



319

## BOOK 317 PAGE 28

A. Definitions. All words and phrases defined in the Original Lease which are used herein shall have the meanings ascribed to them in the Original Lease, except that the word "Bond" shall mean (except in the second paragraph on page 11 of the Original Lease) not only the Bond defined in the Original Lease, but also, with the necessary changes in detail, the Industrial Development Revenue Bond (Valleydale Business Center Completion Project) issued by the Lessor pursuant to an amendatory and supplemental mortgage and indenture delivered concurrently herewith in the principal amount of \$650,000 (the "1990 Bond"), and the phrase "Project Costs" shall include the costs referred to in Paragraph 1 hereof.

In consideration of the Lessor agreeing to issue the 1990 Bond and apply the proceeds as provided herein and the Lessee

**BONAT TOWER**  
1000 SOUTH 4TH AVENUE, NORTH SUITE 1700

agreeing to pay the increased rental provided herein, the parties hereto agree as follows:

1. The Lessor will issue the 1990 Bond in the principal amount of \$650,000 and will apply the proceeds to the expense of issuance of the 1990 Bond, and the cost of construction of an additional building and additions and improvements to the Project. The additional facilities or improvements to be made at the Project with the proceeds of the 1990 Bond will consist of a building or buildings containing an additional 44,600 square feet of multi-use office/warehouse/distribution space, including construction of a 19,800 square foot building and tenant finishes for all buildings in the Project. The proceeds of the 1990 Bond will be deposited in the Construction Fund and disbursed as provided in the Indenture for the purposes set forth in the Original Lease; provided that no moneys in the Construction Fund may be used to pay the interest on the 1990 Bond or the Bond as defined in the Original Lease.

2. The Lessee acknowledges that the provisions of Section 3.2(a) of the Original Lease requiring it to pay Basic Rent in an amount equal to the principal of and interest on the Bond coming due on the first day of each month shall be applicable to the Bonds, including the 1990 Bond. The Lessee further agrees to pay a late charge equal to 5% of the Basic Rent due on any date if the Basic Rent is not paid on or before that date, provided such charge shall not be less than \$10 nor more than \$250.

3. The Service Payment on October 1, 1990 shall be \$19,740 and on and after October 1, 1991 shall be \$23,250.

4. The words "Town Mortgage and the" shall be deleted from the first sentence of Section 6.3 of the Original Lease.

5. The Lessee may prepay all or part of one of the Bonds without prepaying any part of the other.

6. The Lessee hereby grants to the Lessor a security interest under the Alabama Uniform Commercial Code in the items described in Exhibit A attached hereto and made a part hereof by this reference. The Lessee shall file with the Mortgagee not less than thirty days nor more than six months prior to each date on which continuation statements are required to be filed under Section 7-9-403 of the CODE OF ALABAMA 1975 (or successor statute or law), an opinion of counsel (who may also be counsel for the Lessee) stating that:

(a) all action has been taken with respect to the filing, recording, refiling and rerecording of financing statements, continuation statements, documents or other

BOOK 317 PAGE 30

The Lessee shall cause the Mortgagee to file, record, refile and rerecord all financing statements, continuation statements, documents and notices necessary to accomplish the aforesaid and to enable counsel to render such opinion.

IN WITNESS WHEREOF, the Lessor has caused this instrument to be executed by its duly authorized officer and its corporate seal to be hereunto affixed and attested by its duly authorized officer, and the Lessee has caused this instrument to be executed by each of its general partners, all as of the 1st day of August, 1990.

By Harry Deeds  
Chairman of Its Board of  
Directors

Attest: [Signature]  
Its Secretary

**By** \_\_\_\_\_  
**A General Partner**

**By** \_\_\_\_\_  
**A General Partner**

By \_\_\_\_\_  
A General Partner

**By** \_\_\_\_\_  
**A General Partner**

BOOK 317 PAGE 31

notices as is necessary to perfect and to maintain the Lessor's title to and interest in the fixtures constituting a part of the Project and to perfect and maintain the security interest of the Mortgagee in such property for the benefit of the Bondholder under the Indenture, and

(b) all actions similar to those described in (a), if any, required or appropriate to be taken during the next succeeding twelve-month period, based on then existing law, have been taken.

The Lessee shall cause the Mortgagee to file, record, refile and rerecord all financing statements, continuation statements, documents and notices necessary to accomplish the aforesaid and to enable counsel to render such opinion.

7. Except as amended hereby, all terms and provisions of the Original Lease are ratified, approved and confirmed and hereafter the term "Lease Agreement" shall include not only the Original Lease but this instrument.

IN WITNESS WHEREOF, the Lessor has caused this instrument to be executed by its duly authorized officer and its corporate seal to be hereunto affixed and attested by its duly authorized officer, and the Lessee has caused this instrument to be executed by each of its general partners, all as of the 1st day of August, 1990.

S E A L

Attest: [Signature]  
Its Secretary

THE INDUSTRIAL DEVELOPMENT  
BOARD OF THE CITY OF PELHAM

By [Signature]  
Chairman of Its Board of  
Directors

VALLEYDALE BUSINESS CENTER

By [Signature]  
A General Partner

By [Signature]  
A General Partner

By [Signature]  
A General Partner

By [Signature]  
A General Partner

STATE OF ALABAMA

Jefferson COUNTY

I, ROBERT H. WALSTON, a Notary Public in and for said County in said State, hereby certify that Daniel J. Spitler, whose name as Chairman of the Board of Directors of The Industrial Development Board of the Town of Pelham, a public corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this the 15<sup>th</sup> day of October, 1990.

Robert H. Walston

Notary Public

NOTARIAL SEAL

My commission expires: 12-30-90

STATE OF ALABAMA

\_\_\_\_\_ COUNTY

I, \_\_\_\_\_, a Notary Public in and for said County in said State, hereby certify that Charles H. Stephens, whose name as general partner in Valleydale Business Center, an Alabama general partnership, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such partner and with full authority, executed the same voluntarily for and as the act of said partnership.

Given under my hand this the \_\_\_\_\_ day of \_\_\_\_\_, 1990.

\_\_\_\_\_  
Notary Public

NOTARIAL SEAL

My commission expires: \_\_\_\_\_

BOOK 317 PAGE 32

STATE OF ALABAMA

Shelby COUNTY

I, ROBERT H. WALSTON, a Notary Public in and for said County in said State, hereby certify that Daniel J. Spitler, whose name as Chairman of the Board of Directors of The Industrial Development Board of the City of Pelham, a public corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this the 13<sup>th</sup> day of September, 1990.

Robert H. Walston

Notary Public

NOTARIAL SEAL

My commission expires: 12-30-90

STATE OF ALABAMA

Jefferson COUNTY

I, ROBERT H. WALSTON, a Notary Public in and for said County in said State, hereby certify that Charles H. Stephens, whose name as general partner in Valleydale Business Center, an Alabama general partnership, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such partner and with full authority, executed the same voluntarily for and as the act of said partnership.

Given under my hand this the 13<sup>th</sup> day of September, 1990.

Robert H. Walston

Notary Public

NOTARIAL SEAL

My commission expires: 12-30-90

BOOK 317 PAGE 33



STATE OF ALABAMA

Jefferson COUNTY

I, Charlotte H. Sundette, a Notary Public in and for said County in said State, hereby certify that Marvin R. Engel, whose name as general partner in Valleydale Business Center, an Alabama general partnership, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such partner and with full authority, executed the same voluntarily for and as the act of said partnership.

Given under my hand this the 17 day of September, 1990.

Charlotte H. Sundette  
Notary Public

NOTARIAL SEAL

My commission expires: 1-10-91

STATE OF ALABAMA

Jefferson COUNTY

I, Charlotte H. Sundette, a Notary Public in and for said County in said State, hereby certify that Marc A. Eason, whose name as general partner in Valleydale Business Center, an Alabama general partnership, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such partner and with full authority, executed the same voluntarily for and as the act of said partnership.

Given under my hand this the 17 day of September, 1990.

Charlotte H. Sundette  
Notary Public

NOTARIAL SEAL

My commission expires: 1-10-91

BOOK 317 PAGE 34



STATE OF ALABAMA

Jefferson COUNTY

I, Charlotte H. Sandette, a Notary Public, in and for said County in said State, hereby certify that David Bunkin, whose name as general partner in Valleydale Business Center, an Alabama general partnership, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such partner and with full authority, executed the same voluntarily for and as the act of said partnership.

Given under my hand this the 17 day of September, 1990.

Charlotte H. Sandette  
Notary Public

NOTARIAL SEAL

My commission expires: 1-18-91

BOOK 317 PAGE 35

All building materials, equipment, fixtures, supplies and fittings of every kind or character now or hereafter acquired by the Lessor or the Lessee for the purpose of or used or useful in connection with the improvements, additions and fixtures to be constructed and installed on the Leased Realty pursuant to Paragraph 1 of the Lease Agreement, whether such materials, equipment, fixtures, supplies and fittings are actually located on or adjacent to the Leased Realty or not, and whether in storage or otherwise, wheresoever the same may be located. The property included as a part of the Project shall include, without limitation, all lumber and lumber products, bricks, building stones and building blocks, sand and cement, roofing materials, paint, doors, windows, hardware, pails, wires and wiring, plumbing and plumbing fixtures, air-conditioning and heating equipment and appliances, electrical and gas equipment and appliances, in general all building material and equipment of every kind and character used or useful in connection with the construction and installation of said improvements, additions and fixtures.

BOOK 317 PAGE 36

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

90 NOV -5 PM 3:13

*James P. [Signature]*  
JUDGE OF PROBATE

EXHIBIT A

|              |              |
|--------------|--------------|
| 1. Paid To   |              |
| 2. [unclear] | 22.50        |
| 3. [unclear] | 3.00         |
| 4. [unclear] |              |
| 5. [unclear] | 1.00         |
| 6. [unclear] |              |
| <b>Total</b> | <b>26.50</b> |