (iii) such contest, if made, has been abandoned by the Company or has been finally decided by a court of competent jurisdiction from which no further appeal exists. Nothing herein contained shall be construed to impose upon the Company any obligation to contest any assessment or other action by the Internal Revenue Service providing the basis for a Series 1986 Determination of Taxability.

In order to give the Company time to decide whether to contest any assessment or other action by the Internal Revenue Service in connection with a pending Series 1986 Determination of Taxability, no such determination shall be recognized as occurring for a period of sixty (60) days following the event which, in the absence of the right of the Company to contest, would otherwise have immediately constituted such a determination. Definitive recognition of the occurrence of a pending Series 1986 Determination of Taxability shall not be deferred for more than such initial sixty-day period unless, prior to the expiration thereof, the Company (i) notifies the Trustee in writing of its intention to contest the assessment or other action by the Internal Revenue Service giving rise to such determination and (ii) furnishes to the Trustee a written opinion of Independent Counsel having expertise in federal tax law (which counsel shall be selected by the Company but shall be acceptable to the Trustee) to the effect that there is a meritorious defense to the contention of the Internal Revenue Service that interest on the Series 1986 Bonds is subject to federal income taxation. If the Company notifies the Trustee in writing during such initial sixty-day period that it has decided not to contest any action of the Internal Revenue Service in connection with a pending Series 1986 Determination of Taxability, or if the Company does not notify the Trustee in writing of its intention to contest any such action or to furnish the Trustee with the opinion of Independent Counsel referred to in the preceding sentence prior to the expiration of such period, then, in either case, the pending Series 1986 Determination of Taxability shall be deemed to have occurred on the date of the event which, in the absence of

the right of the Company to contest, would have immediately constituted such determination.

If a Series 1986 Determination of Taxability is finally determined to have occurred as the result of a judicial decision in any contest conducted by or otherwise involving the Company, or if any contest in connection with a Series 1986 Determination of Taxability is abandoned by the Company, then the Company shall promptly give written notice to the Trustee of such decision or abandonment, as the case may be, and shall state therein the date determined by the Company to be that on which such decision or abandonment occurred, which date, subject to the right of the Trustee to designate a different date as hereinafter provided, shall be the date on which such Series 1986 Determination of Taxability shall be deemed to have occurred. If the Company fails to give the notice required by the preceding sentence within a reasonable time, or if the Company gives such notice but specifies therein a date for the Series 1986 Determination of Taxability that does not accord with the facts on which the determination of such date should have been based, or if such date has been otherwise determined in a manner prejudicial to the interests of the Holders or former Holders of the Series 1986 Bonds, then, in any such case, the Trustee, in the exercise of its sole judgment, shall designate the date of occurrence of the Series 1986 Determination of Taxability based upon such information as may be available to it. If continued contest by the Company results in a deferral of a pending Series 1986 Determination of Taxability for more than three years, then, regardless of the continuation of such contest, such determination shall be deemed to have occurred three years after the date on which, absent such contest, it would otherwise have occurred. Nothing contained in the Lease, the Indenture or the Series 1986 Guaranty shall be construed to prevent the recognition of a Series 1986 Determination of Taxability at any time after all of the Series 1986 Bonds have been paid in full and are no longer outstanding.

If the Company contests any action by the Internal Revenue Service that could result in a Series 1986 Determination of Taxability, and if such contest involves any Holder or former Holder of Series 1986 Bonds, either through the appeal of any proposed assessment or other adjustment in the federal income taxes of such Holder or former Holder or through any proceeding brought in the name and behalf of such Holder or former Holder, then, and in such case, as a condition precedent to the obligations of the Company to such Holder or former Holder arising under Article IV hereof as a result of a Series 1986 Determination of Taxability, such Holder or former Holder shall be obligated to cooperate fully with the Company in such contest and, if requested by the Company, to give the Company complete control of the conduct of such contest on the part of such Holder or former Holder, including, without limitation, the right to select counsel therefor and the right to settle or compromise the question of whether interest on the Series 1986 Bonds is includable in the gross income of such Holder or former Holder for federal income tax purposes. In connection with such contest, the Company will pay, or cause to be paid, all legal and other expenses incurred by the Company in the name and behalf of any Holder or former Holder of Series 1986 Bonds, as well as any legal and other expenses directly incurred by such Holder or former Holder with the written approval of the Company. The Company shall have the right to pay any tax deficiency or other charge assessed against any Holder or former Holder of Series 1986 Bonds which the Company deems

it necessary or desirable to pay in connection with any contest, and any payment so made by the Company shall be credited against any special rental payments which may ultimately be owed to such Holder or former Holder pursuant to the provisions of Article IV hereof.

If either the Company or the Trustee learns, from any source other than the other party, of any action by the Internal Revenue Service or any other condition or event that constitutes or could result in a Series 1986 Determination of Taxability, the party so learning of such action, condition or event shall give notice thereof to the other such party as promptly as practicable. Further, upon learning from any source of any action by the Internal Revenue Service or any other condition or event that constitutes or could result in a Series 1986 Determination of Taxability (including particularly, but without limitation thereto, the definitive occurrence of a pending Series 1986 Determination of Taxability), the Trustee shall give written notice of such action, condition or event as promptly as practicable to all Holders of the Series 1986 Bonds then outstanding and to all former Holders of Series 1986 Bonds who held such bonds at any time subsequent to the date upon which, as a result of such action, condition or event, the interest on the Series 1986 Bonds may have become subject to federal income taxation, but if the Trustee learns of such action, condition or event from any source other than the Company, the Trustee shall not give notice thereof to any Holder or former Holder before giving such notice to the Company. In connection with such notice to the Holders and former Holders of Series 1986 Bonds, the Trustee may request, and make arrangements for obtaining, advice and information from such Holders and former Holders concerning actions by the Internal Revenue Service which relate to the occurrence or probable occurrence of a Series 1986 Determination of Taxability.

As a condition precedent to the obligations of the Company to any Holder or former Holder of Series 1986 Bonds arising under Article IV hereof as the result of a Series 1986 Determination of Taxability, such Holder or former Holder shall be obligated to give timely written notice to the Company and to the Trustee of any audit, investigation, suit, proceeding or other action by the Internal Revenue Service that involves such Holder or former Holder and that might reasonably be expected to lead to a Series 1986 Determination of Taxability. In the event that irreparable harm to the Company results from the failure of any Holder or former Holder of Series 1986 Bonds to give such notice to the Company and to the Trustee, the Company shall be discharged from such obligations (i.e., the obligations of the Company resulting a Series 1986 Determination of Taxability) to such Holder or former Holder, but the Company shall not be discharged by such failure from such obligations to other Holders or former Holders of Series 1986 Bonds who have not breached the duty to give notice to the Company and to the Trustee.

The parties hereto understand and agree that the additional payment of Basic Rent and other payments required from the Company by the provisions of Article IV hereof upon the occurrence of a Series 1986 Determination of Taxability, constitute liquidated damages for all losses and liabilities incurred at any time by the Holders or former Holders of the Series 1986 Bonds as a result of the interest thereon being or becoming subject to federal income taxation. It is understood and agreed

therefore, that if the Company duly pays such additional Basic Rent and other payments upon the occurrence of a Series 1986 Determination of Taxability, then neither the Authority nor the Trustee nor any Holder or former Holder of any Series 1986 Bond shall have any additional claim against the Company on account of the untruthfulness of any representation by the Company, the breach of any warranty or covenant of the Company, or any action taken by the Company, or any other event whether or not within the control of the Company, which caused or may have caused the interest on the Series 1986 Bonds to be or become subject to federal income taxation. No provision of the Lease shall be construed or applied in such manner as to result in the multiple payment of the same loss, expense or claim of the Trustee or of any Holder or former Holder of any Series 1986 Bonds, and neither the Trustee nor any such Holder or former Holder shall be entitled to recover moneys from the Company hereunder in payment of any such loss, expense or claim to the extent that the same has therefore been paid with moneys from another source.

Section 4.4 Mandatory Prepayment of Supplemental Basic Rent in the Event of a Series 1986 Determination of Taxability. In the event of a Series 1986 Determination of Taxability, the Company will pay to the Trustee for the account of the Authority and as a special installment of Supplemental Basic Rent, the sum of the following:

(1) with respect to each of the Series 1986 Bonds that will be outstanding on the Series 1986 Taxability Redemption Date, an amount equal to the sum of (i) the principal amount thereof, (ii) accrued interest thereon to the Series 1986 Taxability Redemption Date and (iii) the interest accrued thereon from the date of the Series 1986 Event of Taxability until the Series 1986 Taxability Redemption Date [it being understood and agreed that, for purposes of this clause (1), a Series 1986 Bond for the full retirement of which moneys or Federal Securities (or both) were on the Series 1986 Taxability Redemption Date set aside as provided in the Indenture shall nonetheless be considered as being outstanding on such date unless the date of its maturity (or, in the case it had theretofore been duly called for redemption under other provisions of the Indenture, the date fixed for its redemption) was prior to the Series 1986 Taxability Redemption Date]; and

(2) with respect to each of the Series 1986 Bonds that was outstanding on the date of the Series 1986 Event of Taxability but that was not outstanding on the Series 1986 Taxability Redemption Date, an amount equal to the interest accrued thereon, at the per annum rate applicable thereto, from the date of the Series 1986 Event of Taxability until the stated maturity date thereof or the date fixed for its redemption, whichever is earlier [it being understood and agreed that, for purposes of this clause (2), a Series 1986 Bond for the full retirement of which moneys or Federal Securities (or both) were on the date of the Series 1986 Event of Taxability set aside as provided in the Indenture shall nonetheless be considered as having been outstanding on the date of the Series 1986 Event of Taxability and thereafter until the date of its

maturity (or, in the case it had theretofore been duly called for redemption, the date fixed for its redemption)].

The special installment of Supplemental 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 1986 Taxability Redemption Date; provided that if any of the moneys then held in the Bond Fund (exclusive of any moneys held therein for the payment of matured but unpaid Bonds, Bonds called for redemption but not yet redeemed and matured but unpaid interest) or the Redemption Fund are not restricted to other purposes and can be applied to the redemption of Series 1986 Bonds, there shall be credited against such special installment of Supplemental Basic Rent so much of such moneys as the Company may specify in writing to the Authority and the Trustee.

If any Series 1986 Determination of Taxability occurs while the Lease is still in effect and all installments of Supplemental Basic Rent referable to the Series 1986 Bonds have not yet become due and payable, then in such case the payment of the special installment of Supplemental Basic Rent required by this section shall constitute a prepayment of the Supplemental Basic Rent referable to the Series 1986 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 thereof, or any termination resulting from the expiration of the Lease Term], and if any Series 1986 Determination of Taxability occurs after such termination, the Company shall be obligated to pay such installment in addition to all Basic Rent and Supplemental Basic Rent paid prior to or at the termination of the Lease.

Section 4.5 Obligations of Company Unconditional. The obligation of the Company to pay the Supplemental Basic Rent specified herein, 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 Authority. The Company will not suspend or discontinue any such payment or fail to perform and observe any of its other agreements and covenants contained in the Lease or herein or (except as expressly authorized in the Lease) terminate the Lease or this Supplemental Lease Agreement for any cause, including, without limiting the generality of the foregoing, any acts or circumstances that may constitute an eviction or constructive eviction, failure of consideration or commercial frustration of purpose, or any damage to or destruction of the Project 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 any change in the tax or other laws of the United States of America, the State of Alabama or any political subdivision of either thereof, or any failure of the Authority 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 or this Supplemental Lease Agreement.

The provisions of the preceding paragraph of this Section 4.5 shall continue in effect only so long as any part of the principal of or the interest on any of the Series 1986 Bonds remains unpaid; provided, however, that such provisions shall, insofar as the agreements on the part of the Company contained in Sections 4.3 and 4.4 hereof are concerned, continue in full force and effect notwithstanding payment of said principal and interest. Nothing herein contained shall, however, be construed to prevent the Company, at its own cost and expense and in its own name or in the name of the Authority, 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 of use and occupancy and other rights under the Lease and hereunder, and the Authority will cooperate fully with the Company in any such action or proceeding. Further, nothing herein contained shall be construed as excusing the non-performance or the non-observance by the Authority of any of the agreements or covenants on its part herein contained, it being understood by the Company, however, that its rights and remedies on account of such non-performance or non-observance are substantially and materially limited by the first paragraph of this Section 4.5.

ARTICLE V

MISCELLANEOUS

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Section 5.1 **Confirmation of Options.** All the options granted to the Company in Article XI of the Lease are hereby confirmed as if granted on the date hereof. Without in any way limiting the generality of the foregoing, the issuance of the Series 1986 Bonds shall not be considered to cause or result in any change in (1) the option price payable by the Company in the event of its exercise of the option to purchase the Project granted in Section 11.3 of the Lease or (2) any other conditions applicable to the exercise of said option by the Company.

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Section 5.2 **Prior Approval of the Company Required for Optional Redemption of Bonds.** Without the prior written approval of the Company, the Authority will not take any action for the redemption of the Series 1986 Bonds pursuant to the provisions of Section 7.2 of the Indenture or for the redemption of any of the Series 1986 Bonds pursuant to the provisions of Section 2.2 of the Supplemental Indenture.

Section 5.3 **Confirmation of the Lease.** As modified and supplemented by this Supplemental Lease Agreement, the Lease is in all things and respects hereby ratified and confirmed.

Section 5.4 **Reference to Basic Rent in Article X of the Lease.** The Company and the Authority acknowledge and agree that from and after the issuance of the Series 1986 Bonds, any reference to "Basic Rent" in Article X of the Lease, shall, unless the context and the circumstances clearly and unequivocally indicate otherwise, be construed to include the "Supplemental Basic Rent" herein required by

the Company to be paid to the Authority, but only to the end that the failure by the Company to pay the Supplemental Basic Rent provided for herein shall constitute an "Event of Default" under the Lease shall be governed by the provisions of Article X of the Lease.

Section 5.5 Covenants with Respect to Exemption of Interest on Series 1986 Bonds from Federal Income Taxation. The Series 1986 Bonds are being issued by the Authority 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 144(a) 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 of depreciation. The Authority and the Company covenant with each other and with the Trustee for the benefit of the holders of any Series 1986 Bonds, present and future, that neither of them will cause or permit the proceeds of the Series 1986 Bonds to be used in a manner which would cause the interest on the Series 1986 Bonds to lose the exemption from federal income taxation conferred by Section 144(a) of the Code and the applicable regulations thereunder.

Section 5.6 No-Arbitrage Covenants. Neither the Authority 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 1986 Bonds, if, as a result of such action by the Authority or the Company, or the omission of the Authority 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 1986 Bonds to be "arbitrage bonds" within the meaning of Section 103(b)(2) and Section 148 of the Code and the applicable regulations thereunder.

The Company will not cause or permit any proceeds of the Series 1986 Bonds to be invested in a manner contrary to the provisions of Section 148 of the Code and the applicable regulations thereunder and will assure compliance with such requirements on behalf of the Authority. Not later than thirty (30) days after the end of each "bond year" with respect to the Series 1986 Bonds, the Company will furnish to the Authority and the Trustee a report showing the amounts that will be required to be paid to the United States of America pursuant to the provisions of said Section 148(f) as of the end of such bond year. The Company will timely pay to the United States of America, for the account of the Authority, all amounts required to be so paid in accordance with said Section 148(f) and will maintain, on behalf of the Authority, all records required to be maintained pursuant to said Section 148(f). The Company agrees to furnish to the Authority and the Trustee such reports, certificates and documentation (including, without limitation, certificates of accountants and opinions of counsel) as they may reasonably request to evidence compliance with the provisions of this section.

Section 5.7 Certain Prior and Contemporaneous Agreements Cancelled. Except for the Inducement Agreement, the Lease, as amended by this Supplemental Lease Agreement, shall completely and fully supersede all other prior or contempo-

aneous agreements, both written and oral, between the Authority and the Company relating to the Project Development Work and the leasing of the Project, and if any provision of the Inducement Agreement is in conflict with any provision of the Lease or this Supplemental Lease Agreement, 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 Authority and the Company shall look to the Lease and this Supplemental Lease Agreement for ultimate definition and determination of their respective rights, liabilities and responsibilities respecting the Project Development Work and the Project. The Company and the Authority acknowledge that they have no outstanding agreement, commitment or understanding, either express or implied, for the grant to the Company of any option to purchase the Project or any part thereof other than those contained in the Lease and this Supplemental Lease Agreement.

Section 5.8 Binding Effect. This Supplemental Lease Agreement shall inure to the benefit of and shall be binding upon the Authority, the Company and their respective successors and assigns.

Section 5.9 Severability. In the event any provision of the Lease or this Supplemental Lease Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of the Lease or this Supplemental Lease Agreement. Without in any way limiting the generality of the foregoing, the Company specifically acknowledges and agrees that the several purchase options granted it in the Lease as further supplemented and confirmed by this Supplemental Lease Agreement are fully severable from and independent of the other provisions therein and herein contained and that neither the invalidity or unenforceability of any of such purchase options shall invalidate or render unenforceable any other provisions of the Lease or this Supplemental Lease Agreement nor excuse the Company from fully performing and observing any of the agreements and covenants on its part therein or herein contained.

Section 5.10 Article and Section Captions. Use of Phrases. 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.

"Herein", "hereby", "hereunder", "hereof", "hereinbefore", "hereinafter" and other equivalent words refer to this Supplemental Lease Agreement and not solely to the particular portion thereof in which any such work is used. The defined terms used herein include both singular and plural. Whenever used herein, any pronoun shall be deemed to include both singular and plural and to cover all genders.

IN WITNESS WHEREOF, the Authority and the Company have caused this Supplemental Lease Agreement to be executed in their respective corporate names,

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have caused their respective corporate seals to be hereunto affixed, have caused this Supplemental Lease Agreement to be attested, all by their duly authorized officers, and have caused this Supplemental Lease Agreement to be dated as of December 1, 1986, although actually executed and delivered by the parties hereto on December 30, 1986.

THE HEALTH CARE AUTHORITY OF
SHELBY COUNTY

By W Paul Jones
Its Chairman

ATTEST:

J. W. Fulkner
Its Secretary

[SEAL]

FLOWARR MANAGEMENT, INC.

By Ray B. W.
Its President

ATTEST:

Doree B. W.
Its Secretary

[SEAL]

